



## ISSUES IN OWNERSHIP OF REAL ESTATE

### BARBADOS Clarke Gittens & Farmer

#### CONTACT INFORMATION:

**Savitri St. John**

Clarke Gittens & Farmer

Parker House

Willey Business Park

Willey Road

St. Michael, Barbados

Tel: 1.246.436.6287 Fax: 1.246.436.9812

Email: [ssj@clarkes.com.bb](mailto:ssj@clarkes.com.bb)

**1. Is perpetual fee simple ownership of real property permitted? If not, what are the principal forms of ownership, or other principal form of ownership, of real property?**

Yes, fee simple absolute property ownership is permitted in Barbados.

**2. What instruments are used to convey fee simple ownership, or other principal form of ownership, of real estate?**

For land still under the common law system, a deed is used to convey ownership of real estate. Section 59 Property Act Cap. 236 of the Laws of Barbados.(Property Act) A deed will be construed as conveying the entire estate or interest that the grantor owns unless a contrary intention is expressed in the deed. Section 67 Property Act.

For land in respect of which title has been declared under the registered system, a disposition is effected by a transfer, lease or other prescribed form in accordance with the Land Registration Regulations 1988 made under the Land Registration Act Cap 229 of the Laws of Barbados (Land Registration Act) or a form approved by the Registrar of Titles (Sections 40 and 110 Land Registration Act)

**3. How in this jurisdiction is the ownership of real property recorded or searched? Who generally performs the search?**

In order for there to be notice of the existence of a dealing with land under the common law system, the instrument effecting the transaction must be recorded at the Registration Office of the Land Registry. Property Act Section 58. The most common method of finding out the status of a parcel of land is to conduct a title search by means of a grantor/grantee search at the Land Registry. A title search may be conducted by an attorney; however, a title search is generally conducted by an legal clerk, either working for a lawyer or the search company (there is only one such company, privately held). In Barbados a good root of title must begin with an instrument of disposition that is at least 20 years old. Section 50 Property Act.

For land that has been registered, instruments effecting transactions dealing with the land must be submitted to the Registrar of Titles for registration, and the Registrar has power to compel a person to submit such an instrument for registration (Land Registration Act Section 43)

To determine the status of registered land, generally an official search is requested from the Registry. Land Registration Act Section 38. Land is indexed by parcel number, not by proprietors' names as is the case with land still under the common law system. The official search provides the particulars of subsisting entries in the register respecting the parcel of land to which the search relates.

**4. What assurances of ownership are available to purchasers of real property (e.g., title insurance or title opinions)? What is the cost of obtaining such assurances?**

Title insurance is not readily available in Barbados. Opinions on title can be obtained from attorneys at law, but many attorneys at law do not have significant professional liability insurance.

**5. What are the most common forms of investment vehicles? What are the most common entities employed to own investment real estate in a tax efficient manner?**

Limited liability companies are the most common forms of investment vehicles. For persons resident overseas, these are often BVI or Cayman companies, which are registered in Barbados as external companies and which hold the land. On a sale, the shares of the company are sold outside of Barbados.

**6. Has this jurisdiction adopted, or is it considering, legislation permitting the creation of real estate investment trusts or similar entities?**

No

**7. What state or local transfer, stamp or similar taxes are levied generally on sellers or buyers upon the direct transfer of real estate?**

Under the Property Transfer Tax Act Cap 84A of the Laws of Barbados (PTT Act) (Section 4) property transfer tax is payable in respect of every transfer of property. A transfer of property means any transfer, whether by sale, exchange, gift, or other disposition inter vivos whereby any property or any estate or interest in any property is legally or equitably transferred to or vested in a purchaser or any other person on his behalf or by his direction, (PTT Act Section 2).

No property transfer tax is payable on leases that do not exceed 25 years. (PTT Act Section 5C)

The tax is payable when the document is presented for stamping and recording (see below on stamp duty) and in the case of a sale is charged on the consideration stated in the deed or the improved value of the land as set out on the land tax demand notice (whichever is greater). It is payable by a vendor on a sale. The PTT Act contains a few very specific exemptions to transfer tax liability. The Minister of Finance also has power to waive the tax, usually for large projects where significant investment has been made. An application must be made to the Ministry of Finance in this regard, providing significant details of the project and its benefit to the island.

Stamp Duty is also payable under the Stamp Duty Act Cap 91 of the Laws of Barbados (Stamp Duty Act) Section 3. This is payable by the person at whose direction the document was prepared, (Stamp Duty Act Section 30), in practice, usually the vendor.

There is also a nominal fee for recording or registration of the deed or transfer.

**8. What state or local transfer, stamp or similar taxes are levied generally on sellers or buyers upon the transfer of interests in entities which own real estate?**

Stamp Duty and Property Transfer Tax are payable on share sales generally, whether or not the company in respect of which the shares are being sold held real estate or not. Both taxes are based on the consideration for the sale or the value of the shares, whichever is greater.

For a company that is a special purpose vehicle with real estate as its only asset, the value of the real estate will generally be taken as the value of the company and the value of the shares, and consequently the quantum of the tax, will flow from this.

**9. How significant is local regulation and taxation of real estate? How significant is the variation of real estate law among political subdivisions of this jurisdiction?**

Property Transfer Tax is at the rate of 2.5% of the consideration for the sale or the value of the property transferred (whichever is greater) for both land and share sales.

Stamp duty is at the rate of 1% of the consideration for the sale in both cases.

**10. Must ultimate beneficial owners of entities which own real estate be disclosed as a matter of public record?**

No