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## **BUYING PROPERTY IN BARBADOS: USEFUL TIPS FOR THE SAVVY**



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### **Introduction**

For those of you who are buying your first home, or an investment property or a vacation away from home and who wish to make Barbados your destination of choice to live, work and play, this note is for you.

Real estate in Barbados is often acquired or sold by of the below two methods:

- a transfer of the real estate by way of conveyance of the legal title thereto; or
- a transfer of shares of in a company holding the property in Barbados.

### **A Quick Overview of the Process**

In terms of an actual transfer of the real estate, once the purchase price is agreed, the parties sign an agreement for sale (which is reviewed and approved by the attorneys-at-law involved in the transaction). There is an exchange control regime in Barbados. Therefore, if either or both of the buyer or seller is resident outside of Barbados, then exchange control approval is required to be obtained in relation to the transfer of the property to or by such person(s). In addition, if the buyer is paying for the property in foreign currency, then such foreign currency should be registered with the exchange control authority (i.e. Central Bank of Barbados), in order to facilitate future repatriation of foreign currency, if that buyer decides to sell in the future.

The buyer then pays a deposit of 10% of the purchase price to their attorney and this deposit is delivered to the seller's attorney (which is held in trust until the completion of the transaction) together with the executed agreement for sale. The balance of the purchase price is paid at completion. Prior to completion, the buyer's attorney investigates title of the property and after these due diligence checks in relation to title have been completed, the conveyance will be executed once approved. If the buyer obtains a mortgage, the mortgage agreement will be reviewed by the buyer's attorney and subsequently, executed by the buyer (i.e. the mortgagee).

In terms of a transfer by way of a property holding company, the buyer's attorneys would conduct due diligence against the property holding company. Assuming that such due diligence checks do not reveal any issues, the parties would enter in agreement for sale relating to all the shares in such company, the purchase price would be paid in accordance with the transfer mechanics in the agreement, and the shares in such company would be transferred to the buyer or the buyer's nominee in accordance with the requirements of the law which governs such company.

### **What are the costs?**

As with all major transactions in life, but particularly when buying property, the parties should understand the taxes and costs involved.

#### **1. Legal Fees**

These fees are charged by your attorney-at-law and are prescribed by the Legal Profession (Remuneration for Non-Contentious Business Rules) 1997 which prescribe the minimum fees that may be charged by attorneys-at-law and are based on the value of the property. If a mortgage is being obtained to purchase a property, in such a case, there would be additional legal fees related to assisting with the mortgage process and these fees would be based off the loan amount.

Additionally, if either the buyer or seller is not resident in Barbados, an exchange control application would need to be made to the Central Bank of Barbados to approve a valid transfer of the property to or by such person(s). A separate exchange control application would also have to be made to the Central Bank of Barbados to register the foreign currency being used to purchase the property and facilitate future repatriation of the foreign currency, if the buyer chooses to sell the property in the future. The attorney-at-law engaged on behalf of the non-resident buyer or seller would charge their legal fees for these applications.

#### **2. Land Taxes**

The land tax year operates from April to March. Rates differ between nil and 0.75% of the value of the property, depending on the value, with a maximum land tax payable of BD\$60,000 / US\$30,000. The seller should have prepaid the land taxes prior to completion and the buyer will be responsible for payment of the land taxes for the period after completion.

#### **3. Property Transfer Taxes and Stamp Duty**

Property Transfer taxes and stamp duty are paid by the seller. Stamp duty is charged at a rate of 1% typically on the consideration value i.e. purchase price.

The rate of property transfer tax is as set out below:

- for land with a building- 2.5% of the consideration for the sale or the value of the property transferred (whichever is greater) (the first BD\$150,000/US\$75,000 is exempt);
- for land with no building- 2.5% of the consideration for the sale or the value of the property transferred (whichever is greater).

#### **4. Personal Tax and estate planning considerations**

Capital gains are not taxed in Barbados. Income tax is payable by residents of Barbados and those persons who are ordinarily resident. Special considerations apply where a non-resident person earns income e.g. rental income from property in Barbados.

Property owners may choose how to leave their real estate in Barbados in their Will. However, the Succession Act of Barbados makes provision for a fixed interest of spouses and disabled or minor children, and this should be factored in estate planning. If the property in Barbados is purchased through a company, other considerations are relevant in relation to a disposition of such shares in a Will.

#### **Purchasing through a company**

The use of a company to purchase property in Barbados can offer certain tax and cost efficiencies and other benefits, as mentioned above relating to the property transfer tax for property held by a company.

Certain jurisdictions are popular for holding property in Barbados but a careful cost benefit analysis must be undertaken to determine whether this viable option for each transaction, given the various costs attaching to the set up and maintenance of the structure. Thoughtful consideration of each situation on a case by case basis is necessary, as every situation is unique.

We recommend that professional legal and tax advice is taken to consider whether a structure is right in a particular circumstance. The buyer's tax residence will need to be considered and to address the choice of jurisdiction for a holding company.

*For further information on buying property in Barbados, feel free to contact us at [info@ft-legal.com](mailto:info@ft-legal.com), or your usual contact at [www.ft-legal.com](http://www.ft-legal.com)*

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