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REAL PROPERTY TAX (AMENDMENT) ACT, 2023

Arrangement of Sections

Section

1.	Short title and commencement.....	2
2.	Amendment of section 3 of the principal Act.....	2
3.	Amendment of section 4 of the principal Act.....	2
4.	Amendment of section 7 of the principal Act.....	3
5.	Amendment of section 10 of the principal Act.....	3
6.	Amendment of section 11 of the principal Act.....	3
7.	Insertion of new sections 18A and 18B into the principal Act.....	4
8.	Amendment of section 21A of the principal Act.....	5
9.	Amendment of section 24 of the principal Act.....	5
10.	Amendment of section 25 of the principal Act.....	6
11.	Amendment of section 25A of the principal Act.....	7
12.	Amendment of section 26 of the principal Act.....	7
13.	Repeal and replacement of section 27 of the principal Act.....	8
14.	Amendment of section 37 of the principal Act.....	10
15.	Insertion of the new section 37A into the principal Act.....	10
16.	Amendment of section 42 of the principal Act.....	11
17.	Amendment of section 42A of the principal Act.....	12
18.	Amendment of section 43 of the principal Act.....	12
19.	Amendment of Form A of the Third Schedule to the principal Act.....	12
20.	Insertion of new Fourth Schedule into the principal Act.....	12



No. 14 of 2023

REAL PROPERTY TAX (AMENDMENT) ACT, 2023

AN ACT TO AMEND THE REAL PROPERTY TAX ACT

[Date of Assent - 30th June, 2023]

Enacted by the Parliament of The Bahamas

1. Short title and commencement.

- (1) This Act, which amends the Real Property Tax Act (*Ch. 375*), may be cited as the Real Property Tax (Amendment) Act, 2023.
- (2) This Act shall come into force on the 1st day of July, 2023.

2. Amendment of section 3 of the principal Act.

Section 3 of the principal Act is amended —

- (a) in subsection (2) in the proviso appearing immediately after subparagraph (ii) of paragraph (a), by the deletion of the words “one hundred and twenty” and the substitution of the words “one hundred and fifty”; and
- (b) by the insertion, immediately after subsection (8A), of the new subsection (8B) as follows —

“(8B) Subject to subsection (8A), where a duplex or triplex is owned by two or more persons any self-contained section of such duplex or triplex that is used exclusively as a residence for one or more of the owners shall be classified as owner-occupied property.”.

3. Amendment of section 4 of the principal Act.

Section 4 of the principal Act is amended in subsection (2), by the deletion of the words “of three thousand dollars or to a term of imprisonment of three months” and the substitution of the words “not exceeding fifty thousand dollars or to a term of imprisonment of two years”.

4. Amendment of section 7 of the principal Act.

Section 7 of the principal Act is amended —

- (a) by the deletion of subsection (8) and the substitution of the following —
 - “(8) The Chief Valuation Officer may establish and maintain an electronic database of the assessment list of all properties assessed, which shall include the assessment number, value, location and classification of the properties.”;
- (b) by the insertion, immediately after subsection (8), of the new subsection (9) as follows —
 - “(9) Any person may access the electronic database under subsection (8), upon payment of the prescribed subscription fee as specified in any regulation under this Act.”.

5. Amendment of section 10 of the principal Act.

Section 10 of the principal Act is amended —

- (a) in subsection (2), by the deletion of the word “three thousand dollars” and the substitution of the word “ten thousand dollars”;
- (b) by the deletion of subsection (3) and the substitution of the following —
 - “(3) If any person in a return made under this section makes any statement which he knows to be false in a material particular or recklessly makes any statement which is false in a material particular, he shall be guilty of an offence and liable on conviction thereof to —
 - (a) a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment; and
 - (b) in addition, the amount by which the tax payable by such person would be reduced when assessed on the basis of the information provided in the statement.”;
- (c) by the deletion of subsection (5).

6. Amendment of section 11 of the principal Act.

Section 11 of the principal Act is amended in subsection (3)(b) by the deletion of the words “section 17” and the substitution of the words “sections 17, 18B and 24”.

7. Insertion of new sections 18A and 18B into the principal Act.

The principal Act is amended by the insertion, immediately after section 18, of the new sections 18A and 18B as follows —

“18A. Condition to be met by Non-Bahamian prior to issuance of building permit.

Every non-Bahamian shall furnish to the Chief Valuation Officer, evidence of his payment of tax for any property which he is registered as owner, prior to making an application for a building permit, to the Buildings Control Officer.

18B. Liability of a director of a company to pay tax.

- (1) Subject to subsection (2), a person is jointly and severally liable together with a company to pay tax payable by the company under this Act, together with interest and penalties in relation to such tax, where —
 - (a) the company fails to pay an amount of tax payable by the company within the time prescribed; and
 - (b) such person was at the time the company was liable to pay the amount of tax, a director of the company or acted, or purported to act, in such a capacity.
- (2) A person referred to in paragraph (b) of subsection (1) is not liable and may not be assessed for tax where the Chief Valuation Officer is satisfied that such person exercised the degree of care, diligence, and skill that a reasonably prudent person would have exercised in order to prevent the failure by the company to pay the amount of tax payable within the prescribed time.
- (3) The Chief Valuation Officer must serve on a person liable under subsection (1), a notice of assessment specifying the —
 - (a) amount of the tax, together with any interest, fine or other penalty, assessed;
 - (b) date the amount assessed is due and payable; and
 - (c) time, place, and manner of making an objection to the assessment.
- (4) A person served with a notice of assessment pursuant to subsection (3) —
 - (a) must pay in full the amount assessed by the date specified in the notice;
 - (b) may object to the decision under section 11.

- (5) A director who fails to comply with a notice of assessment under subsection (4), commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.
- (6) The Chief Valuation Officer may not assess a person for an amount of tax payable by such person under this section, where more than seven years have passed since the notice of assessment was issued by the Chief Valuation Officer under section 7 to the company.
- (7) A person who pays an amount of tax payable by a company under this section, in whole or in part, is entitled to contribution in respect of the amount so paid from the other persons who are liable to pay the amount under subsection (1).”.

8. Amendment of section 21A of the principal Act.

Section 21A of the principal Act is amended by the deletion of subsection (1) and the substitution of the following —

- “(1) Where the owner of any property enters into an agreement for not more than five years, with the Chief Valuation Officer for the payment of the entire sum of tax outstanding in relation to such property, the Chief Valuation Officer may waive any surcharge payable on the tax.”.

9. Amendment of section 24 of the principal Act.

Section 24 of the principal Act is amended —

- (a) in subsection (1) —
 - (i) by the deletion of the word “or” at the end of paragraph (b);
 - (ii) by the deletion of the comma at the end of paragraph (c) and the substitution of the words “; or”;
 - (iii) by the insertion, immediately after paragraph (c), of the new paragraph (d) as follows —
 - (d) has possession of an asset of;”;
- (b) by the insertion, immediately after subsection (6), of the new subsections (7) to (9) as follows —

“(7) The Chief Valuation Officer may at any time make or cause to be made an assessment of a person's liability to pay tax where such person becomes personally liable for such tax under subsection (2) for failure to comply with

a notice under this section or for making a disposition of money, asset or arrangement which defeats the purpose of such notice.

- (8) The Chief Valuation Officer must, where he makes an assessment under this section, serve a notice of assessment on the person assessed specifying the —
 - (a) amount of tax payable by the person assessed;
 - (b) the date the tax assessed is due and payable; and
 - (c) the time, place and manner of objecting to the assessment.
- (9) Any person aggrieved by a notice of assessment served on such person under subsection (8), may lodge with the Chief Valuation Officer an objection to the assessment under section 11.”.

10. Amendment of section 25 of the principal Act.

Section 25 of the principal Act is amended by the insertion, immediately after subsection (2), of the new subsections (3) to (7) as follows —

- “(3) Where commercial property or property owned by a non-Bahamian is subject to a first charge under this section, the Chief Valuation Officer may transfer the charge to a lien holder, upon payment by the lien holder to the Chief Valuation Officer, of the tax and any surcharge applied thereto.
- (4) A transfer of a charge by the Chief Valuation Officer to a lien holder shall be in writing in the form prescribed in any regulations under this Act.
- (5) A lien may only be transferred to a non-Bahamian lien holder where the property in respect of which the lien relates, is owned by a non-Bahamian.
- (6) Where a lien is transferred to a lien holder by the Chief Valuation Officer under this section —
 - (a) the interest of the lien holder in the property shall rank in priority to any other security interest in relation to the property, other than the interest of the Chief Valuation Officer in respect of any tax subsequently payable on such property, regardless of whether such security interest is registered before the lien holder's interest;
 - (b) the value of the lien shall be the amount of the tax and surcharge paid to the Chief Valuation Officer by the lien holder and a premium not exceeding thirty per centum of the tax and surcharge paid;

- (c) the lien holder is deemed to be the owner of the property for the purposes of section 18 and any other provisions of this Act relating to the payment and recovery of tax by and from any owner of property until the lien is released;
 - (d) the lien holder shall have power to —
 - (i) sell the property and the provisions of sections 25A to 25E shall apply, as if the lien holder is the Chief Valuation Officer;
 - (ii) demand payment of the lien amount from the owner of the property on the terms determined by the lien holder provided that any interest payable to the lien holder shall not exceed five per centum or any other amount determined by any regulation under this Act.
- (7) For the purposes of this section, a “**lien holder**” means a person who a charge on property has been transferred under this section.”.

11. Amendment of section 25A of the principal Act.

Section 25A of the principal Act is amended in subsection (4), by the deletion of the word “unimproved”.

12. Amendment of section 26 of the principal Act.

Section 26 of the principal Act is amended —

- (a) by the insertion, immediately after subsection (1), of the new subsection (1A) as follows —
 - “(1A) An owner, lessee, tenant or occupier, or an employee or agent of such person must, where a notice requiring access to property pursuant to subsection (1) is received, give the Chief Valuation Officer or Tax Appeal Commission —
 - (a) such reasonable assistance in connection with the examination or inspection of the property or other functions as the Chief Valuation Officer or Tax Appeal Commission may require; and
 - (b) answers, orally or in writing as the Chief Valuation Officer or Tax Appeal Commission may require, to any questions relating to the examination or inspection of the property or other functions.”;
- (b) in subsection (2), by the deletion of the words “seventy-five dollars” and the substitution of the words “fifty thousand dollars

or to imprisonment for a term not exceeding two years or to both such fine and term of imprisonment”.

13. Repeal and replacement of section 27 of the principal Act.

Section 27 of the principal Act is repealed and replaced as follows —

“27. Investigatory powers of the Chief Valuation Officer.

- (1) The Chief Valuation Officer may, by notice in writing, require any person to —
 - (a) furnish such information, documents and other records as the Chief Valuation Officer specifies in the notice concerning himself or any other person the Chief Valuation Officer considers —
 - (i) may reasonably be required for the purpose of enabling the Chief Valuation Officer to compile accurate assessment lists;
 - (ii) may reasonably be required to support any return, declaration or other document submitted under this Act;
 - (iii) is otherwise reasonably required for the administration and enforcement of this Act;
 - (b) attend at such time and place as the Chief Valuation Officer specifies in the notice to be examined on oath or otherwise before the Chief Valuation Officer, concerning the tax affairs of himself or any other person;
 - (c) for the purposes of paragraph (b), produce any record or computer in his custody or control that the Chief Valuation Officer may require him to produce; and
 - (d) make a return containing such particulars as may reasonably be required to —
 - (i) determine the tax liability of such person or any other person;
 - (ii) enable the Chief Valuation Officer to compile accurate assessment lists.
- (2) A notice pursuant to paragraph (c) of subsection (1) is adequate and sufficient where the record or computer to be produced is described in the notice with reasonable certainty.
- (3) Without prejudice to the generality of the Chief Valuation Officer’s powers under subsection (1), the Chief

Valuation Officer may by notice in writing as prescribed require a financial institution to —

- (a) furnish the Chief Valuation Officer with details of any banking account, other facility or other assets that may be held by or on behalf of a person or related person including copies of any facility statements, transaction records or statement of assets;
 - (b) permit the Secretary, to inspect the records of the financial institution in relation to the banking account, other facility or assets of a person or related person; and
 - (c) cause an officer of the financial institution to attend before the Chief Valuation Officer to give evidence in respect of any banking account, other facility or other asset that are held by that financial institution by or on behalf of a person or related person.
- (4) Subsection (3) has effect notwithstanding any other law to the contrary relating to privilege, public interest, bank confidentiality, or bank secrecy.
- (5) For the purposes of this section —
- (a) **“financial institution”**, **“facility”** and **“facility holder”** have the meanings assigned thereto in section 2 of the Financial Transactions Reporting Act, 2018 (*No. 5 of 2018*);
 - (b) **“related person”** has the meaning assigned thereto in regulation 7 of the Value Added Tax Regulations, 2014 (*S. I. No. 87 of 2014*);
- (6) Any person who —
- (a) contravenes or fails to comply with a provision of this section;
 - (b) prevent, impede or interfere in any way with the Chief Valuation Officer in the lawful exercise of a power under this section;
 - (c) knowingly or recklessly makes any statement in any information, return, declaration, record or other document submitted under this section that is false or misleading in a material particular;
 - (d) knowingly or recklessly omits from a statement in any information, return, declaration, record or other document submitted under this section any

matter or thing without which the information or document is misleading in a material particular, shall be guilty of an offence and liable on conviction thereof to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding two years or to both such fine and term of imprisonment.”.

14. Amendment of section 37 of the principal Act.

Section 37 of the principal Act is amended by the deletion of the words “three thousand dollars or to a term of imprisonment not exceeding three months or to both such fine and imprisonment” and the substitution of the words “fifty thousand dollars or to a term of imprisonment not exceeding two years or to both such fine and imprisonment”.

15. Insertion of the new section 37A into the principal Act.

The principal Act is amended by the insertion, immediately after section 37, of the new section 37A as follows —

“37A. Administrative penalties.

- (1) The Chief Valuation Officer may in accordance with the *Fourth Schedule*, in lieu of instituting criminal proceedings, automatically apply an administrative penalty upon commission of a contravention of this Act by a person and thereupon such penalty shall become immediately due and payable by the person.
- (2) A person aggrieved by the decision of the Chief Valuation Officer to apply an administrative penalty against such person under this section may object or appeal the decision under sections 11 and 13 respectively.
- (3) The contraventions prescribed in the first column of the *Fourth Schedule* are subject to the administrative penalties set out in the third column of the *Fourth Schedule*.
- (4) The Chief Valuation Officer may, where he decides an administrative penalty imposed under this section was imposed in error, remit all or part of such penalty and such remission may be conditional or unconditional.
- (5) Where the Chief Valuation Officer applies an administrative penalty, the Chief Valuation Officer may publish in such manner as he deems appropriate a statement of the contravention or non-compliance in respect of which the administrative penalty is imposed.
- (6) The Chief Valuation Officer may in determining the amount of an administrative penalty to be imposed on a

person who has committed a contravention or non-compliance, take into account the —

- (a) degree of intention or negligence on the part of such person;
- (b) harm done by the contravention or non-compliance;
- (c) history of such person having regard to the imposition of any prior penalty, or conviction for an offence under the Act, within the five-year period immediately before the contravention or non-compliance;
- (d) whether such person brought the contravention or non-compliance to the attention of the Chief Valuation Officer;
- (e) whether or not the contravention or non-compliance was inadvertent;
- (f) efforts, if any, made to rectify the contravention or non-compliance and to prevent a recurrence;
- (g) potential financial consequences to such person, and to third parties including customers and creditors of such person, of imposing a penalty; and
- (h) the amount of the penalties imposed by the Chief Valuation Officer in other same or similar cases.”.

16. Amendment of section 42 of the principal Act.

Section 42(1) of the principal Act is amended —

- (a) in paragraph (I), by the deletion of the word “twenty” and the substitution of the word “five”;
- (b) by the deletion of the proviso appearing immediately after paragraph (I) and the substitution of the following—

“Provided that —

- (a) a person shall not be entitled under this paragraph to exemption from Real Property Tax for the period unless he —
 - (i) submits a claim to, and receives approval from, the Minister for the exemption before the improvements are carried out; and
 - (ii) pays a fee of five hundred dollars;
- (b) if the improved historic property is assigned, sold or otherwise transferred to any person within the period of the exemption, the exemption granted by

this paragraph shall cease to apply in relation to that property;

- (c) a person who receives a Real Property Tax exemption for five years upon payment of the specified fee may apply for an extension of the exemption for a further period not to exceed five years but shall not be entitled to the exemption unless —
 - (i) he satisfies the Minister that during the first exemption period he completed capital improvements on the property amounting to not less than ten percent of the value of the property as at the date of approval of the first exemption;
 - (ii) pays a fee of five hundred dollars.”.

17. Amendment of section 42A of the principal Act.

Section 42A of the principal Act is amended in subsection (4), by the deletion of the words “of five thousand dollars” and the substitution of the words “not exceeding fifty thousand dollars or to a term of imprisonment not exceeding two years or to both such fine and imprisonment”.

18. Amendment of section 43 of the principal Act.

Section 43 of the principal Act is amended in subsection (2), by the deletion of the words “one thousand dollars or to imprisonment for a term of three months or to both such fine and imprisonment” and substitution of the words “fifty thousand dollars or to imprisonment for a term of two years or to both such fine and imprisonment”.

19. Amendment of Form A of the *Third Schedule* to the principal Act.

The *Third Schedule* to the principal Act is amended in Form A, by the deletion of the words “unimproved” wherever it appears.

20. Insertion of new *Fourth Schedule* into the principal Act.

The principal Act is amended by the insertion, immediately after the *Third Schedule*, of the new *Fourth Schedule* as follows —

**“FOURTH SCHEDULE
(SECTION 37A)**

“

Description of contravention	Provision of Act	Administrative Penalty
Making an omission or false statement in any application or document submitted under this Act	Section 4(2) Section 10(3) Section 27(6)	Maximum \$150,000
Being a director, failing to pay within the specified time, the amount payable in a notice of assessment	Section 18B	Maximum \$30,000
Being served with a garnishee notice, failing within the time prescribed to pay money or deliver assets specified in the notice, to the Chief Valuation Officer	Section 24(6)	Maximum \$100,000
Wilfully delaying or obstructing the Chief Valuation Officer in the exercise of his powers under this Act	Section 26(2)	Maximum \$100,000
Failure to give the Chief Valuation Officer reasonable assistance or to answer questions	Section 26(2)	Maximum \$100,000
Failure to comply with a request by the Chief Valuation Officer made by notice in writing	Section 27(6)	Maximum \$50,000
Being a financial institution, failure to comply with a request by the Chief Valuation Officer made in writing	Section 27(6)	Maximum \$150,000

”.