L.N. 3 of 2005

DUTY ON DOCUMENTS AND TRANSFERS ACT (CAP. 364)

Adjustments to Declared Value of Immovable Property Rules, 2005

IN exercise of the powers conferred by article 22 of the Duty on Documents and Transfers Act, the Prime Minister and Minister of Finance has made the following rules:-

Title.

1. The title of these rules is the Adjustments to Declared Value of Immovable Property Rules, 2005.

Interpretation.

2. In these rules, unless the context otherwise requires -

"the Act" means the Duty on Documents and Transfers Act;

"deed of adjustment" means a deed to which rule 4 refers;

"original declaration" means a declaration made in accordance with article 33 of the Act, in respect of a transfer *causa mortis* to which rule 3 applies;

"original value" means, without prejudice to rule 7, the value of immovable property or a portion thereof, as the case may be, transferred to a person *causa mortis* as declared in an original declaration.

Adjustment to value declared in a declaration *causa mortis*.

3. Any person who acquired immovable property under a transfer *causa mortis* on or after the 24th November, 1992 may, if notice of that transfer has been given to the Commissioner in accordance with article 51 of the Act before the 25th November, 2003, and subject to the other provisions of these rules, make an adjustment to the value of the property declared in the original declaration by declaring a higher value and paying the duty on that increase.

Deed of adjustment.

4. An adjustment to the original value shall be made by means of a public deed and notice of the adjustment shall be given to the Commissioner by the notary who receives the deed of adjustment by not later than the 30th June, 2005 together with a certified copy of the deed by means of which the original declaration had been made.

Deed to indicate original and additional value.

5. The deed of adjustment shall contain a declaration by the transferee *causa mortis* that he wishes to make an adjustment to the original value in accordance with these rules and shall indicate the original value and the amount by which the transferee wishes to increase that value.

Deed to indicate adjustment to each value.

6. When the original declaration contains a declaration of the original value of more than one item of immovable property, the deed of adjustment shall indicate separately the original value of each item and the corresponding additional amount, including, where applicable, a nil amount, by which the person making the declaration wishes to adjust each such value.

Final and conclusive assessments.

7. Where the original value is the subject of an assessment made under the Act and, before the notice referred to in rule 4 has been given to the Commissioner, that assessment becomes or has become final and conclusive, or is or has been confirmed or amended by a final decision of an appellate tribunal or court or is withdrawn following an agreement in writing with the Commissioner, the value of the property resulting from the said final and conclusive assessment, or decision or agreement shall be deemed the original value for the purposes of these rules.

Assessments that have not become final and conclusive.

8. Where the original value is the subject of an assessment made under the Act which, at the time that the notice referred to in rule 4 has been given to the Commissioner, has not become final and conclusive, the original value for the purpose of these rules shall be the value declared in the original declaration, as defined in rule 2:

Provided that -

(a) the deed of adjustment, the notice thereof and the payment of the tax in accordance with these rules shall be without prejudice to that assessment and to the procedures relating to any objection and appeal against that assessment;

(b) when that assessment becomes final and conclusive, the duty paid in accordance with these rules in respect of any immovable property shall be available as a credit against the duty, excluding additional duty, on the assessed value as resulting from that assessment in respect of the said property, which credit shall not exceed the said duty on the assessed value.

Maximum increase.

9. The amount by which a person may increase the original value shall not be higher than the maximum increase shown in the second column of the following table:

In respect of any item of immovable property	Maximum increase as a percentage of the original value of the corresponding item of immovable property
Acquired by the transferee *causa mortis* after the 24th November, 1992 and before the 25 th November, 1994 ……	200%
Acquired by the transferee *causa mortis* after the 24th November, 1994 and before the 25th November, 1995 ……	175%
Acquired by the transferee *causa mortis* after the 24th November, 1995 and before the 25th November, 1996 ……	150%
Acquired by the transferee *causa mortis* after the 24th November, 1996 and before the 25th November, 1997 ……	110%
Acquired by the transferee *causa mortis* after the 24th November, 1997 and before the 25th November, 1998 ……	90%
Acquired by the transferee *causa mortis* after the 24th November, 1998 and before the 25th November, 1999 ……	90%
Acquired by the transferee *causa mortis* after the 24th November, 1999 and before the 25th November, 2000 ……	60%
Acquired by the transferee *causa mortis* after the 24th November, 2000 and before the 25th November, 2001 ……	40%
Acquired by the transferee *causa mortis* after the 24th November, 2001 and before the 25th November, 2002 ……	30%
Acquired by the transferee *causa mortis* after the 24th November, 2002 and declared in a deed of transfer *causa mortis* of which notice has been given to the Commissioner before the 25th November, 2003 ……	20%

Duty payable on the additional value.

10. A duty of five percent of the amount of the additional value shall be payable on every deed of adjustment. The duty shall be paid to the notary who receives the deed and remitted by the notary to the Commissioner together with the notice of the said deed.

Applicability of procedures relating to notice and payment.

11. Save as provided in or as may be necessary for the purposes of these rules, the provisions of the Act and of rules prescribed under the Act, in respect of deeds containing a declaration of a transfer *causa mortis*, notice of such declarations, and the payment and remittance of the duty on such transfers shall apply, *mutatis mutandis*, to deeds of adjustment.

Validity of deed of adjustment.

12. No deed of adjustment shall be valid unless it complies with these rules and the duty payable thereon is remitted to the Commissioner together with the notice thereof by not later than the 30th June, 2005.

Duty due notwithstanding exemption or limitation.

13. The duty on a deed of adjustment shall be due notwithstanding any exemption from or limitation to the duty on the original declaration.

Duty not refundable.

14. Without prejudice to proviso (b) of rule 8, duty paid in accordance with the provisions of these rules shall, under no circumstances, be refundable.

Duty under these rules deemed to be duty payable on a declaration *causa mortis*.

15. Saving the other provisions of these rules, duty payable in accordance with these rules shall be deemed to be duty payable on a declaration *causa mortis* made in accordance with article 33 of the Act.

Rules to be without prejudice to certain provisions of article 43 of the Income Tax Management Act.

16. These rules shall be without prejudice to paragraph (a) of sub-article (1) and paragraph (a) of sub-article (4) of article 43 of the Income Tax Management Act.” .

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