

THE TRANSFER TAX ACT

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ORDERS

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THE TRANSFER TAX ACT

ORDER

(under section 17 (1) (e))

THE TRANSFER TAX (RECOGNIZED STOCK EXCHANGES) ORDER, 1971

(Made by the Minister on the 1st day of September, 1971)

L.N. 298/71

[1st April, 1970.]

1. This Order may be cited as the Transfer Tax (Recognized Stock Exchanges) Order, 1971.

2. The stock exchanges set out in the Schedule shall be recognized stock exchanges for the purposes of the Act in addition to the Jamaica Stock Exchange. Schedule.

SCHEDULE

(Paragraph 2)

The London Stock Exchange
The Toronto Stock Exchange
The Montreal Stock Exchange
The New York Stock Exchange

THE TRANSFER TAX ACT

ORDER
(under section 17 (4))

THE TRANSFER TAX (EXEMPTION) ORDER, 1971
(Made by the Minister on the 21st day of July, 1971)

L.N. 266/71

[4th August, 1971.]

1. This Order may be cited as the Transfer Tax (Exemption) Order, 1971.

2.—(1) In this Order—

“children” includes step-children, and adopted or illegitimate children;

“consideration for tax purposes”, in relation to any transfer, means the money, or money’s worth, on the amount or value of which tax is, apart from this Order, imposed as tax on consideration for such transfer;

“section” means a section of the Act;

“transfer” means a transfer (made whether before the 4th August, 1971, and after the 1st April, 1970, or on or after the 4th August, 1971) which, but for this Order, would have been subject to tax in accordance with the provisions of the Act.

(2) Any reference in sub-paragraph (c) of paragraph 3 to a transfer of land to such a relative of the transferor as is mentioned therein shall be deemed to include a reference to any transfer (whether to such a relative or not, but in the absence always of any such disposal as is so mentioned) of land by way of settlement if, but only if, according thereto the trustee, being the transferee (money’s worth within the meaning of that sub-paragraph to be deemed not to include his undertaking the trusteeship), acquires such land exclusively on trusts the beneficiary, or the beneficiaries, by virtue whereof is or are such a relative of the transferor as aforesaid or the transferor and any such relative; and paragraph 5 shall have effect as if such relative of the transferor in the case of any such transfer by way of settlement as aforesaid were the transferee:

Provided that no property shall be deemed to be settled otherwise than as hereinbefore required, for the purposes of this sub-paragraph, by reason only of the fact that the transferee's acquisition from the settlor of any such property under the settlement, or the interest of any beneficiary thereunder, is subject to any charge, lien or other right subsisting as mentioned in subsection (3) of section 8 over the property at the time of its transfer by the settlor or entitling the trustee of any such property to resort thereto for payment of duty, taxes, costs or other outgoings.

(3) In relation to any case where an appeal is sanctioned by the Act against a determination of any matter by the Commissioner which involved any decision required of him by virtue of the provisions of paragraph 4, any such provision for the decision to be on the part of the Commissioner shall be construed as being to all intents without prejudice to any appeal as respects the decision on his part.

3. Subject to paragraphs 4 and 5, no tax shall be charged in respect of transactions in any of the following classes—

- (a) transfer, by way of redemption, of debentures issued by a company for full consideration, in money or money's worth received by the company, as respects the amounts of the payments secured by such debentures, respectively;
- (b) transfers of land, where estates in fee simple are acquired by the respective transferees, in cases in which the amount or value of the consideration for tax purposes in relation to each of the transfers does not exceed two thousand dollars;
- (c) transfers of land, otherwise than by way of disposals in consideration of the fact of money or money's worth being given or promised therefor, which are made by individuals to their spouses or any of their children under the age of twenty-one years, or both, in cases in which the value of the consideration for tax purposes in relation to each of the transfers does not exceed ten thousand dollars, and further transfers (if any) of any such land, according to subsection (3) of section 6, on the occasions when any such children having attained the age of twenty-one years become absolutely entitled thereto pursuant to the first-mentioned transfers thereof (respectively) being transfers in the class of transactions specified in this sub-paragraph:

(d) transfers of units (however described) under a registered unit trust scheme within the meaning of the Unit Trusts Act—

- (i) upon the issue of certificates in that behalf as mentioned in sub-paragraph (ii) of paragraph (a) of subsection (1) of section 19 of that Act;
- (ii) by unit holders under the scheme, whether at their requisition as mentioned in paragraph 1 of the First Schedule to that Act or otherwise.

4.—(1) The class of transactions specified in sub-paragraph (b) of paragraph 3 does not include any transfer in respect of which the Commissioner is satisfied that the market value of the land exceeds two thousand dollars.

(2) Effect shall be given to any provisions referred to in the definition of “market value” in subsection (1) of section 2, in so far as they are applicable (*mutatis mutandis*), in any estimation of market value under sub-paragraph (1).

5. The class of transactions specified in sub-paragraph (c) of paragraph 3 does not include any of two or more such transfers to the same person as are first in that sub-paragraph referred to, other than whichever of them is made on the part of the transferor at the earliest of the several dates at which they are so made, but if all are so made at the same date, or two or more at the earliest of the said dates, then, such class of transactions does not include any of the first-mentioned transfers, other than such of them so made at that date as may be notified in writing to the Commissioner at the transferor’s election :

Provided that the consideration for tax purposes in relation to any transfer or transfers notified as aforesaid shall not exceed, whether in the aggregate or otherwise, ten thousand dollars.

THE TRANSFER TAX ACT

ORDER

(under section 17 (4))

THE TRANSFER TAX (EXEMPTION) (No. 2) ORDER, 1971

(Made by the Minister on the 20th day of July, 1971)

L.N. 267/71

[4th August, 1971.]

1. This Order may be cited as the Transfer Tax (Exemption) (No. 2) Order, 1971.

2. In this Order—

“transfers” means transfers (made whether before the 4th of August, 1971, and after the 1st April, 1970, or on or after the 4th August, 1971) which, but for this Order would have been subject to tax in accordance with the provisions of the Act.

3. No tax shall be charged in respect of transactions in the class specified in the Schedule, wherein—

Schedule.

- (a) reference to assets is to assets of any kind to which it is lawful to have regard as mentioned in paragraph (b) of subsection (4) of section 44 of the Income Tax Act, for purposes of deciding whether or not to exercise any powers under that paragraph or subsection (6) of that section;
- (b) reference to approved superannuation funds is to respective funds within the definition of “approved superannuation fund” in subsection (1) of section 2 of the said Act.

SCHEDULE

(Paragraph 3)

Transfers of property forming assets in approved superannuation funds from the 17th November, 1970, or any prior date, until such transfers, respectively, and no longer.

THE TRANSFER TAX ACT

ORDER
(under section 17 (4))

THE TRANSFER TAX (EXEMPTION) ORDER, 1974
(Made by the Minister on the 4th day of September, 1974)

L.N. 388/74

1. This Order may be cited as the Transfer Tax (Exemption) Order, 1974.

2. In this Order—

“approved housing scheme” means—

- (a) any “scheme” within the meaning ascribed to that expression in section 2 of the Housing Act;
- (b) any housing scheme approved by a local authority pursuant to powers under the Local Improvements Act;

“developer” means any person responsible for the development or sale or both of a housing scheme;

“dwelling-house” means any premises used as a separate dwelling or of a type suitable for such use;

“flat” means a separate and self-contained set of premises constructed for use for the purpose of a dwelling and forming part of a building from some other part from which it is divided;

“housing scheme” means a scheme for the sub-division of land and the construction of dwelling-houses or flats thereon;

“local authority” means—

- (a) in relation to the Corporate Area as defined in the Kingston and St. Andrew Corporation Act, the Council of the Kingston and St. Andrew Corporation; and
- (b) in relation to the parishes not within the Corporate Area, the Parish Council of such parishes in their respective parishes;

“unit” in relation to any approved housing scheme, means a strata lot as defined in section 2 of the Registration (Strata

Titles) Act, or any other parcel of land comprised in the housing scheme capable of being transferred separate from other parcels of land in that housing scheme.

3.—(1) Subject to sub-paragraph (2), no tax shall be charged in respect of so much of the consideration for the transfer by a developer of a unit in an approved housing scheme as the Commissioner is satisfied represents the value of any dwelling-house or flat on that unit.

(2) The exemption granted pursuant to sub-paragraph (1) shall be subject to the following conditions—

- (a) once the exemption is granted in relation to any unit, no further or other exemption shall be granted under this Order in relation to that unit;
- (b) the value of a dwelling-house or flat on a unit shall be deemed not to exceed 75 *per centum* of the amount of the consideration for the transfer of the unit, so, however, that nothing in this condition shall be construed as relieving a developer from the duty to satisfy the Commissioner of the value of any dwelling-house or flat on a unit, or as derogating from the powers of the Commissioner to determine that the value of such dwelling-house or flat is less than 75 *per centum* of the consideration for the transfer of the unit.

THE TRANSFER TAX ACT

REGULATIONS
(under section 44)

THE TRANSFER TAX (COMPUTATIONS) REGULATIONS, 1971

(Made by the Minister on the 30th day of April, 1971)

L N. 265/7.

[4th August, 1971.]

PART I—Preliminary

1. These Regulations may be cited as the Transfer Tax (Computations) Regulations, 1971.

Citation.

2. In these Regulations—

“capital gains”, in relation to any transfer, means capital gains to be taken, for the purposes of subsection (1) of section 14, to accrue from such transfer;

Interpretation.

“capital gains purposes” means the purposes of determining capital gains in the case of a transfer, and of assessing the amount of the capital gains therefrom (if any);

“section” means a section of the Act;

“the Schedule” means the First Schedule to the Act.

PART II—Market Value

3.—(1) In estimating the market value of any property under the Act, no reduction shall be made in the estimate on account of the estimate being made on the assumption that the whole of the property is to be placed on the market at one and the same time:

Assessments regarding property in its entirety

Provided that where tax is chargeable by virtue of subsection (3) or (4) of section 6 in respect of any transfer in consequence of death and the market value of any property on the date of death taken into account for the purposes of the tax has been depreciated by reason of the death, the estimate of the market value shall take that depreciation into account.

(2) If a transferee is given, or acquires from one or more persons with whom he is connected, by way of two or more gifts or other transfers, property of which the aggregate market value, when considered separately in relation to the separate gifts or other transfers, is less than the market value of all such property when considered together, then, the property's market value, where relevant for the purposes of the Act, shall be taken to be the larger market value, to be apportioned rateably to the respective transfers.

Transfers
between
connected
persons.

4.—(1) This regulation shall apply where property is transferred to any person and the transferor is connected with him.

(2) In a case where the property mentioned in paragraph (1) is subject to any right or restriction enforceable by the transferor, or by a person connected with him, then, the amount of the consideration for the transfer being, in accordance with section 4, deemed to be equal to the market value of the property, that market value shall be—

- (a) what its market value would be if not subject to the right or restriction, minus—
- (b) the market value of the right or restriction or the amount by which its extinction would enhance the value of the property to its owner, whichever is less:

Provided that if the right or restriction is of such a nature that its enforcement would or might effectively destroy or substantially impair the value of the property without bringing any countervailing advantage either to the transferor or a person connected with him or is an option or other right to acquire the property or, in the case of incorporeal property, is a right to extinguish the property in the hands of the person giving the consideration by forfeiture or merger or otherwise, that market value of the property shall be determined as if the right or restriction did not exist.

This paragraph shall not apply to a right of forfeiture or other right exercisable on breach of a covenant contained in a lease, and shall not apply to any right or restriction under a mortgage or other charge.

Transfers
of securities
of company
under control
of transferors
and connected
persons.

5.—(1) Where a person transfers securities in a company of which he has, or he and persons connected with him have, control, the market value of the securities (where it is relevant for the purposes of the Act) shall be estimated by reference to the net value of the assets of the company in accordance with the following provisions—

- (a) the net value of the assets of the company shall be taken to be the price which they would fetch if sold in the open market at the time of the transfer (and, for this purpose, paragraph (1) of regulation 3 shall *mutatis mutandis* apply) less an allowance for liabilities of the company (except in respect of shares or debentures thereof) computed, as regards liabilities which have not then matured, by reference to the value thereof at that time and, as regards contingent liabilities, by reference to such estimation as the Commissioner may consider reasonable;
- (b) the aggregate value of all the securities of the company issued and outstanding at the time of the transfer shall be taken to be the same as the net value of the assets of the company;
- (c) in a case in which there are both shares in and debentures of the company issued and outstanding at the time of the transfer, or different classes of either, the net value of the assets of the company shall be apportioned between them with due regard to the rights attaching thereto respectively; and
- (d) the value of any securities, or of securities of any class, shall be a rateable proportion, ascertained by reference to nominal amounts, of the net value of the assets of the company as determined under sub-paragraph (a), or, in the case mentioned in sub-paragraph (c), of the part thereof apportioned under that paragraph to the shares in the company, or to the debentures of the company, or to the class of them, as the case may be, including the securities.

(2) Paragraph (3) of regulation 12 shall *mutatis mutandis* apply for the purposes of this regulation as it applies for the purposes of regulation 12.

6. The market value of securities quoted on the Jamaica Stock Exchange shall, save where in consequence of special circumstances prices so quoted are by themselves not a proper measure of market value, be estimated (wherever relevant) under the Act as—

Market value of securities quoted on Jamaica Stock Exchange.

- (a) the lower of the two prices shown in the quotations for the securities in the Jamaica Stock Exchange official daily list on the relevant date plus one quarter of the difference between these two figures; or

- (b) half-way between the highest and lowest prices at which bargains, other than bargains done at special prices, were recorded in the securities for the relevant date,

choosing the amount under paragraph (a) if less than that under paragraph (b), or if no such bargains were recorded for the relevant date, and choosing the amount under paragraph (b) if less than that under paragraph (a):

Provided that if the Jamaica Stock Exchange is closed on the relevant date, or, if open, the two prices were not listed as mentioned in paragraph (a), then (save as aforesaid) the market value shall be ascertained by reference to the latest previous date or earliest subsequent date on which it is open and the prices so listed, whichever affords the lower market value.

PART III—Capital Gains

Exclusion of expenditure by reference to income tax.

7. There shall be excluded from the sums deductible under subsection (3) of section 14 for the purposes of the computation of capital gains in the case of the transfer of any property, any expenditure which, if the property, or all of it to which the computation relates, were, and had at all times been, held or used as part of the fixed capital of a trade the profits or gains of which were (irrespective of whether the transferor is a company or not) chargeable to income tax, would be allowable as a deduction in computing the profits or gains or losses of the trade for the purposes of income tax.

Part disposals.

8.—(1) Where a person transfers an interest or right in or over property and, generally, wherever any transfer is made by way of the part disposal of property, such sums referable to the property as are described in paragraphs (a) and (b) of subsection (3) of section 14 shall, for capital gains purposes both as respects the transfer, and as respects any disposal of the property which on that transfer remains undisposed of, be apportioned by reference—

- (a) to the amount on which tax is charged in respect of the said transfer, on the one hand (call that amount or value "A"); and
- (b) to the market value of the property which remains undisposed of, on the other hand (call that market value "B"),
- and, accordingly, the fraction of the said sums which shall be allowed as a deduction in computing capital gains on the said transfer shall be

$\frac{A}{A+B}$, and the remainder shall be attributed to the property which remains undisposed of.

(2) This regulation shall not be taken as requiring the apportionment of any expenditure which, on the facts, is wholly attributable to what is transferred, or wholly attributed to what remains undisposed of.

(3) In applying this regulation to such a part disposal as is mentioned in subsection (1) of section 7, the property which remains undisposed of includes a right to any rent or other payments, other than a premium within the meaning of section 7, payable under the lease; and that right shall be valued as at the time of the part disposal.

9. If, and to any extent to which, property has value derived from any other property in the same ownership, in a case where property has been merged or divided or has changed its nature or rights or interests in or over property have been created or extinguished, it shall, for capital gains purposes both as respects the transfer of the first-mentioned property and, if any such other property remains in existence, as respects a transfer of that other property, be lawful to attribute to the first-mentioned property, so far as may be appropriate, a proportion of the sums deductible under the provisions of paragraphs (a) and (b) of subsection (3) of section 14 and regulation 10 (where applicable) in case of a computation under that subsection in respect of the property from which such value is derived as aforesaid.

Property derived from other property.

10. Notwithstanding anything to the contrary herein provided, where any allowance is made under Part I or II of the First Schedule to the Income Tax Act on account of expenditure incurred on property by or on behalf of any person who applies for relief under section 14 from tax in respect of his transfer of such property, the computation for capital gains purposes as respects that transfer shall be made by way of computation for those purposes apart from the provisions of this regulation, and by deducting from the sum (if any) computed as last hereinbefore mentioned any amount which would, but for application of paragraph (c) of subsection (6) of section 14 in relation to such allowance, have been deductible in computing such sum as aforesaid.

Deduction by reference to capital allowance.

Transfer of
property
acquired as
legatee.

11. Where a transferor of property who acquired it as a legatee applies for relief under section 14 from tax in respect of his transfer of such property, the computation for capital gains purposes as respects such transfer shall be made as if—

- (a) for references in paragraph (a) of subsection (3) of section 14 to acquisition on the part of a transferor, and to consideration in relation thereto, there had been substituted references to the last transfer (to whomsoever made) prior to that by the transferor and pursuant to a bargain at arms length, and to the consideration (by whomsoever given) in corresponding relation to such prior transfer, respectively; and
- (b) any prior transfer, pursuant to a bargain at arms length, which shall accordingly be relevant for the capital gains purposes aforesaid had been made to the legatee and he had incurred on the property so transferred any subsequent expenditure incurred thereon wholly and exclusively for such a purpose, and reflected, as mentioned in paragraph (b) of subsection (3) of section 14.

Dealings in
securities.

12.—(1) Any number of shares of the same class held by one person in one capacity shall be regarded, for capital gains purposes as respects his transfer of any such shares, as indistinguishable parts of a single asset consisting of property (in this paragraph referred to as a holding) growing or diminishing on the occasions on which additional shares of the class in question are acquired, or some of the shares of the class in question are transferred.

(2) Without prejudice to the generality of paragraph (1), a transfer of shares in a holding, other than the transfer outright of the property of which the holding consists, shall be treated (for the purposes aforesaid) as a disposal of part of such property and the provisions of this part relating to computation of capital gains from the transfer of part of any property shall apply accordingly.

(3) It shall be lawful to treat shares as being of the same class, for the purposes of this regulation, if (but only if) the Commissioner is satisfied that on account of substantial similarity between the rights appertaining to such shares, respectively, they ought to be so treated.

(4) This regulation shall apply separately in relation to any shares held by a person to whom they were issued as an employee of the company or of any other person on terms which restrict his

rights to dispose of them, so long as those terms are in force, and, while applying separately to any such shares, shall have effect as if the owner held them in a capacity other than that in which he holds any other shares of the same class.

(5) Nothing in this regulation shall be taken as affecting the manner in which the market value of any property is to be ascertained.

(6) This regulation applies in relation to securities, other than shares, as it applies in relation to shares.

13.—(1) No apportionment on any assumption (introduced by paragraph 3 of the Schedule) of the transfer of any interest in shares in consideration of any capital distribution shall be made for capital gains purposes as respects a subsequent transfer of any of those shares and no computation for purposes aforesaid shall include any sum on account of any receipt, or entitlement to the receipt, of any such distribution.

Transfer of shares after capital distribution or alteration of their rights.

(2) No sum on account of any consideration received or deemed to have been received in the case of a transaction relating to any person's securities and mentioned in sub-paragraph (3) (b) of paragraph 4 of the Schedule, or sub-paragraph (1) of paragraph 8 thereof, shall be included in any computation for capital gains purposes as respects any subsequent transfer by that person of any of those securities and no apportionment shall, for purposes aforesaid, be made on the assumption introduced by sub-paragraph (3) of the said paragraph 4 or sub-paragraph (1) aforesaid, as the case may be, of any transfer in the case of such transaction.

14.—(1) A reorganization or reduction of a company's share capital shall not be treated as involving any acquisition of the new holding or any part of it, but the original shares (taken as a single asset) and the new holding (taken as a single asset) shall be treated as the same property acquired as the original shares were acquired.

Reorganization or reduction of share capital.

(2) Where, on a reorganization or reduction of a company's share capital, a person gives or becomes liable to give any consideration for his new holding or any part thereof, that consideration shall, for capital gains purposes as respects any transfer of the new holding or any part thereof, be treated as having been given for the original shares, and if the new holding or part of it is transferred with a liability attaching thereto in respect of that consideration, the consideration given for the transfer shall be adjusted accordingly:

Provided that there shall not be treated as consideration given for the new holding or any part thereof any surrender, cancellation or other alteration of the original shares or of the rights attached thereto, or any consideration consisting of any application in paying up the new holding or any part of it of assets of the company or of any dividend or other distribution declared out of those assets but not made.

(3) Where for the purpose of computing capital gains from the transfer of any part of the new holding it is necessary to apportion the cost of acquisition of any of the original shares between what is disposed of and what is retained, the apportionment shall be made by reference to market value at the date of the disposal (with such adjustment of the market value of any part of the new holding as may be required to offset any liability attaching thereto but forming part of the cost to be apportioned).

Conversion of securities, amalgamation or reconstruction of companies.

15.—(1) Regulation 14 shall, so far as may be, apply as if reference thereto were included in the references to paragraph 4, in paragraphs 5 and 6, of the Schedule.

(2) Where there has been a transfer within sub-paragraph (2) of paragraph 7 of the Schedule by a company of any property, the transferee shall, for capital gains purposes as respects the transferee's subsequent disposal of the property, be treated as if the said company's acquisition of the property had been such transferee's acquisition thereof:

Provided that this paragraph shall not apply in relation to property which, until the transfer, formed part of trading stock of a trade carried on by the company or in relation to property which is acquired as trading stock for the purposes of a trade carried on by the transferee.

Capital gains in case of election under section 21.

16.—(1) Capital gains in the case of the transfers to which any election made under section 21 relates shall be the aggregate of the capital gains (if any) from such transfers, assessed by way of separate computations in relation to those transfers, respectively, less any losses appearing from such computations to have been incurred in the case of any such transfers:

Provided that—

(a) no loss appearing as aforesaid to have been incurred in the case of any such transfer made to a person connected with

the transferor shall be deducted except from any capital gains computed to have accrued from another such transfer made to the person who is so connected;

- (b) no loss appearing as aforesaid to have been incurred in the case of any transfer of shares of any class shall be deducted if the transferor acquired shares of that class within a period of three months commencing with the date of such transfer;
- (c) paragraph (3) of regulation 12 shall apply for the purposes of (b) above as it applies for the purposes of regulation 12.

(2) Where capital gains neither equal nor exceed the losses deductible therefrom as provided by paragraph (1) in the case of transfers during any year of assessment and the transferor makes a further election under section 21, and application under subsection (1) of section 14, in relation to transfers of securities by him during the next ensuing year of assessment, the said losses, less such capital gains (if any), shall be treated as losses deductible under paragraph (1) for the purposes of such application, but thereafter no amount shall, on account of any of the losses so treated, be deductible under paragraph (1) for the purposes of any application under that subsection with reference to any subsequent year of assessment.

17.—(1) No deduction shall be allowable from more than one sum, General. or more than once from any sum, in a computation of the capital gains in the case of any transfer, or be allowable from consideration mentioned in regulation 13 (other than a capital distribution, or entitlement thereto, in the dissolution or winding up of a company) for capital gains purposes.

(2) For capital gains purposes, any necessary apportionment shall be made of any consideration or of any expenditure, and the method of apportionment adopted shall, subject as specifically provided by these Regulations, be such method as may, to the satisfaction of the Commissioner, be just and reasonable.

(3) Without prejudice to the generality of anything provided by subsections (3) and (4) of section 14—

- (a) so far as a computation of capital gains is required under the Act to be made by reference to events before the 2nd April, 1970, the computation shall be made, as nearly as may be, in like manner as a computation so required to be made by reference to events after the 1st April, 1970;

(b) such provisions of these Regulations as affect the amount or value to be treated as consideration subject to tax in respect of a transfer shall apply in like manner as provided by subsection (4) of section 14 for the application of the provisions of the Act which are mentioned in that subsection and, in particular, regulation 18 shall apply as aforesaid and accordingly—

(i) if property was acquired upon the exercise of an option binding the grantor thereof to sell, the consideration for acquisition of the option shall be part of the consideration for the acquisition of the property, so, however, that where the person who acquired the property upon his exercise of the option acquired the option otherwise than directly from the grantor thereof, the allowable consideration for acquisition of the option shall be the consideration for its acquisition by the said person who exercised the option;

(ii) if property was acquired upon the exercise of an option binding the grantor thereof to purchase, the consideration for granting the option shall be deducted from the consideration for the grantor's acquisition in purchasing pursuant to his obligations under the option,

subject to the provisions of regulation 12, where applicable, in keeping with which an option may be regarded in relation to the grantor, or in relation to the person entitled to exercise the option, as relating to part of a holding of shares or other securities as defined in regulation 12.

(4) For capital gains purposes, it shall be assumed, wherever relevant, that any securities the market value of which on the 1st April, 1970, is determinable by reference to their quotation on the Jamaica Stock Exchange on that date, or would be so determinable but for any special circumstances mentioned in regulation 6, were sold by their owner, and immediately re-acquired by him, at their market value on the said date and, in so far as may be relevant for the purposes of regulation 11, pursuant to a bargain at arms length.

PART IV—Options

18.—(1) In case of the exercise of an option at which property is transferred by any person, then, for the purposes of charging that person to tax, the grant of the option and the transaction entered into

Transfer of
property
upon exer-
cise of
option.

by the grantor in fulfilment of his obligations under the option shall be treated as a single transaction and accordingly—

- (a) if the option binds the grantor to sell, the consideration for granting the option is part of the consideration for the sale;
- (b) if the option binds the grantor to purchase, the consideration for acquisition of the option shall be deducted from the consideration for the transfer pursuant to the exercise of the rights under the option:

Provided that where the transferor acquired the option (binding the grantor to purchase) otherwise than directly from the grantor, the deductible consideration for acquisition of the option shall be the consideration for its acquisition by the transferor.

(2) This paragraph shall apply in relation to an option binding the grantor both to sell and to purchase as if it were two separate options with half the consideration attributed to each.

(3) Every reference in the foregoing provisions of this regulation to selling property or purchasing it shall be construed to include a reference to any transfer of property or acquisition thereof by way of its transfer, respectively.

PART V—Leases not at Rack-rent

19. No lease shall be within the provisions of subsection (5) of section 7 unless the term of the lease exceeds a period of one year, which is hereby prescribed as authorized by that subsection.

Period prescribed for purposes of section 7 (5).

PART VI—Supplemental

20. In relation to any case where an appeal is sanctioned by the Act against a determination of any matter by the Commissioner which involved any decision required of him by virtue of the provisions of sub-paragraph (a) of paragraph (1) of regulation 5, paragraph (3) of regulation 12 or paragraph (2) of regulation 17, any such provision for the decision to be on the part of the Commissioner shall be construed as being to all intents without prejudice to any such appeal as respects the decision on his part.

Appeals from Commissioner.

21. These Regulations shall *mutatis mutandis* apply in relation to transfers after the 1st April, 1970, and before the 4th of August, 1971, as they apply to transfers after the 4th of August, 1971.

Transfers after 1st April, 1970 and before 4th August, 1971.

THE TRANSFER TAX ACT

REGULATIONS
(under section 44)THE TRANSFER TAX (PROCEDURE, PRESCRIBED TIMES AND INTEREST)
REGULATIONS, 1971*(Made by the Minister on the 3rd day of August, 1971)*L.N. 277/71
Amdt:
L.N. 186/87

1. These Regulations may be cited as the Transfer Tax (Procedure, Prescribed Times and Interest) Regulations, 1971.

Citation.

2. In these Regulations, "section" means a section of the Act.

Interpretation.

3. Every requisition referred to in paragraph (a) of subsection (2) of section 19 shall be in the form set out as Form 1 in the Schedule.

Form of requisition of assessment. Schedule. Form 1.

4. The submission of a document for stamping under paragraph (b) of subsection (2) of section 19 by virtue of the provisions of paragraph (e) of subsection (1) of section 17 as respects the Jamaica Stock Exchange shall be supported by production of a certificate of an officer thereof acceptable to the Commissioner for the purpose, in a form satisfactory to him, that the document relates to a transfer in the course of business on the Exchange.

Certification of Jamaica Stock Exchange transactions.

5.—(1) Every return required by virtue of section 20 shall be in the form set out as Form 2 in the Schedule and shall be transmitted to the Commissioner within the period of thirty days commencing with the date next after the transfer of which that return is made:

Returns. Form 2.

Provided that—

- (a) in the case of every return pursuant to subsections (2) and (3) of section 46, the said period shall be extended by two months;
- (b) the period of thirty days for transmission of a return pursuant to section 22 by trustees shall not commence until the date following that on which they first have notice of the transaction to which such return shall relate.

THE TRANSFER TAX (PROCEDURE, PRESCRIBED TIMES AND INTEREST) REGULATIONS, 1971

Form 3.

(2) Every return required by virtue of subsection (2) of section 21 shall be in the form set out as Form 3 in the Schedule.

Time for payment of tax.

6.—(1) Tax assessed under section 24 shall be paid within the period of fourteen days commencing with the date next after notice of such assessment has been served under section 24, unless objection thereto is made under section 25.

(2) Tax in keeping with a notice given under subsection (3) of section 25 shall be paid within the period of fourteen days commencing with the date next after notice has been given as aforesaid.

Certification of payment of tax.

7.—(1) Upon payment of all the tax, together with interest due thereon (if any), relating to any transfer, notice by the Commissioner of such payment shall be prepared in triplicate and served in duplicate on the transferor, and shall—

(a) certify the date and amount of such payment and, in case of any interest being so paid, the amount thereof; and

(b) sufficiently identify such transfer by reference to the names of the parties thereto and otherwise,

and the triplicate copy so prepared shall be retained with such papers relating to the transfer as are kept by the Commissioner.

(2) The provisions of paragraph (1) shall apply to due payment of any instalment of tax as they apply to the payment of tax in full, so, however, that any notice pursuant to this paragraph shall include a statement indicating whether, and in what sum (if any), there remains outstanding any of the tax payable by instalments.

Applications under section 14.

Form 4.

8.—(1) Any application by a person for the refund of any payment discharging his liability for tax, being liability arising out of the fact that he transfers any property, shall be made in the form set out as Form 4 in the Schedule if it is made on grounds that such transfer has resulted in the accrual of no capital gains or of capital gains of which twelve and one-half *per centum* is exceeded by the tax paid in respect of that transfer.

(2) Reference in paragraph (1) to fact includes reference to any such assumption—

(a) regarding an allotment equated with the issue of securities or with securities by paragraph 1 or sub-paragraph (4) of paragraph 4, or redemption (whether of shares or securities)

taxed by sub-paragraph (5) of paragraph 4, or winding-up so far as paragraph 3 applies by virtue of sub-paragraph (2) thereof to such winding-up, or transfer within paragraph 9, as the provisions of the paragraph in that regard require; or

- (b) within any of the provisions of sections 2 to 11 (inclusive) as comprised the basis of the relevant taxation.

(3) Every application in accordance with paragraph (1) for relief from tax shall be submitted with the certificate served under regulation 7 upon payment of such tax.

(4) In sub-paragraph (a) of paragraph (2)—

- (a) references to paragraphs are to paragraphs of the First Schedule to the Act;
- (b) "winding-up" means a winding-up, and includes any dissolution, of a company.

9.—(1) Every application under section 15 shall be made in writing to the Commissioner and, upon the making of any such application, information as to the circumstances relied on in support of the application shall be submitted to him in a concise statement in writing, from personal knowledge, of an informant satisfactory to the Commissioner.

Applications under sections 15 and 16.

(2) Every application under section 16 shall be made in writing to the Commissioner, and shall be accompanied by the contract, if in writing, to which that application relates. If the application is granted, the Commissioner shall denote any such contract therewith accordingly.

(3) Upon the making of any such application under section 16, information as to the circumstances relied on in support of the application shall be submitted to the Commissioner in a concise statement in writing by the legal adviser of the applicant or, in the absence of such a legal adviser, by any other informant satisfactory to the Commissioner.

10.—(1) The period hereby prescribed pursuant to subsection (1) of section 25 for objecting to any assessment is the period of fourteen days commencing with the date next after notice of such assessment has been served under section 24 or given pursuant to section 19, as the case may be.

Miscellaneous prescribed periods.

(2) The period hereby prescribed in pursuance of subsection (1) of section 29 to follow the giving of notice under subsection (3)

THE TRANSFER TAX (PROCEDURE, PRESCRIBED TIMES AND INTEREST) REGULATIONS, 1971

of section 25 is the like period as prescribed by paragraph (2) of regulation 6 with reference to the giving of notice as aforesaid.

(3) The period hereby prescribed for appealing under subsection (1) of section 26 from the Commissioner's decision is the period of thirty days commencing with the date next after notification of such decision under subsection (3) of section 25, or to the claimant or applicant, as the case may be.

(4) The period hereby prescribed pursuant to subsection (2) of section 21 for transmitting a return thereunder after the end of any year mentioned in that subsection is the period immediately following that year and ending with the 15th March next thereafter.

Payment of
tax by
instalment.

11. Notwithstanding anything to the contrary, tax assessed under subsection (1) or (2) of section 24 in the case of any return mentioned in sub-paragraph (a) in the proviso to paragraph (1) of regulation 5 may, at the prior election in writing of the transferor making such return, be paid by three instalments of which—

- (a) the first shall be not less than one-third of such tax and shall be paid in conformity with regulation 6;
- (b) the second shall be not less than one-half of the tax outstanding after payment of the first instalment thereof and shall be paid within three months of the day on which that instalment became due and payable;
- (c) the third shall be equal to the balance of such tax and shall be paid within six months of the day on which the first instalment thereof became due and payable:

Provided that in case of any default in—

- (a) the making of any such return; or
- (b) the payment of any such instalment,

the outstanding amount of any assessment notified in respect of the transfer so returnable or returned shall be due and payable in full (interest being chargeable thereon from the commencement of such period as provided by paragraph (b) of subsection (2) of section 29).

Charges.
Form 5.

12.—(1) Every memorandum authorized by subsection (2) of section 32 shall be prepared in the form set out as Form 5 in the Schedule.

Form 6.

(2) Every release required by subsection 6 of section 32 shall be prepared in the form set out as Form 6 in the Schedule.

13.—(1) The rate at which interest shall be computed for the purposes of subsection (2) of section 27 is four *per centum* per annum. **Interest.**

(2) The rate at which interest shall be charged under paragraph (b) of subsection (2) of section 29 is eight *per centum* per annum.

14.—(1) In relation to any case where an appeal is sanctioned by the Act against the determination by the Commissioner of any application, being an application so determined pursuant to his decision whether an informant is satisfactory as required by paragraph (1) or (3) of regulation 9, any such requirement of a decision on the part of the Commissioner shall be construed as being to all intents without prejudice to any such appeal in so far as it may involve impugment of the decision on his part. **General.**

(2) Except as hereinbefore specifically provided to the contrary, these Regulations shall *mutatis mutandis* apply in relation to transfers after the 1st April, 1970, and prior to the 4th August, 1971, as they apply in relation to transfers thereafter.

(3) Regulation 11 shall (notwithstanding anything to the contrary) apply *mutatis mutandis* to a notification under subsection (3) of section 25 upon objection to an assessment mentioned in that regulation as it applies to such an assessment and, accordingly, the provisions of paragraph (2) of regulation 6 shall have effect subject as otherwise provided by this paragraph.

SCHEDULE
DEPARTMENT OF STAMP DUTY AND TRANSFER TAX **STAMPING REQUISITION**
Form 1 (Regulation 3)
Requisition pursuant to section 19 (2) (a) of the Transfer Tax Act

APPLICANT'S NAME		APPLICANT'S ADDRESS				TELEPHONE No.	No. of DOCUMENTS		DATE SUBMITTED	
PARTICULARS OF DOCUMENTS	CONSIDERATION	CODE No.	DATE OF DOCUMENT	STAMP DUTY		TRANSFER TAX		PENALTY IMPOSED		TOTAL
TOTALS										

FOR OFFICIAL USE ONLY

ASSESSOR'S No.	ASSESSOR'S SIGNATURE	BRANCH HEAD'S SIGNATURE	VALUE BOOK No.	DEPOSIT RECEIPT No.	STAMP MACHINE No.
STAMPLER'S No.	STAMPLER'S SIGNATURE	STAMP VERIFICATION OFFICER'S SIGNATURE	DATE DOCUMENT DELIVERED	DELIVERED BY	

The inclusion of this page is authorized by L.N. 62/19881

THE TRANSFER TAX (PROCEDURE, PRESCRIBED TIMES AND INTEREST) REGULATIONS, 1971

FORM 2

(Regulation 5(1))

Return pursuant to section 20 of the Transfer Tax Act

Transaction.....	
Transferor's name.....	See Note 1 for meaning of "transfer".
Transferor's address.....	
Transferee's name.....	
Transferee's address.....	
Date of transfer.....	
Property transferred.....	See Note 2 for meaning of property".
Consideration..... (If no consideration, estimate the market value)	
.....	If so, state which in answer.
Are you transferor or transferee?.....	
Are transferor and transferee connected?.....	See Note 3 for meaning of connected persons.
Questions to be answered in certain cases	
A In cases of OPTIONS	
1. Did transaction include grant or other transfer of any option?.....	
If so, by whom, to whom, when, on what property and for how much?.....	
to..... Date.....	
Property.....	
Consideration..... (If no consideration, estimate the market value)	
.....	
2. Has option been exercised for transfer of any property?	
If so, when, by whom, for transfer of what property, to whom, from whom, and for how much?.....	
(Date)	
by.....	
Property.....	
to.....	
from.....	

THE TRANSFER TAX (PROCEDURE, PRESCRIBED TIMES AND INTEREST) REGULATIONS, 1971

FORM 2, *contd.*

Consideration..... What is the consideration for the transfer (if any) of the property?..... Does it include consideration for the option?.....		
B	In cases of LEASES	See Note 2 (ii) for meaning of a lease.
	1. Was transaction by way of grant or other transfer of lease?..... If so, when and what property leased, by whom and to whom?..... <div style="text-align: right;">(Date)</div> Property. Lessor..... Lessee..... Was there a premium or lump sum payment?..... If so, when, by whom, to whom, and how much?..... <div style="text-align: right;">(Date)</div> Payor. Payee Amount	
	2. Was there variation, waiver or surrender of a right or interest? .. If so, when, and of what right or interest? .. <div style="text-align: right;">(Date)</div> Right or Interest .. And if so, on what terms?..... And was there payment of any sum under such terms or in lieu of rent? .. And if so, when, by whom, to whom, and how much?..... <div style="text-align: right;">(Date)</div> Payor. Payee Amount ..	
	3. Was property leased for less than a rack rent?..... If so, how much rental is forgone by lessor?.....	
	4. What is the market value of the property?.....	
C	In cases of SETTLEMENT or TRUST PROPERTY	
	1. Was transfer by way of settlement?..... If so, (a) on whom?..... (b) who are the trustees?..... (c) describe trust property.....	

FORM 2, *contd.*

2. Are or were you trustee or beneficiary?.....
 If so, under what trust or settlement?.....

 And, was there entire or part disposal of a beneficial interest?.....
 If so, (a) to whom?.....
 (b) when?.....
 (c) and for how much?.....
 (d) name of beneficiary.....
 (e) property disposed of.....
 Was there a transfer of trust property by trustee(s)?.....
 If so, (a) when?.....
 (b) to whom?.....
 (c) for how much?.....
 Did a beneficiary become absolutely entitled as against a trustee?.....
 If so, (a) when?.....
 (b) against whom?.....
 (c) what is the value of the property to which the beneficiary has become absolutely entitled?.....
 (d) name of beneficiary.....
 Has the life interest been terminated?.....
 If so, (a) when?.....
 (b) who is the remainderman or beneficiary succeeding?.....
 (c) what is the value of the property that has been passed to the remainderman or the beneficiary?.....

D In cases of
COMPANY LIQUIDATIONS

- Was transferor acting through liquidator of company?.....
 If so, (a) what company?.....
 (b) when appointed liquidator?.....
 (c) was there transfer of assets of company in specie to any member of the company?.....

 If so,
 (i) to whom?.....
 (ii) what were the assets comprised of?.....
 (iii) what was the value of those assets?.....

THE TRANSFER TAX (PROCEDURE, PRESCRIBED TIMES AND INTEREST) REGULATIONS, 1971

FORM 2, contd.

<p>E In cases of CAPITAL DISTRIBUTIONS</p>	
<p>1. Did you grant any capital distributions from company? (to be answered where return by or for transferees) If so, (a) when?..... (b) to whom?..... (c) from which company?..... (d) name of secretary of company?..... (e) for how much? If not paid in cash what was the value of the assets distributed?</p>	
<p>2. Did you receive or become entitled to receive any capital distributions from company? If so, (a) when?..... (b) from which company?..... (c) name of secretary of company?..... (d) how much?.....In case of distribution of assets, not cash, what was their value?</p>	
<p>I,.....being transferor, transferee/nominee for purposes of the Transfer Tax Act/trustee, do hereby declare that the information given in this return and any document attached is true and correct in every respect to the best of my knowledge and belief and that this declaration is made with the full knowledge and under- standing that any false statement made herein by me, or failure on my part to supply such of the answers herein provided for as the case may require, will give rise to liability to penalties under the said Act. Signature..... Date.....</p>	<p>Delete which- ever is inappli- cable.</p>

NOTES

The Transfer Tax, imposes a charge to a tax at the rate of 2½% of the consideration (as assessed thereunder) for each transfer of property after the 1st April, 1970.

1. Transfer=any legal or equitable transfer by way of *sale, gift, exchange, grant, assignment, surrender, release or other disposal* and includes a transfer by order or at the direction of a court or by compulsory acquisition, and disposal includes a part disposal where an interest or right in or over property is created by the disposal, as well as where it subsists before the disposal. Circumstances in which transfers are deemed to have taken place may also arise under the Act.
2. Property=(i) land situated in Jamaica;
 - (ii) a lease of land (including an underlease, sublease, tenancy, licence, or agreement therefor);
 - (iii) securities of a company (including shares, debentures, stock, bonds, and rights or interests in, to or over them);
 - (iv) beneficial interests in any of the above under any settlement;
 - (v) options for the transfer, and interests or rights created by part disposal, of any of the above.
3. *Connected Persons* (See section 4 (3) of the Transfer Tax Act)
 - (i) Individuals are connected with one another if—
 - (a) they are husband and wife; or
 - (b) they are relatives of one another; or
 - (c) one of them is a relative of the other's wife or husband. (For definition of relative see below).
 - (ii) A person, in his capacity as trustee of a settlement, is connected with—
 - (a) the settlor; and
 - (b) any person who is connected with the settlor.
 - (iii) A person is connected with—
 - (a) any person with whom he is in partnership; and
 - (b) the wife or husband or relative of any person with whom he is in partnership, except as respects *bona fide* transfers of partnership property.
 - (iv) A company is connected with another company if—
 - (a) the same person has control of both; or
 - (b) a person has control of one and persons (other than individuals) connected with him, or he and they, have control of the other; or
 - (c) a group of two or more persons has control of each company, and the groups consist of the same persons or would consist of the same persons if any of the members of either group were replaced by persons with whom they are connected.
 - (v) A company is connected with another person if—
 - (a) that person has control of it; or
 - (b) that person and persons connected with him together have control of it.

THE TRANSFER TAX (PROCEDURE, PRESCRIBED TIMES AND INTEREST) REGULATIONS, 1971

- (vi) Any two or more persons acting together to secure or exercise control of a company are treated in relation to that company as connected with one another and any person acting on the directions of any other person to secure or exercise control of the company is treated as connected with that other person.
 - (vii) If A is connected with B, B is connected with A.
Relative=husband, wife, brother, sister, uncle, aunt, nephew, niece or lineal ancestor or descendant, a person's step-child, adopted child or illegitimate child being regarded as his child (see section 2 (1) of the Transfer Tax Act).
Control=in relation to a company, means the power of a person to secure, by means of the holding of shares in that or another company, or otherwise under powers conferred by the articles of association or other document regulating that or another company, that the affairs of the company are conducted according to his wishes (see section 2 (1) of the Income Tax Act).
4. In order to determine the market value of a company's securities transferred by anyone who, alone or together with persons connected with him has control of the company, its assets must be valued.

THE TRANSFER TAX (PROCEDURE, PRESCRIBED TIMES AND INTEREST) REGULATIONS, 1971

FORM 3

(Regulation 5(2))

Return for Year of Assessment 19.....pursuant to section 21 of the Transfer Tax Act

Transferor's name							See Note 1 for meaning of "transfer"
Securities transferred	Transferee's name and address	Consideration	Estimation of market value, if no consideration	Estimation of value of company's assets, if required	Indication whether transferor connected with transferee	Date of transfer	See Note 1 for meaning of "securities"
							See Note 4 for whether estimation of value of company's assets required
							See Note 3 for meaning of "connected persons"

Questions to be answered in certain cases

A In cases of OPTIONS

1. Were any options assigned by you on, or granted by you for the sale or for your transfer of, any securities? If so state

.....

Securities on which transferred	Transferee's name and address	Consideration	Estimation of market value, if no consideration	Estimation of value of company's assets, if required	Indication whether transferor connected with transferee

2. Did you exercise during the year 19 . . . any option for your transfer of securities?

.....

THE TRANSFER TAX (PROCEDURE, PRESCRIBED TIMES AND INTEREST) REGULATIONS, 1971

FORM 3, *contd.*

If so, when, for transfer of which securities, to whom and for how much?

(Date)

Securities.....

to.....

Consideration.....

What is the consideration for the transfer?.....

Did it include consideration for the option?.....

B In cases of
SETTLEMENTS

1. Were any settlements made by you of securities during the Year 19.....?

If so, (a) when?

(b) on whom?

(c) who are the trustees?

(d) of which securities?

2. Was there an entire or part disposal by you of any beneficial interest in securities?

If so, (a) to whom?

(b) when?

(c) in which securities?

(d) and for how much?

(e) under what settlement?

Did you as trustee(s) transfer any securities in the course of administering the trust?

If so, (a) when?

(b) to whom?

(c) which securities?

(d) for how much?

(e) under what settlement?

Did a beneficiary become absolutely entitled as against you, being trustee(s), to any securities?

If so, (a) when?

FORM 3, contd.

(b) to which securities?

(c) what is the value of the securities to which the beneficiary has become absolutely entitled?

(d) name of beneficiary?

Did life interest in securities of which you were trustee terminate?

If so, (a) when?

(b) in which securities?

(c) who is the remainderman or beneficiary succeeding?

(d) what is the value of the securities that has been passed to the remainderman or the beneficiary?

C In cases of CAPITAL DISTRIBUTIONS

Did you receive or become entitled to receive any capital distributions during the year 19..... from any company?

If so, (a) when?

(b) from which company?

(c) name of secretary of company?

(d) how much?

In case of distribution of assets, not cash, what was their value?

I,.....being transferor, do hereby declare that the information given in this return and any document attached is true and correct in every respect to the best of my knowledge and belief and that this declaration is made with the full knowledge and understanding that any false statement made herein by me, or failure on my part to supply such of the answers herein provided for as the case may require, will give rise to liability to penalties under the said Act.

Signature.....

Date.....

THE TRANSFER TAX (PROCEDURE, PRESCRIBED TIMES AND INTEREST REGULATIONS, 1971

NOTES

The Transfer Tax, imposes a charge to a tax at the rate of 2½% of the consideration (as assessed thereunder) for each transfer of property after the 1st April, 1970.

1. Transfer=any legal or equitable transfer by way of *sale, gift, exchange, grant, assignment, surrender, release or other disposal* and includes a transfer by order or at the direction of a court or by compulsory acquisition, and disposal includes a part disposal where an interest or right in or over property is created by the disposal, as well as where it subsists before the disposal. Circumstances in which transfers are deemed to have taken place may also arise under the Act.
2. Property=(i) land situated in Jamaica;
 - (ii) a lease of land (including an underlease, sublease, tenancy, licence, or agreement therefor);
 - (iii) securities of a company (including shares, debentures, stock, bonds, and rights or interests in, to or over them);
 - (iv) beneficial interests in any of the above under any settlement;
 - (v) options for the transfer, and interests or rights created by part disposal, of any of the above.
3. *Connected Persons* (See section 4 (3) of the Transfer Tax Act).
 - (i) Individuals are connected with one another if—
 - (a) they are husband and wife, or
 - (b) they are relatives of one another, or
 - (c) one of them is a relative of the other's wife or husband. (For definition of relative see below).
 - (ii) A person, in his capacity as trustee of a settlement, is connected with—
 - (a) the settlor, and
 - (b) any person who is connected with the settlor.
 - (iii) A person is connected with—
 - (a) any person with whom he is in partnership, and
 - (b) the wife or husband or relative of any person with whom he is in partnership, except as respects *bona fide* transfers of partnership property.
 - (iv) A company is connected with another company if—
 - (a) the same person has control of both, or
 - (b) a person has control of one and persons (other than individuals) connected with him, or he and they, have control of the other, or
 - (c) a group of two or more persons has control of each company, and the groups consist of the same persons or would consist of the same persons if any of the members of either group were replaced by persons with whom they are connected.
 - (v) A company is connected with another person if—
 - (a) that person has control of it, or
 - (b) that person and persons connected with him together have control of it.

- (vi) Any two or more persons acting together to secure or exercise control of a company are treated in relation to that company as connected with one another and any person acting on the directions of any other person to secure or exercise control of the company is treated as connected with that other person.
- (vii) If A is connected with B, B is connected with A.
Relative=husband, wife, brother, sister, uncle, aunt, nephew, niece or lineal ancestor or descendant, a person's step-child, adopted child or illegitimate child being regarded as his child (see section 2 (1) of the Transfer Tax Act).
Control=in relation to a company, means the power of a person to secure, by means of the holding of shares in that or another company, or otherwise under powers conferred by the articles of association or other document regulating that or another company, that the affairs of the company are conducted according to his wishes (see section 2 (1) of the Income Tax Act).

4. In order to determine the market value of a company's securities transferred by anyone who, alone or together with persons connected with him, has control of the company, its assets must be valued.

THE TRANSFER TAX (PROCEDURE, PRESCRIBED TIMES AND INTEREST) REGULATIONS, 1971

FORM 4

(Regulation 8)

Application to Commissioner for Relief from Transfer Tax on Grounds of Absence or Extent of Capital Gains

Transferor's name.....

Transferor's address.....

Full amount of tax to which application relates.....

Transferee's name.....

Transferee's address.....

Transfer in respect of which transferor has discharged his liability for tax in full as mentioned above.

(State whether or not by way of the transferor's trade or business of dealing with property such as that hereinafter mentioned).

Date of transfer.....

Property transferred.....

Consideration on which tax charged \$.....

Cost of acquisition \$..... (Summarized account of acquisition, and any relevant computation, below).

Allowable expenditure \$..... (Details below).

Capital gains \$.....

Signed on the part of the applicant.....

Date.....

FORM 5

(Regulation 12(1))

Memorandum, to Deputy Keeper of Records, of charge on property of transfer tax in accordance with section 32 of the Transfer Tax Act

Amount of tax charged on property.....

Description of property charged.....

Date of Transfer/Conveyance.....and number and date of any record of Conveyance under the authority of the Deputy Keeper of the Records.....

THE TRANSFER TAX ACT

REGULATIONS
(under section 44)

THE TRANSFER TAX (TRANSFERS ON DEATH) REGULATIONS, 1974

(Made by the Minister on the 4th day of November, 1974)

L.N. 445/74.

1. These Regulations may be cited as the Transfer Tax (Transfers on Death) Regulations, 1974.

2. In these Regulations—

“the Order” means the Provisional Collection of Tax (Transfer Tax) (No. 2) Order, 1974;

L.N. 240/74.

“prescribed transfer” and “property” shall have the meanings assigned to those expressions, respectively, by paragraph 2 of the Order.

3. The consideration for any prescribed transfer shall, subject to deductions (if any) allowable in that behalf under paragraph 5 of the Order consistently with regulation 4, be assessed as the market value of all property of which the individual whose death is the occasion of the prescribed transfer was, at his death, competent to dispose within the meaning (attributable by virtue of sub-paragraph (3) of paragraph 2) of the Order; and, for the purposes of the foregoing provisions of this regulation, market value shall be determined in keeping with sub-paragraph (1) of paragraph 14 of the Order and, in particular, with Part II of the Transfer Tax (Computations) Regulations, 1971.

4.—(1) Subject to sub-paragraphs (3) and (4) of paragraph 5 of the Order, no allowance in determining the value of any property shall, for the purpose of assessing the consideration for any prescribed transfer, be made for any funeral expenses, debts or incumbrances (unless charged on such property prior to the prescribed transfer), except to the extent to which it is shown to the satisfaction of the Commissioner that they cannot be discharged out of the deceased's assets other than those the subject of the prescribed transfer.

(2) Nothing in paragraph (1) sanctions any allowance not authorized apart from that paragraph.

5. These Regulations shall have effect in relation to every prescribed transfer (for consideration assessable for purposes of the Order) on or after the date of the coming into operation of the Order.

THE TRANSFER TAX ACT

REGULATIONS
(under section 44)

THE TRANSFER TAX (REVENUE AFFIDAVIT FORM) REGULATIONS, 1975

(Made by the Minister on the 12th day of September, 1975)

L.N. 318/75

1. These Regulations may be cited as the Transfer Tax (Revenue Affidavit Form) Regulations, 1975.

2. Every revenue affidavit referred to in paragraph 17 of Part II of the First Schedule to the Act shall be in the form set out in the Schedule.

THE TRANSFER TAX (REVENUE AFFIDAVIT FORM)
REGULATIONS, 1975

Schedule.

SCHEDULE

(Regulation 2)

THE TRANSFER TAX ACT
REVENUE AFFIDAVIT
Disposal at Death

(For use where the deceased died after 31st May, 1974, and a disposal of all property, personal and real, are deemed to take place.)

Name and address of person/persons to whom communications are to be addressed.

.....
.....
.....

In the Estate of.....deceased.

*I/We,.....
.....

make oath and say as follows:—

*I/We,.....
am/are, trustee(s) of a settlement in the estate

desire to obtain a grant of **.....
of the abovenamed.....

..... of.....
.....deceased, who died on the.....day of.....

One Thousand.....Hundred and.....
aged.....at.....

domiciled in ***.....
that part of Jamaica called.....

As at the date of the deceased's death, so far as I/we have been able to ascertain, the gross value of all the property subject to disposal on death amounts to \$.....(give details in Part I overleaf)

The aggregate amount of mortgages or other encumbrances on such property amounts to \$..... and reduces such value to \$.....(give details in Part II overleaf)

To the best of my/our knowledge and belief there is no other property, real or personal, under any title whatsoever beyond that already referred to, in respect of which transfer tax is payable on the death of the deceased.

All which is true to the best of my/our knowledge and belief.

.....

*Insert here the name, address and description of each person who joins in the affidavit or affirmation.

**Insert here "Probate of the Will", or "Administration with the Will annexed of the estate", or "Administration of the estate", as the case may be.

***Where it is claimed that the deceased was domiciled abroad at the time of his death, insert here the name of the foreign Country, State or Province, as the case may be, in which he is considered to have then been domiciled, and strike out the rest of the paragraph. The circumstances relied upon to establish the foreign domicile should be stated in a schedule to be annexed hereto. The domicile origin should always be given.

*THE TRANSFER TAX (REVENUE AFFIDAVIT FORM)
REGULATIONS, 1975*

SWORN BY THE ABOVENAMED

.....
.....
at.....in the Parish of
.....this.....day of
.....19.....Before me
.....

Persons authorized to administer oaths.

**THE TRANSFER TAX (REVENUE AFFIDAVIT FORM)
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PART I

Personal property and Real Property Subject to Disposal						
Stock or Funds of Jamaica viz	Nominal Value		Market Price at Date of Death		Gross Principal Value	
Stock, Funds, or Bonds of Foreign Companies						
Shares, Debentures of Companies						
Options						
Leases						
Settled/Joint-Realty (Full particulars to be attached)						
Realty (the description and situation of the property should be such as to enable it and its boundaries to be clearly identified.)						

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PART II

	An account of encumbrances upon property, shown in Part I		
Nature of debt or encumbrance and by whom created			
	An account of the funeral expenses of the deceased		
The cost of tombstone cannot be deducted			

Questions	Answers
<p>Was the deceased interested in any policy of life assurance whereby any sum is payable to a mortgagee consequent on his death?</p> <p>If so, please give full particulars thereof. Did the deceased carry any form of mortgage insurance? If so, please give full particulars thereof.</p> <p>Was the deceased married more than once?</p> <p>If so, give the name of the surviving spouse and the names of the children from several marriages separately.</p>	

SUMMARY OF AFFIDAVIT

Gross value of property shown in Part I	\$.....
Deduct debts and funeral expenses shown in Part II	
Net Taxable Value ...	\$.....
Duty Payable	\$.....

N.B.—Interest at the rate of six *per centum* (6%) per annum is payable on the tax outstanding after the expiration of one year from the death of the deceased.

THE TRANSFER TAX ACT

ORDER
(under section 44)

THE TRANSFER TAX (DECLARATION OF SECRECY) REGULATIONS, 1977

(Made by the Minister on the 3rd day of October, 1977)

L.N. 226/77

1. These Regulations may be cited as the Transfer Tax (Declaration of Secrecy) Regulations, 1977.

2. The declaration required to be made in respect of the maintenance of secrecy under section 37 of the Act shall be on the form set out in the Schedule.

Schedule.

SCHEDULE (Regulation 2)
(Section 37)

Form No. 7 THE TRANSFER TAX ACT
DECLARATION OF SECRECY

I,
do solemnly and sincerely declare that I will not communicate any information or anything contained in any statement, return, declaration or other document obtained or received by me in the execution of my duties under the provisions of the Transfer Tax Act to any person other than a person authorized by the Minister or otherwise than for the purposes of this Act.

.....Signature

.....Designation of Officer

Declared before me this day of 19

.....Justice of Peace

N.B.—Any person making the above Declaration who fails to comply with the requirements thereof is guilty of an offence against the Transfer Tax Act, and is liable under section 42 (1) (b) of that Act on summary conviction before a Resident Magistrate to a fine not exceeding two thousand dollars and in default of payment to imprisonment for a term not exceeding one year.

[The inclusion of this page is authorized by L.N. 112/1978]