

Land Transfer Tax

The Taxation (Land Transactions) (Jersey) Law 2009 (the "Law") came into effect on 1st January 2010.

The Law applies to the following transactions (the "Transactions"):

- The transfer to a person of a share, the ownership of which, by virtue of the articles of association of the company in which the share is held, confers a right of occupation of land in Jersey.
- A declaration that a share described in 1 above is held on trust for the benefit of a person, or an amendment to such declaration substituting the person for whose benefit the share is held.
- The creation of a security interest in any share described in 1 above.

For the avoidance of doubt, the right of occupation does not include the right under a lease or tenancy.

The Law does not catch share transactions where no right of occupation of land is conferred on the shares. Thus if a property is owned by a company the shares of which do not explicitly provide a right of occupation then no tax would be payable. LTT will therefore principally be payable on the share transfer purchase of an apartment and also upon any loan secured thereon.

The occupier of the land described in 1 and 2 above, or the secured party described in three above, is obliged to deliver to the Comptroller of Income Tax the following within 28 days of the Transaction:

- A statement containing the prescribed information.
- The amount of Land Transfer Tax ("LTT"). Where payment is not made within 28 days a 10% surcharge will be made.

Upon delivery of the statement and the LTT, the Comptroller will issue an LTT receipt. A company shall not register an instrument of transfer of shares to which the Law applies unless the LTT receipt has been produced to it. An amendment has been made to the Companies (Jersey) Law 1991 to make it an offence for a company to register such shares without an LTT receipt.

The Law imposes an obligation on the occupier or the secured party to keep such records as may be needed to verify the information contained in the statement for a period of six years.

The amount of LTT charged under points 1 and 2 above is at the same rate as would be charged on a freehold purchase of land in Jersey. Similarly, the amount of LTT charged under point three above is the same as would be charged on the registration of a judicial hypothec over freehold property. There are similar discounts for first time buyers, matrimonial transfers and charities. Where the transfer is a devise to a beneficiary under a will or on intestacy, LTT is charged at a nominal rate of £50.

The information and expressions of opinion contained in this guide are not intended to be a comprehensive study or to provide legal advice and should not be treated as a substitute for specific advice concerning individual situations.

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