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# Private Wealth 2022

The Bahamas: Law & Practice  
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McKinney, Bancroft & Hughes

The Bahamas: Trends & Developments  
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# THE BAHAMAS

## Law and Practice

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## 1. TAX

### 1.1 Tax Regimes

The Bahamas does not have income, estate or inheritance tax.

The tax regimes that currently exist in The Bahamas and may be relevant to individual clients, estates, trusts and foundations include value added tax (VAT), stamp duty and real property tax.

### 1.2 Exemptions

Generally, the transfer of real property in The Bahamas will attract VAT at a rate of 10%. However, there are exceptions.

Certain transfers of real property may qualify as an inter vivos gift, which results in the transfer being zero rated, meaning that it will attract VAT but at a rate of 0%. Examples of real property transfers that may qualify as an inter vivos gift include:

- transfers to a spouse, parent, adult child, adult grandchildren or remoter issue;
- transfers from an individual to a company in which the beneficial owners are the transferor, the transferor's spouse, the transferor's adult children and/or adult remoter issue;
- transfers to a trustee where the terms of the trust instrument exclude every person except for the transferor and the transferor's spouse, parents, children or remoter issue from taking or receiving any title to the trust property; and
- transfers from an individual to a foundation whose only beneficiaries are the transferor and/or the transferor's spouse and/or the transferor's children or remoter issue.

The following real property transfers are also zero rated:

- transfers to a personal representative or trustee upon the death or bankruptcy of the property owner;
- instruments relating to the vesting of real property to a beneficiary in accordance with the provisions of a trust; and
- conveyances by way of assent transferring real property from a legal representative to the beneficiary under a will or letters of administration.

### 1.3 Income Tax Planning

The Bahamas does not have income tax.

### 1.4 Taxation of Real Estate Owned by Non-residents

Save for two exceptions, the rate of real property tax assessed on real estate in The Bahamas is the same for citizens, non-citizens, residents and non-residents.

Vacant land and property located on any island in The Bahamas other than New Providence, which is owned by a Bahamian citizen, is exempt from real property tax. However, such an exemption does not apply where the land is owned by a non-citizen of The Bahamas.

### 1.5 Stability of the Estate and Transfer Tax Laws

There is no estate tax in The Bahamas. Transfer taxes such as VAT and stamp duty may be levied on the transfer of property in certain circumstances.

The VAT, stamp duty and real property tax legislation are regularly amended, and it is important for clients to have an up-to-date understanding of those tax regimes when making tax and estate planning decisions.

The government has recently indicated that there are no plans to increase government revenue by raising taxes or implementing additional taxes.

### **1.6 Transparency and Increased Global Reporting**

In December 2018, The Bahamas enacted the Removal of Preferential Exemptions Act to abolish certain tax exemptions that were only available to non-resident entities.

The Bahamas has legislation in place that requires the reporting of certain bank account information pursuant to the US Financial Account Tax Compliance Act and the OECD's Common Reporting Standard.

## **2. SUCCESSION**

### **2.1 Cultural Considerations in Succession Planning**

In The Bahamas, there are many family-owned and operated businesses that involve individuals from multiple generations of the family. This ensures that the source of the family's wealth is maintained and that there is a transition of knowledge from one generation to the next.

### **2.2 International Planning**

Where succession planning in The Bahamas involves assets, businesses and/or family members located in various jurisdictions, it is of paramount importance for the legal advisers in the relevant jurisdictions to work together to understand the various tax laws and their potential impact on the proposed succession plan. Inherent in a successful succession planning process is a full disclosure of the assets, individuals, entities, etc, involved by the client to the advisers.

Options that may minimise or insulate family members from the application of tax laws in the jurisdiction of another family member include

the settling of multiple trusts or the creation of foundations.

### **2.3 Forced Heirship Laws**

There are no forced heirship laws in The Bahamas.

### **2.4 Marital Property**

In The Bahamas, all property acquired during the marriage is deemed to be matrimonial property. However, the courts will be guided by certain legislation and other factors when determining whether both parties derive the same interest in matrimonial property. These factors include:

- the income, earning capacity, property and other financial resources that each of the parties to the marriage has or is likely to have in the foreseeable future;
- the financial needs, obligations and responsibilities that each of the parties to the marriage has or is likely to have in the foreseeable future;
- the standard of living enjoyed by the family before the breakdown of the marriage;
- the age of each party to the marriage and the duration of the marriage;
- any physical or mental disability of either of the parties to the marriage; and
- the contribution made by each of the parties to the welfare of the family, including any contribution made by looking after the home or caring for the family.

There is no strict formula when considering the interest each party enjoys in matrimonial property, given the multiplicity of factors to be considered.

It may be possible for one spouse to transfer matrimonial property without the consent of the other spouse, particularly where the property is a chattel or is owned solely in the name of one spouse.

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Prenuptial and postnuptial agreements are not binding in The Bahamas, but they are persuasive. The courts will look at the factors surrounding the negotiations and execution of an agreement when considering whether it will be enforceable.

## 2.5 Transfer of Property

Generally, the transfer of real property in The Bahamas will attract VAT at a rate of 10%.

Certain transfers of real property that qualify as an inter vivos gift attract VAT at a rate of 0%.

The transfer of real property upon the death of an individual does not attract tax.

## 2.6 Transfer of Assets: Vehicle and Planning Mechanisms

Companies, trusts and foundations are commonly used for estate planning purposes in The Bahamas. However, the benefits associated with using such vehicles generally do not include tax advantages because of the structure of the various tax regimes in The Bahamas.

## 2.7 Transfer of Assets: Digital Assets

There are no taxes or regulations currently in place in The Bahamas that govern the transfer of digital assets for the purposes of succession.

# 3. TRUSTS, FOUNDATIONS AND SIMILAR ENTITIES

## 3.1 Types of Trusts, Foundations or Similar Entities

The types of trusts commonly used in The Bahamas for tax and estate planning purposes are:

- asset protection trusts;
- charitable trusts;
- purpose trusts; and
- testamentary trusts.

Foundations are also used and recognised in The Bahamas.

The Bahamian Trustee Act 1998 was most recently amended in 2016 and provided for various updates, including:

- granting the court the discretion to set aside an exercise of fiduciary power in various instances;
- clarifying the scope of a release that an outgoing trustee could obtain; and
- extending the protection under a trust instrument concerning the alienation of trust property.

## 3.2 Recognition of Trusts

Trusts are recognised and respected in The Bahamas; in fact, The Bahamas is regarded as one of the leading trust jurisdictions in the world. The legislative framework, including the Trustee Act 1998 (as amended), the Trustee (Choice of Governing Law) Act 1989, the Fraudulent Dispositions Act 1991 and the Purpose Trust Act 2004, makes The Bahamas one of the leading jurisdictions in the world in terms of trust formation and administration.

## 3.3 Tax Considerations: Fiduciary or Beneficiary Designation

There are generally no tax consequences for a citizen or resident of The Bahamas who serves as a fiduciary or is a donor or beneficiary of a foreign trust, foundation or similar entity. However, trust companies do need business licences and would pay any taxes associated therewith. Additionally, there may be taxes associated with the transfer of Bahamian real property and personality into the trustee's control.

### 3.4 Exercising Control Over Irrevocable Planning Vehicles

#### Variation of Trusts

Typically, Bahamian trusts and foundations will contain sections outlining the circumstances and parameters surrounding the variation of the trust deed or foundation charter. For example, many trust deeds provide that a trustee can vary the trust deed with the protector's consent.

However, it is possible for individuals to apply to the court for the variation of a trust deed. Pursuant to section 70 of the Trustee Act, the court can approve on behalf of certain persons (eg, minor and unborn beneficiaries) any arrangement varying or revoking any or all of the trusts or enlarging the powers of the trustees to manage or administer any of the property subject to the trusts, with the stipulation that the court may not approve an arrangement on behalf of any person if it would be "detrimental to that person".

Pursuant to section 87 of the Trustee Act, no entitled beneficiaries can terminate or modify a trust if doing so would defeat a material purpose of the settlor in creating the trust, unless the settlor is living and also consents. The material purposes of the settlor may be ascertained from the trust instrument or by collateral evidence.

#### Settlors' Reserved Powers

Bahamian law permits a settlor to reserve powers to themselves if they so wish; in fact, it is quite common for a settlor of a Bahamian trust to do so. Furthermore, the retention by the settlor of certain powers is expressly declared not to invalidate a trust or cause a trust created inter vivos to be a testamentary trust. The powers include but are not limited to:

- powers of revocation;
- powers of appointment over any part of the trust property;

- powers of amendment;
- powers of addition or removal of trustees, protectors or beneficiaries;
- powers of investment; and
- powers to direct the trustee in connection with the exercise of any of their powers or discretions.

## 4. FAMILY BUSINESS PLANNING

### 4.1 Asset Protection

The most popular method for asset protection planning is the creation of an asset protection trust. When settling an asset protection trust, section 4 of the Fraudulent Dispositions Act, 1991 (the FDA) should be borne in mind, which provides as follows:

- every disposition of property made with an intent to defraud and at an undervalue shall be voidable at the instance of a creditor thereby prejudiced;
- the burden of establishing an intent to defraud for the purposes of the FDA shall lie with the creditor seeking to set aside the disposition; and
- no action or proceedings shall be commenced pursuant to the FDA unless commenced within two years of the date of the relevant disposition.

Based on these provisions, it is important to ensure that a settlor does not have any known creditors when they create an asset protection trust. However, unless the settlor is notified of a claim or litigation pending against them, any future transfer of property to the asset protection trust would not, by itself, be voidable. While the FDA offers certain protection to the beneficiaries of an asset protection trust, it ultimately depends on the laws of the jurisdiction of their domicile as to whether distributions made to them from

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the trust and paid to them in that jurisdiction are available to satisfy their creditors.

## 4.2 Succession Planning

In addition to trusts and foundations, many high net worth families create private trust companies to act as the trustee of a defined number of family trusts. Another popular strategy is for two or more persons to hold shares in Bahamian International Business Companies as joint tenants with the right of survivorship. If one of the joint shareholders passes away, the remaining shareholders automatically continue to be the shareholders of the company, without the need for any probate proceedings in The Bahamas nor the payment of any transfer taxes.

## 4.3 Transfer of Partial Interest

Taxes are generally levied on the transfer of realty and personalty in The Bahamas. However, no taxes are payable on the distribution of assets in accordance with the terms of a valid will.

The transfer of shares in a Bahamian land-holding entity is considered a transfer of an interest in real estate that attracts VAT. If a partial interest in a Bahamian land-holding entity is transferred, VAT is levied on the value of the property and in accordance with the value of the interest that is being transferred. For example, where 25% of the interest in the real property-holding entity is transferred to another person, 25% of the value of the land will be subject to the payment of VAT. The fair market value would not be adjusted to reflect a discount for lack of marketability and control.

# 5. WEALTH DISPUTES

## 5.1 Trends Driving Disputes

The transfer of generational wealth upon the death of settlors or heads of families is the primary driver of wealth disputes in The Baha-

mas. This has led to disputes amongst second generation family members seeking to position themselves as successors, or in relation to how the trust fund or estate should be divided or the extent of their rights in the post-death era. It has also led to disputes regarding the exercise of fiduciary powers by trustees, who hitherto were likely addressing only requests from the patriarch or matriarch of the family.

Some disputes have also emerged from the very broad reporting obligations imposed on trustees to make filings under the Common Reporting Standard (CRS) regime, with enforcement authorities being willing to utilise their coercive powers to ensure that full disclosure is being made. This has resulted in some litigation by settlors and beneficiaries of trusts who challenge that their structures are reportable. In some instances, regulators have had regard to the Proceeds of Crime Act, 2018 and the property freezing order regimes thereunder. This has led to an increase in regulatory disputes between trustees/beneficiaries and the enforcement authority concerning legacy structures and CRS filing obligations.

## 5.2 Mechanism for Compensation

Where the dispute involves an application to set aside a property freezing order, the court may require an undertaking in damages from the enforcement authority. To the extent it is a trust dispute between beneficiaries centred around any entitlement to the corpus of the trust fund or whether assets have been appropriately settled on trusts, orders can range from equitable restitution to equitable damages; to the extent it is a breach of trust claim against trustees, remedies can include orders for account and/or equitable damages.



## **6. ROLES AND RESPONSIBILITIES OF FIDUCIARIES**

### **6.1 Prevalence of Corporate Fiduciaries**

The use of corporate fiduciaries is prevalent in The Bahamas. Corporate and other professional trustees are held to a higher standard of conduct, with the minimum standard being that of a reasonably prudent trustee. Trustees who hold themselves out as having some specialised skill or knowledge will be held to the higher standard they profess to have.

### **6.2 Fiduciary Liabilities**

It is not possible to pierce the veil of a fiduciary structure for the purpose of holding a fiduciary liable for the liabilities of the structure, unless the fiduciary has acted beyond the scope of their office such that it could be argued that they have assumed a personal responsibility to the plaintiff.

There are mechanisms in place to protect fiduciaries, and the use of exoneration and exculpatory clauses are commonly used in The Bahamas. Trustees are also typically absolved from liability where certain administrative or investment functions are delegated, so long as they acted reasonably and satisfied the appropriate duty of care in selecting the agents.

### **6.3 Fiduciary Regulation**

Regarding trustees, section 5 of the Trustee Act provides statutory regulation for a trustee's exercise of investment power, stating that "Trustees shall make, retain and change investments as a prudent investor would, having regard to the purposes, distribution requirements and other circumstances of the trust."

Moreover, the banking and trust industry and the financial services industry in The Bahamas are regulated by the Securities Commission of The Bahamas, the Central Bank of The Bahamas and

the Compliance Commission of The Bahamas. These regulators are governed by the domestic legislation that regulates all forms of banking, trust and financial institutions in The Bahamas. Regulations and Guidelines are issued by these regulators to facilitate fiscally responsible financial transactions inclusive of investments.

### **6.4 Fiduciary Investment**

A trustee's investment theory should mirror that of a reasonably prudent businessperson investing their own money. Unless there is some specific direction as to the makeup of the investment portfolio, trustees are obliged to maintain a diversified balanced and conservative investment approach to trust assets.

Fiduciary structures can hold active businesses, and there are no limitations on what investments can be held in these structures. The holding of active operating companies presents challenges to fiduciaries, and fiduciaries would not normally get involved in the day-to-day running of a business owned by the trust. Instead, there would usually be a *Re Lucking* or *Bartlett* clause in the trust deed that protects them from having to enquire into the running of the business.

## **7. CITIZENSHIP AND RESIDENCY**

### **7.1 Requirements for Domicile, Residency and Citizenship**

There is no "citizenship by investment" programme in The Bahamas. However, non-Bahamians may reside in The Bahamas and own real property upon acquiring the necessary permits to do so.

Permits to reside in The Bahamas permanently are generally obtained subsequent to the acquisition of real property. A Certificate of Permanent Residency does not normally confer the right to



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work in The Bahamas, but may entitle the holder to work in their own business.

Persons who have been designated permanent residents may make an application for Bahamian citizenship after a certain number of years.

## 7.2 Expeditious Citizenship

It is not possible to obtain Bahamian citizenship on an expedited basis. An application for citizenship is generally available for persons who have lived in The Bahamas for more than ten years.

Applications for permanent residency for individuals who purchase homes of a certain value in The Bahamas are given expedited consideration. Thereafter, an application for citizenship may be made, provided the homeowner has resided in The Bahamas for the requisite number of years.

## 8. PLANNING FOR MINORS, ADULTS WITH DISABILITIES AND ELDERS

### 8.1 Special Planning Mechanisms

It is possible to appoint a disabled person as a beneficiary of a trust, but the settlor would be required to name a guardian to receive the distributions on behalf of such a person.

### 8.2 Appointment of a Guardian

Pursuant to section 20A of the Child Protection Act (as amended), the court may appoint a person as a guardian of a child, in addition to any other person or as sole guardian, either upon an application by any person or upon its own initiative, on making an order removing a testamentary or any guardian appointed or acting by virtue of the Child Protection Act.

In the context of court proceedings, a court order to appoint a person as next friend or guardian

ad litem is only required in the following circumstances:

- in ongoing proceedings, the guardian ad litem or next friend is to be substituted with another person;
- in ongoing proceedings, a party to the proceedings becomes a patient; or
- where a person under a disability is served with proceedings and no appearance is entered for that person.

There is no ongoing supervision by the court, but certain matters (eg, the settlement of claims by the guardian or next friend) must be approved by the court.

### 8.3 Elder Law

In The Bahamas, there are useful tools to help families and individuals prepare financially for longer lives. For example, enduring powers of attorney enable all individuals to appoint a person or persons to act on their behalf even after the donor is no longer mentally competent.

Also, The Bahamas is commonly used to establish certain trust structures that allow people to ensure that finances are secured and handled in accordance with their wishes, regardless of mental capacity.

## 9. PLANNING FOR NON-TRADITIONAL FAMILIES

### 9.1 Children

The enactment of the Status of Children Act has done away with the differentiation of children who are born within a marriage and those born out of wedlock in The Bahamas. Additionally, the Inheritance Act confers the same status and entitlements to children born outside of wedlock as to those born within a marriage in respect of succession and entitlement under a will.

The Adoption of Children Act provides for the adoption of children and the approval process mandated by the Bahamian government. There are currently no laws regulating surrogate children in The Bahamas.

A trust deed or a foundation charter can be drafted to specifically include (or not include) surrogate, adopted or illegitimate children. For example, in the recently decided Bahamian case of *Ashley Dawson-Damer v Grampian Trust Company Limited & Lyndhurst Limited* 2015/CLE/gen/00341, the trust deed specifically excluded adopted children.

## **9.2 Same-Sex Marriage**

The Bahamas does not recognise same-sex marriages or domestic partnerships. Same-sex couples can utilise The Bahamas' many estate planning structures, such as trusts, foundations or a will, to protect themselves and their wealth.

## **10. CHARITABLE PLANNING**

### **10.1 Charitable Giving**

There is no income tax in The Bahamas. In certain circumstances, the transfer of real property to a foundation or charity will not attract VAT.

### **10.2 Common Charitable Structures**

The most commonly used structure for charitable planning in The Bahamas is the non-profit organisation (NPO). NPOs are entitled to certain deductions on excise tax for items imported into The Bahamas and may be entitled to claim input tax deductions in connection with VAT paid on utility and maintenance payments.

# THE BAHAMAS LAW AND PRACTICE

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**McKinney, Bancroft & Hughes** is one of the largest and oldest firms in The Bahamas and conducts an extensive international and domestic practice from its offices in Nassau, Lyford Cay and Freeport. The trust and private client group advises on all aspects of international trust and private client matters. The firm has a wealth of experience in this area, and its lawyers are frequently called upon to advise high net worth individuals and families on the use of

the panoply of Bahamian structures available to high net worth individuals and their families. The lawyers are trained to think innovatively in addressing client needs and tailoring products and solutions as uniquely crafted as the individuals who require them. McKinney, Bancroft & Hughes is The Bahamas' member of Lex Mundi, a global association of more than 160 independent law firms in 60-plus countries.

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## Trends and Developments

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### **Ashley Dawson-Damer v Grampian Trust Company Limited & Lyndhurst Limited 2015/CLE/gen/00341**

This Action was a monumental Bahamian trust case that received its judgment from His Lordship Mr Justice Ian Winder in January 2022.

In the Action, the Plaintiff (Ashley), a discretionary beneficiary of a Bahamian trust, challenged appointments made in 2006 and 2009 on the basis that the trustee made said appointments without sufficiently considering her needs, circumstances and interests. She sought to set aside those appointments, as well as the removal of the trustee.

#### *Factual background*

The relevant trust was established by the will of a wealthy Scottish businessman who died in Australia in 1917. The trust was intended to support and maintain the settlor's lineage. The settlor's only daughter had one son. The settlor's grandson had two children, George and John. John and Ashley were married in 1982 and have two adopted children. John died in 2000.

The trust assets were resettled onto a new settlement in 1973 (the 1973 Settlement) and the class of beneficiaries included George, John, their spouses (including Ashley), their children and remoter issue, although adopted children were not included. The result of this was that John's adopted children and their descendants were not beneficiaries under the 1973 Settlement.

The 1973 Settlement was restructured in 1992 and the trustee of the 1973 Settlement transferred the trust assets absolutely to a corporate

beneficiary, which was restricted by the terms of its constitution to making gifts or setting up trusts for the benefit of members of the family. Subsequently, the Glenfinnan Trust, which is the subject of the Action, was settled in 1992 along with three other settlements, for the benefit of the beneficiaries under the 1973 Settlement.

In 2006, three new trusts were settled for three of George's children and their respective families, leaving 40% of the trust assets in Glenfinnan. Thereafter, George and his wife were excluded as beneficiaries of Glenfinnan. In 2009, 95% of Glenfinnan was transferred to a new Bermudian trust for the benefit of George's children and remoter issue.

Ashley later became aware of the 2006 and 2009 appointments and commenced the Action in March 2015 to challenge those appointments and seek the removal of the trustee.

#### *Legal issues and judgment*

The Action included many different interlocutory applications and touched on numerous aspects of Bahamian civil procedure and trust law. The trial itself, however, considered generally whether the trustee acted in breach of trust when making the 2006 and 2009 appointments. Specifically, the court considered:

- the settlor's wishes or intentions for Glenfinnan;
- whether the trustee treated Ashley fairly and acted honestly and in good faith when making the 2006 and 2009 appointments; and
- whether the trustee's deliberations when making the 2006 and 2009 appointments were adequate and, in the event they were

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not, would/might it have made a difference to the trustee's decisions in 2006 and 2009.

Winder J considered the steps taken by the trustee when exercising its discretion relative to the 2006 and 2009 appointments and found that the trustee did not properly take Ashley's financial circumstances into account and weigh them against the needs of the beneficiaries in whose favour the two appointments in 2006 and 2009 were made, but did not hold that there was a requirement for consultation with beneficiaries prior to the trustee's exercise of its discretion.

However, when considering Ashley's wealth, stable circumstances and age, and the primary purpose of the trust being for the next generation, Winder J found that it could not be said that the trustee or any reasonable trustee would not have made the appointments even if it had given adequate deliberation to Ashley's circumstances. Accordingly, the inadequate deliberation did not amount to a breach of trust that would warrant a setting aside of the appointments or removal of the trustee.

The trial spanned roughly five weeks, included a vast amount of documents and required lengthy, comprehensive legal submissions. It is undoubtedly one of the largest trust cases to have been argued in The Bahamas.

Ashley has appealed the judgment on several grounds, submitting that the judge erred in law and in fact and misdirected himself when he:

- held that the settlor earmarked the funds in Glenfinnan for the next generation;
- failed to set aside the 2006 and 2009 appointments on the basis that the trustee acted in breach of trust in taking into account the irrelevant consideration of the settlor's purported wishes;

- made certain findings of facts relating to the trustee's failures but did not hold that the trustee acted in breach of trust;
- did not find that the trustee's inadequate deliberation of Ashley's circumstances amounted to a breach of trust;
- failed to set aside the 2006 and 2009 appointments as a result of the trustee's breach of trust; and
- failed to exercise the true discretion conferred to him in setting aside the 2006 and 2009 appointments.

The appeal has yet to be heard.

### **Inter Vivos Gifts of Real Property**

Subject to certain exceptions, the transfer of real property in The Bahamas attracts value added tax (VAT) at a rate of 10%. However, where real property is transferred as a result of the death of the property owner, the transaction is zero-rated for VAT purposes – meaning that the transfer is a taxable supply but VAT is payable at a rate of 0%. Consequently, in the past, where estate planning decisions resulted in corporate restructuring involving Bahamian land-holding companies or otherwise required the transfer of Bahamian real property, clients may have faced substantial tax liabilities.

The VAT legislation now provides for the zero-rating of certain transfers of real property while the owner is living (known as inter vivos gifts). It is of paramount importance to carefully consider the categories of the transferor and transferee (individual, company, trustee, etc), the relationship between the transferor and transferee (spouse, parent, child, etc) and the restrictions and requirements associated with inter vivos gifts.

A formal application seeking approval must be made before a transfer is deemed to be an inter vivos gift.

# THE BAHAMAS TRENDS AND DEVELOPMENTS

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*Contributed by: Kevin Moree, Vanessa Smith and Erin Hill, McKinney, Bancroft & Hughes*

This is a positive development for estate planning in The Bahamas because owners of Bahamian real property may not need to wait until the owner's death to make a tax-free transfer of the real property.

## **Amendments to the Real Property Tax Act**

On 1 July 2022, several important amendments to the real property tax regime in The Bahamas came into force.

### *Increase in real property tax cap for owner-occupied properties*

The cap on real property tax for owner-occupied properties has increased from BSD60,000 to BSD120,000. Consequently, homeowners who may not have previously considered the assessed value of their property because the real property tax was significantly over the cap should now take steps to ensure the assessed value is accurate to avoid over-paying real property tax.

### *Condo-hotel tax*

Properties that are part of a condo-hotel scheme may now attract a condo-hotel tax, despite the exemptions provided under the Hotels Encouragement Act. The condo-hotel tax is equal to 75% of the real property tax that would usually have been payable on the property using the residential category rates. However, where the VAT paid on the rental income for the previous year exceeds the amount of the condo-hotel tax, the condo-hotel tax will be waived.



*Contributed by: Kevin Moree, Vanessa Smith and Erin Hill,  
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**McKinney, Bancroft & Hughes** is one of the largest and oldest firms in The Bahamas and conducts an extensive international and domestic practice from its offices in Nassau, Lyford Cay and Freeport. The trust and private client group advises on all aspects of international trust and private client matters. The firm has a wealth of experience in this area, and its lawyers are frequently called upon to advise high net worth individuals and families on the use of

the panoply of Bahamian structures available to high net worth individuals and their families. The lawyers are trained to think innovatively in addressing client needs and tailoring products and solutions as uniquely crafted as the individuals who require them. McKinney, Bancroft & Hughes is The Bahamas' member of Lex Mundi, a global association of more than 160 independent law firms in 60-plus countries.

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