



Bill Essentials

*The Property Tax (Amendment) Bill, 2018
&
The Valuation of Land (Amendment) Bill, 2018*

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BACKGROUND

1. The **Property Tax Act, 2009** and the **Valuation of Land (Amendment) Act, 2009** were both assented to by the President on 31 December 2009 and were expected to come into operation on 1 January 2010.
2. However, **Section 52A** of the **Finance Act, 2015** provided for a waiver of the Property Tax for the period 1 January 2010 to 31 December 2015.
3. On 2 February 2018, as a further step in the implementation process, two Bills were introduced in the House of Representatives, namely, the **Property Tax (Amendment) Bill, 2018** and the **Valuation of Land (Amendment) Bill, 2018** which seek to make revisions to the 2009 Acts.

THE PROPERTY TAX (AMENDMENT) BILL, 2018

4. The **Property Tax (Amendment) Bill, 2018** (“the Bill”) seeks to amend the **Property Tax Act, Chap. 76:04**. This Bill was first introduced in the House of Representatives by the Honourable Colm Imbert, Minister of Finance on February 02, 2018.

KEY FEATURES OF THE BILL

TOWNHOUSES, CONDOMINIUMS & MULTI-OWNER COMMERCIAL ACCOMMODATIONS

5. **Clause 3** of the Bill will amend the **Property Tax Act Chap. 76:04** to clarify that in the case of townhouses, condominiums and multi-owner commercial accommodations, each townhouse, condominium or single commercial accommodation will be deemed to be land and may therefore be valued and assessed separately for the purposes of the Property Tax.

OWNER OF LAND LIABLE TO PAY PROPERTY TAX

6. **Clause 5** of the Bill would seek to amend **Section 15** of the **Property Tax Act Chap. 76:04** by inserting a new **Subsection (2)**, to provide that any liability to the Property Tax by the owner of any a building or other chattel does not create a legal entitlement to the land where the owner of the chattel is not the legal owner of the land.

EXEMPTION FROM TAXATION

7. **Clause 6** amends **Section 16(d)** of the **Property Tax Act Chap. 76:04** and provides exemptions from property tax for charities exempted from Corporation Tax under **Section 6(1) (g)** of the **Corporation Tax Act Chap. 75:02** for approved charitable purposes. This amendment is intended to make the provision more in line with the requirements in law for charities.
8. **Clause 6** also amends **Section 16 (f)** of the **Property Tax Act**. Exemptions will now apply to:

“land belonging to the State and in occupation of-

- i. the State or its servants, where such servants are entitled to accommodation by virtue of the offices they hold;*
- ii. a Statutory Authority; or*
- iii. State enterprises controlled by the State, for public purposes and listed in Schedule IV”.*

9. The amendment to **Section 16** of the Act also amends paragraphs **(h), (k), (l)** and **(m)** to ensure that the exemption from Property Tax only applies where the tertiary institutions referred to in those paragraphs are also in occupation.

LAND OMITTED FROM THE ASSESSMENT ROLL

10. **Clause 8** seeks to repeal **section 19 (4)** of the **Property Tax Act** which states that:

‘Where, at any time after the completion of an Assessment Roll or amended Assessment Roll, a new building is erected, and the Commissioner of Valuations includes the land on the Valuation Roll, the taxes payable for such land shall be a proportion of the amount of the yearly rate corresponding to the period from the date of the completion of the building to the end of the said year.’

REFUND OF TAX PAID

11. **Clause 9** of the Bill repeals and replaces **Section 20(1)** of the **Property Tax Act**.

Section 20(1) Property Tax Act	Proposed New section 20(1)
Where, as a result of any reduction in the valuation of land, there has been any over-payment of the annual tax due, the Board shall forthwith refund the amount of such over-payment to the owner of such land.	Where there is a change or variation in the information in the possession of the Board in respect of land for which tax liability has been imposed, the Board shall forthwith amend the assessment roll and issue a new notice of assessment under Section 17.

OVERPAYMENT OR UNDERPAYMENT OF PROPERTY TAX

12. **Clause 9** also amends the **Property Tax Act** by providing that where an amendment to the assessment roll results in an overpayment of Property Tax it shall be refunded within sixty (60) days of the date of the new Notice of Assessment. It also provides that a refund that remains outstanding after six (6) months shall bear interest at the rate of 6% per annum.

13. **Clause 9** also provides that where Property Tax has been underpaid, the additional tax shall be due and payable within thirty (30) days of the date of the new Notice of Assessment.

Section 20(2) Property Tax Act

Any amount of a refund under subsection (1) that remains outstanding for more than a period of six months after the date by which it became due, shall bear interest at the rate of **one point two per cent per month or part of a month** from the day after the expiration of that period until the amount outstanding is satisfied.

Proposed New Section 20(2)

Any amount of a refund under subsection (1)(a) that remains outstanding for more than a period of six months after the date by which it became due, shall bear interest at the rate of **six per cent per annum from the day after the expiration of that period until the amount outstanding is satisfied.**

14. **Clause 10** amends Section 21 of the Act.

Section 21 Property Tax Act

(1) The owner of land who is dissatisfied with the assessment of the Board may, within twenty-one days next after the annual tax becomes due and payable, notify the Board in writing of his objection thereto.

(2) Where the objection, received under subsection (1) in respect of an assessment, by an owner of land, is on any of the grounds set out in section 22(a), (b), (c), (d), (e) or (g), the Board shall refer such objection to the Commissioner of Valuations who shall within nine months of receipt of the notice deal with the objection in accordance with the Valuation of Land Act.

(6) The Board shall, within one year of receipt of any notice of objection **in respect of an incorrect assessment of tax, consider the objection and may either confirm, reduce or increase the value** or make such other adaptations thereto as it considers just.

(7) The owner of land who is dissatisfied with the assessment of the Board **who fails to file an objection within the time frame specified in subsection (6) may** apply to the Board for an

Proposed New Section 21

The owner of land who is dissatisfied with the assessment of the Board may, within twenty-one days **of the receipt of the notice under section 17,** notify the Board in writing of his objection thereto.

Repealed.

The Board shall, within one year of receipt of any notice of objection **consider the objection and may either confirm, reduce or increase the tax** or make such other adaptations thereto as it considers just.

The owner of land who is dissatisfied with the assessment of the Board **and fails to file an objection within the time frame specified in subsection (1) may,** where he is satisfied that he has

extension of time in which to file an objection, and the Board on receipt thereof, may grant the extension.

a reasonable excuse for not making the application within the time frame apply to the Board for an extension of time in which to file an objection, and the Board on receipt thereof, may grant the extension.

(12) Where as a result of any reduction in the assessment of land under this Act, there has been an overpayment by the owner of the land relative to the overpayment of the annual tax due, the Board shall forthwith refund the amount of the overpayment to the owner thereof.

Where as a result of any reduction in the assessment of land under this Act, there has been an overpayment by the owner of the land relative to the overpayment of the annual tax due, the Board shall forthwith:

(a) refund the amount of the over-payment to the owner thereof; or

(b) off-set other taxes owed under any other written law.

(13) Any amount of a refund under subsection (1) that remains outstanding for more than a period of six months after the date by which it became due, shall bear interest at the rate of one point two per cent per month or part of a month from the day after the expiration of that period until the amount outstanding is satisfied.

Any amount of a refund under subsection (12) that remains outstanding for more than a period of six months from the determination of the objection, shall bear interest at the rate of six per cent per annum from the day after the expiration of that period until the amount outstanding is satisfied.

DEFERRAL OF TAX

15. Where there has been a deferral of payment of Property Tax on grounds of hardship, the **Property Tax Act** is being amended by the Bill to provide that such deferral shall be valid for a period of two (2) years and may be renewed if the conditions of the applicant remain unchanged.

16. A decision to grant, vary or revoke a deferral of Property Tax shall be issued by a notice in writing.

Section 23(1) Property Tax Act	Proposed New Section 23
A certificate under subsection (2) shall be conclusive of the owner’s inability to pay tax assessed under this Act.	The relief granted under this section shall be valid for two years and may be renewed if the conditions of the applicant as evidenced under subsection (2) remains unchanged.

DATE WHEN TAX DUE AND PAYABLE

17. Pursuant to **Clause 17** of the **Property Tax (Amendment) Bill, 2018**, Property Tax will become due and payable on or before 30 September in every year. It was previously due on or before 31 March in every year.
18. The moratorium with respect to Property Taxes is proposed to be extended to 30 September 2018.

NOTICE OF PENALTIES FOR NON-PAYMENT OF INTEREST AND FORFEITURE

19. **Clause 18** of the **Property Tax (Amendment) Bill, 2018** seeks to change the date on which penalties and interest begin to accrue from 15 September to 15 March.
20. **Clause 18** also empowers Board of Inland Revenue to waive the imposition of any penalty or interest where it is just and equitable to do so.

LIQUIDATION OF ANY ARREARS

21. Where the Board of Inland Revenue receives any payment in respect of land where there are arrears of Property tax outstanding, **Clause 19** of the Bill proposes to amend **Section 35** of the Act so that such payment shall be applied towards the liquidation of any such arrears of tax, penalty and interest in the order in which they became due for every previous year.
22. **Section 35** of the **Property Tax Act** in its present form does not provide for payment to be applied to penalty or interest.

NOTICE OF WHERE TAX ASSESSED NOT PAID

23. **Clause 20** of the Bill seeks to amend **Section 36** of the **Property Tax Act** in relation to the notice period for a Notice of Demand when arrears of annual tax payable on land are outstanding, or part thereof is unpaid.
24. The **Property Tax Act** in its present form provides for notice of six (6) months, and the Bill seeks to amend this notice period to three (3) months from the date the Board of Inland Revenue has issued a Notice of Non-Payment.

POWER TO DISTRAIN

25. The **Property Tax (Amendment) Bill, 2018** provides that where the **Board of Inland Revenue** has levied distress upon the goods and chattels of delinquent property owners, such items may be sold after four (4) days where the outstanding tax, penalty, interest and costs and charges incidental to the distress have not been paid.

WAIVER OF TAXES

26. **Clause 23** of the Bill proposes to extend the present moratorium to 30 September, 2018.

27. **Section 52A** of the Act provides for the waiver of the payment of any taxes until 31, December 2015.

THE VALUATION OF LAND (AMENDMENT) BILL, 2018

1. The **Valuation of Land (Amendment) Bill, 2018** aims to amend the **Valuation of Land Act, Chap. 58:03**. The Bill was introduced by the Honourable Colm Imbert, Minister of Finance on February 2, 2018.
2. This Bill seeks to make a number of amendments to the Act in order to rectify deficiencies needed for implementation.

KEY FEATURES OF THE BILL

3. Several definitions contained in the **Valuation of Land Act, Chap. 58:03** are amended by the Bill.

Definition	Amendment	Justification
“Appeal”	The current definition of ‘appeal’ will be deleted and replaced with a new definition which would now provide for appeals to be made to the Valuation Tribunal from a decision of the Commissioner upon an objection to a valuation and to the High Court from a decision of the Valuation tribunal.	This amendment was necessary because the Tax Appeal Board only hears appeals in relation to taxes and not in relation to the valuation of land.
“District”	This definition will be deleted.	This term no longer appears in the Act.
“Institutional Land”	This definition will be deleted.	This term no longer appears in the Act.
“Owner”	This definition is deleted and substituted with a new definition.	This amendment was necessary to bring the definition into conformity with the Property Tax Act, Chap. 76:04 .
“Tax Appeal Board”	This definition will be deleted.	This term no longer appears in the Act.

4. **Clause 3** will insert a new **Section 2(5)** which would seek to explain how a valuation would be conducted for town houses, condominiums and multiple owner commercial units.

COMMISSIONER OF VALUATIONS TO MAKE VALUATIONS ONLY WHERE NECESSARY

5. **Clause 4** of the Bill will amend **Section 5** of the Act to clarify that the Commissioner of Valuations shall make a valuation of the:
 - a) Site value and improved values;
 - b) Annual rental value; and
 - c) Where necessary, the capital value.

INCREASED PENALTY FOR FAILURE TO FILE

6. **Clause 5** of the Bill will amend **Section 6** of the **Valuation of Land Act, Chap. 58:03** to increase the penalty for failure of the owner of the land to file a return of the land from five hundred (\$500.00) dollars to five thousand (\$5,000.00) dollars.

COMMISSIONER TO RECORD MINIMAL ANNUAL RENTAL VALUE

7. The Bill seeks to amend the **Valuation of Land Act** to provide that where the Commissioner of Valuations is satisfied, on the basis of the return filed, that the Annual Rental Value of a property is less than eighteen thousand dollars, (\$18,000.00), the Commissioner shall record such value as the Annual Rental Value of the property.

DECLARATION BY MINISTER THAT VALUATION ROLL IS IN EFFECT

8. **Clause 6**, which inserts a new **Section 7A** would require the Commissioner where he is of the view that more than fifty per cent (50%) of all lands in Trinidad and Tobago has been valued and that valuations should take effect, to notify the Minister who would by Order then declare that the valuations are in effect.

NEW GROUNDS FOR OBJECTING TO VALUATIONS

9. **Clause 11** of the Bill will amend **Section 19** of the **Valuation of Land Act, Chap. 58:03** by providing six (6) additional grounds of objection for owners or local authorities who are dissatisfied with a valuation:
 - The annual rental value of the land appearing in the Valuation Roll is incorrect or unfair.
 - The land should not have been included in the Valuation Roll.
 - The land omitted from the Valuation Roll should be included.
 - The land included in a series or complex of land units as a single land on the Valuation Roll should be listed separately on the Valuation Roll or removed.

- The land listed separately in, or omitted from the Valuation Roll should be combined with one or more of a series or complex of land units and listed as one single unit of land.
- The Valuation Roll is incorrect.

THE VALUATION TRIBUNAL

10. **Clause 15** of the **Valuation of Land (Amendment) Bill, 2018** provides for the establishment of a **Valuation Tribunal** to hear appeals from decisions of the Commissioner of Valuations. **Clause 15** will insert new sections **25A – 25I** into the Act.

MAIN FEATURES OF THE VALUATION TRIBUNAL

11. The main features of the Valuation Tribunal are:

- The Valuation Tribunal shall consist of a Chairperson who shall be an Attorney-at-Law with ten or more years' experience and two other persons, one of whom shall have wide knowledge and experience in the valuation of property.
- The members of the Valuation Tribunal shall be appointed by the Minister of Finance and shall hold office for a term not exceeding three years but shall be eligible for reappointment.
- The Minister shall not give directions to the Valuation Tribunal in respect of any matter before it.
- The Minister may suspend a member of the Valuation Tribunal on the ground of misbehavior or physical or mental incapacity or cause.
- The Valuation Tribunal may, on its own initiative or on the application of a party, refer any question of law to the High Court.
- The Valuation Tribunal shall conduct its proceedings without procedural formality but shall observe natural justice.
- The Valuation Tribunal is not bound by the rules of evidence and may receive and take into account any relevant evidence or information, whether or not such evidence or information would be admissible in court.
- A decision of the Valuation Tribunal may be appealed to the High Court.

FUNCTIONS OF THE VALUATIONS TRIBUNAL

12. The functions of the Valuations Tribunal are:

- To hear all appeals raised under the **Valuation of Land Act** or any other written law in respect of the decision of the Commissioner.
- To take all steps it considers reasonable and equitable in the circumstances to effect an amicable settlement.
- To refer a question of law arising in a proceeding before it for determination by the High Court. This may be done on its own initiative or on the application of a party.

RETURNS

13. The **Valuation of Land (Amendment) Bill, 2018** seeks to revise the form of the return required to be submitted by all property owners.
14. The new form is subdivided into eight sections which will elicit more detailed information from owners:
- Personal Information.
 - General.
 - Residential Building Rental.
 - Land Only Rental –residential, commercial, industrial or agricultural.
 - Land Lease Details.
 - Commercial and Industrial Building Rental.
 - Lettings.
 - Declaration.

REFERENCES

LEGISLATION MENTIONED

- The Property Tax Act, 2009
<http://www.finance.gov.tt/wp-content/uploads/2017/01/The-Property-Tax-Act-2009.pdf>
- The Valuation of Land (Amendment) Act, 2009
<http://www.ttparliament.org/legislations/b2009h24.pdf>
- The Finance Act, 2015
<https://www.finance.gov.tt/wp-content/uploads/2016/05/The-Finance-Act-2015.pdf>
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<http://www.ttparliament.org/legislations/b2018h02g.pdf>
- Property Tax Act, Chap. 76:04
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- Corporation Tax Act Chap. 75:02
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