

**GUIDE TO THE ASSIGNMENT OR TRANSMISSION OF TRADE MARKS
IN THE BRITISH VIRGIN ISLANDS**

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A trade mark that is registered in the British Overseas Territory of the Virgin Islands (the “**British Virgin Islands**”) may be assigned or disposed of by testamentary disposition or other operation of law in the same way as other personal property. The assignment or transmission of a trade mark may be either in connection with the goodwill of a business or independently, or in relation to some or all of the goods or services for which it is registered or limited in a particular manner or locality. Although there is no time limit for registering an assignment or transmission, failing to register the assignment or transmission will make it ineffective as against third parties, such as licensees, without notice of the assignment or transmission. Also, the assignee cannot get damages or an account of profits for any infringement that occurs after the date of the assignment or transmission and before its registration if it is not registered within six (6) months.

An application to register an assignment or transmission in the British Virgin Islands must be in **Form TM13**, and should be submitted on behalf of the assignee along with the registration fee of US\$100.00. A separate application must be made for each assignment or transmission, but the same application may be used for several trade marks if they are covered by the same assignment or transmission. The application should also be signed by the assignor and the trade mark agent for the new owner but if it is not possible for the assignor to sign the application form then appropriate documentary evidence of the assignment or transmission must be provided with the application. This documentary evidence would include an authenticated copy of the assignment or a court order. The signature of the assignor and assignee, if a body corporate, must be that of a director, secretary or other principal officer of the body corporate unless some other person can satisfy the Registrar of their authorization to sign it.

There are no capital gains taxes in the British Virgin Islands, but where a BVI company is not involved the assignment or transmission attracts a stamp duty of \$5.00. However, if the assignor does not sign Form TM13 then further advice on the valuation of the BVI trade mark is necessary since it may attract ad valorem stamp duty at four percent (4%) of the consideration or the market value of the trade marks, whichever is higher.

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