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SUPPLEMENT

PROCLAMATIONS, RULES AND REGULATIONS

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No. 172E

Extract from the Minutes of the meeting of the Honourable House of Representatives held on
Tuesday, September 24, 2019:

PUBLIC BUSINESS

The Honourable Dr. Nigel Clarke, Minister of Finance and the Public Service, having obtained
suspension of the Standing Orders, moved:

THE PROVISIONAL COLLECTION OF TAX ACT

THE PROVISIONAL COLLECTION OF TAX (TRANSFER TAX) ORDER, 2019
(CONTINUANCE IN FORCE) RESOLUTION

WHEREAS by virtue of subsection (1) of section 3 of the Provisional Collection of Tax Act
(hereinafter referred to as "the Act") the Minister may make an order providing—

- (a) for the variation of any tax for the time being in force; or
- (b) for the renewal for a further period of any tax in force during the previous financial
year or which was imposed for any limited period; or

(c) for the imposition of any tax,

and notwithstanding anything to the contrary the provisions of such an order shall, for the period limited by the section and subject to the provisions of the Act, have effect as if contained in an Act of Parliament:

AND WHEREAS the Provisional Collection of Tax (Transfer Tax) Order, 2019, was made by the Minister and published in the Gazette on the 1st day of April, 2019;

AND WHEREAS subsection (3) of section 3 of the Act provides that an order made under the section shall, subject to subsection (4), continue for a period of six months next following publication thereof in the Gazette;

AND WHEREAS subsection (3) of section 3 of the Act also provides that the House of Representatives may by Resolution authorize the continuance in force of the Order for an additional period of three months;

AND WHEREAS it is desirable that the Provisional Collection of Tax (Transfer Tax) Order, 2019, be authorized to continue in force for an additional period of three months;

NOW, THEREFORE, BE IT RESOLVED by this Honourable House of Representatives as follows:—

1. This Resolution may be cited as the Provisional Collection of Tax (Transfer Tax) Order, 2019 (Continuance in Force) Resolution.

2. The Provisional Collection of Tax (Transfer Tax) Order, 2019, is hereby authorized to continue in force for an additional period of three months.

Mr. Mark Golding and Mrs. Marlene Malahoo Forte also spoke on the motion.

Seconded by: Mr. Dave Brown.

Agreed to.

I certify that the above is a true extract from the Minutes.

HEATHER E. COOKE, CD, JP, (MRS.)
Clerk to the Houses

THE PROVISIONAL COLLECTION OF TAX ACT**THE PROVISIONAL COLLECTION OF TAX (TRANSFER TAX) ORDER, 2019
(CONTINUANCE IN FORCE), RESOLUTION**

In exercise of the power conferred upon the Minister by section 3 of the Provisional Collection of Tax Act, and of every other power hereunto enabling, the following Order is hereby made:—

1. This Order may be cited as the Provisional Collection of Tax (Transfer Tax) Order, 2019, and shall be read and construed as one with the Transfer Tax Act (hereinafter referred to as the “principal Act”) and all amendments thereto.

2. Subject to paragraph 3, with effect from the 1st day of April, 2019, and during the continuance in force of this Order, the principal Act is amended in the manner set out, in relation thereto, in the Schedule to this Order.

3. For the avoidance of doubt, it is declared that—

- (a) subject to paragraph (b), the amendment to section 12(2)(a) of the Act shall apply to an application (hereinafter referred to as “an existing application”) for transfer on death—
 - (i) submitted to the Commissioner General prior to the effective date; and
 - (ii) under the consideration of the Commissioner General on the effective date, as it applies to an application submitted on or after the effective date; and
- (b) where, in relation to an existing application, payment of tax due under section 5(1) of the principal Act had been made, in whole or in part, using the computation applicable immediately prior to the effective date, no refund of such payment shall be granted where the existing application is assessed using the computation applicable after the effective date and the amount of tax paid prior to the effective date is greater than the amount of tax assessed on the use of the computation applicable after the effective date.

SCHEDULE

(Paragraph 2)

Amendments to the Transfer Tax Act

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Section 3

Delete subsection (1) and substitute therefor the following—

“ (1) Subject to and in conformity with the provision of this Act, tax shall be charged at the rate of two *per centum* of the amount or value of such money or money's worth as is, or may be treated under this Act as being the consideration for each transfer after the 1st day of April, 2019, of any property, and tax charged in respect of any such transfer shall be borne by the transferor.”.

Section 12

Delete subsection (2) and substitute therefor the following—

“ (2) On or after the 1st day of April, 2019, based on the assumption introduced by subsection (1) of section 5, a tax is hereby imposed on the total consideration for the transfer specified in that subsection, and the tax so imposed shall be computed as follows—

- (a) for every dollar of the first \$10,000,000.00 of value or such other amount as may, for the time being, be prescribed Nil
- (b) for every dollar of the remaining value 1.5 cents.”.

Section 19

1. Delete subsection (1) and substitute therefor the following—

“ (1) Subject to section 21 and without prejudice to sections 29, 30 and 32 and any other provisions of this Act which provide for—

- (a) a relief or an appeal from taxation;

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(b) an objection to taxation; or

(c) a refund of tax,

and notwithstanding anything to the contrary otherwise provided, where any transfer (or, without prejudice to the generality of any provisions of this Act, any contract of transfer, for the purposes of section 10) is effected or evidenced (apart from the provisions of this section) by any document stamped as required under the Stamp Duty Act, any amount of tax which is chargeable in respect of that said transfer shall be regarded, collected and otherwise treated as additional stamp duty imposed in respect of that document by that Act, and section 18, shall, in relation to the payment of that said amount of tax, apply as in relation to the payment of such tax.”.

2. Delete subsection (2) and substitute therefor the following—

“ (2) Every document effecting or evidencing any transfer of property shall—

- (a) be impressed with a stamp denoting that the full amount of tax collectible as stamp duty thereon has been paid before the expiration of thirty days after the document is first executed, or after the document has been first received in Jamaica, in case it is first executed in any place out of the Island, unless the amount of the duty is uncertain, and the opinion of the Commissioner

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General with respect to the amount of the duty with which the document is chargeable, has before such expiration, been required in writing;

- (b) if the opinion of the Commissioner General with respect to the document has been required, be stamped in accordance with the assessment of the Commissioner General, within fourteen days after the notice of the assessment; and
- (c) if such document has not been, or is not duly stamped in conformity with subparagraphs (a) and (b), incur a penalty equivalent to the tax thereon, unless a reasonable excuse for the delay in stamping, or the omission to stamp, or the insufficiency of stamp, be afforded to the satisfaction of the Commissioner General; or
- (d) be impressed with a stamp denoting that no amount of tax is collectible in the case of such transfer, whether by reason of section 10(3) providing for it not being treated as a taxable transfer, or by virtue of any exemption under this Act, or for any other cause,

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and for the purposes of the Stamp Duty Act, no such document shall be deemed to have been duly stamped unless it is stamped as required by this subsection.”.

Section 44(1)

Delete subparagraph (e) and substitute therefor the following—

- “ (e) the methods and procedures to be followed for securing and notifying assessments and denoting documents, for the purposes of section 19;”.

Dated this 28th day of March, 2019.

NIGEL CLARKE

Minister of Finance and the Public Service.

