

The explanations provided in this guide represent a brief summation of the law. Where there is a conflict between the wording in this guide and the *Property Transfer Tax Act* and Regulations, the statute shall prevail.

GENERAL INFORMATION

Tax is payable by the purchaser or transferee at the time the application to register a transfer is presented to the Land Title Office. An original Property Transfer Tax Return must accompany every application to register a taxable transaction at a Land Title Office. Photocopies of the return will **not** be accepted under any circumstances.

A **GENERAL** tax return (FIN 579 General) is used when an exemption from tax is not being claimed. A **SPECIAL** tax return (FIN 579 Special) is used when an exemption is being claimed or where the transitional rate of tax is being paid. In all cases, the tax return must be signed by the transferee or person with authority to sign on behalf of the transferee. A different tax return (FIN 269) and instruction guide (FIN 269 Guide) must be used if an exemption under the **First Time Home Buyers' (FTHB) Program** is being claimed.

If a tax return is not completed and the tax not paid to the Registrar, the application to register your transaction may be refused by the Land Title Office. Payment must be in cash or by cheque made payable to the Minister of Finance.

Assistance in completing the tax return may be obtained by telephoning the Property Transfer Tax Administrator's Office at 250 387-0604. Information regarding return completion is also available on our Web site at: www.rev.gov.bc.ca/itb

TRANSACTIONS REQUIRING A PROPERTY TRANSFER TAX RETURN

A return must be filed with an application to register any of the following at a Land Title Office:

- a transfer of an estate in fee simple
- a change of name application under Section 191 of the *Land Title Act* as it applies to an Amalgamation, however affected
- an agreement for sale
- a cancellation of an agreement for sale
- a life estate
- a lease
- an assignment of a lease
- a foreclosure
- a Crown grant
- a lease modification agreement
- a Crown lease

EXEMPTIONS

Transactions listed below are exempt from tax. Section F of the **SPECIAL** tax return must be completed and the appropriate exemption code entered at line F2.

A review is made of exemption claims to ensure compliance with the legislation. If the requirements of the exemption claimed are not met in their entirety an assessment of tax will be issued.

DEFINITIONS

Note: Exemption Codes 05, 06, 07, 18, 40, 41, and 42 apply only to related individuals.

A **related individual** includes *only* the following:

a person's spouse (further defined below), child, grandchild, greatgrandchild, parent, grandparent or greatgrandparent, the spouse of a person's child, grandchild or greatgrandchild, or the child, parent, grandparent or greatgrandparent of a person's spouse.

A **spouse** means a person who is married to another person, or is living and cohabiting with another person in a marriage-like relationship, including a marriage-like relationship between persons of the same gender, and has been living and cohabiting in that relationship for a continuous period of at least 2 years.

Related individuals must be Canadian citizens or permanent residents as defined in the *Immigration and Refugee Protection Act* (Canada) [section 14(1)].

PRINCIPAL RESIDENCE EXEMPTIONS

For the purpose of these exemptions, a person can have only one principal residence at a time.

The transfer of a principal residence between related individuals may be exempt in full or in part if all of the restrictions outlined in the individual exemptions are met. In order to qualify as a principal residence, the improvements on the property must be designed to accommodate 3 or fewer families.

For 05, 40, 41 and 42 exemption claims: A **full** exemption is granted only where all of the improvements are classified as residential by British Columbia Assessment and the land does not exceed 0.5 hectares (1.24 acres) in size. A **partial** exemption may be available for properties which do not meet this description. Complete section J of the **SPECIAL** tax return to determine the amount of the partial exemption as explained below.

05 A transfer of a principal residence, or an interest in a principal residence, to a related individual where either the transferee or the transferor resided on the property for the six months immediately prior to the transfer and the transferor is not a trustee referred to in sections 14(3)(c), (d) or (e). May not be fully exempt (see calculation below) [section 14(3)(b)].

- 40 A transfer of a principal residence, or an interest in a principal residence, from a trustee of a deceased's estate, who is registered as such under the *Land Title Act*, to a beneficiary of the estate who was a related individual of the deceased at the time of death and immediately before the deceased's death the land transferred was the principal residence of the deceased or had been the principal residence of the beneficiary for a continuous period of at least six months. May not be fully exempt (see calculation below) [section 14(3)(c)].
- 41 A transfer of a principal residence, or an interest in a principal residence, from a trustee of a trust settled in the lifetime of the settlor, who is registered as such under the *Land Title Act*, to a beneficiary of the trust who is a related individual to the settlor of the trust and the land transferred has been the principal residence of the settlor or the beneficiary for a continuous period of 6 months immediately prior to the transfer. May not be fully exempt (see calculation below) [section 14(3)(d)].
- 42 A transfer of a principal residence, or an interest in a principal residence, from a trustee of a trust settled in the lifetime of the settlor, who has been continuously registered as such under the *Land Title Act* since August 18, 1990, to a beneficiary of the trust who is a related individual to the settlor of the trust, and the land transferred was the principal residence of the settlor of the trust. May not be fully exempt (see calculation below) [section 14(3)(e)].

CALCULATION OF PRINCIPAL RESIDENCE EXEMPTION AMOUNT

Note: All land sizes must be converted to hectares.

A transfer is fully exempt where:

1. All the improvements (buildings) on the land are classified as residential by British Columbia Assessment.
2. The land does not exceed 0.5 hectares (1.24 acres) in size.

A partial exemption is available where:

1. The improvements (buildings) are not all classified as residential. Only the fair market value of buildings classified as residential is to be included in the exempt amount.
2. The land exceeds 0.5 hectares in size. The exempt portion of land is restricted to the value of the 0.5 hectare portion. This portion is calculated by dividing the fair market value of the bare land by the total area (in hectares), multiplying the result by 0.5 hectares.

Section J of the SPECIAL tax return sets out the partial exemption calculation.

OTHER EXEMPTION CODES

- 00 If there is more than one applicable exemption, claim this code and provide details in an attached letter.
- 06 A transfer of a recreational residence where, regardless of the interest in the parcel being transferred, the parcel has a fair market value of no more than \$275,000 (effective March 31, 1998) and is 5 hectares or less:
- to a related individual provided the transferor is not a trustee referred to in sections 14(3)(c), (d) or (e) [section 14(3)(a)], or
 - from a trustee of a deceased's estate, who is registered as such under the *Land Title Act*, to a beneficiary who was a related individual of the deceased at the time of death and immediately before the deceased's death the land transferred was the deceased's recreational residence [section 14(3)(c)], or
 - from a trustee of a trust settled in the lifetime of the settlor, who is registered as such under the *Land Title Act*, to a beneficiary who is a related individual to the settlor of the trust [section 14(3)(d)].
- 07 A transfer of a family farm:
- to a related individual provided the transferor is not a trustee referred to in sections 14(3)(c), (d) or (e) [section 14(3)(a)], or
 - from a trustee of a deceased's estate, who is registered as such under the *Land Title Act*, to a beneficiary who was a related individual of the deceased at the time of death and immediately before the deceased's death the land transferred was the deceased's family farm [section 14(3)(c)], or
 - from a trustee of a trust settled in the lifetime of the settlor, who is registered as such under the *Land Title Act*, to a beneficiary who is a related individual to the settlor of the trust [section 14(3)(d)].
- 08 A transfer to the survivor of a joint tenancy as a result of the death of a joint tenant [section 14(3)(m)].
- 09 A transfer to a personal representative of the deceased (administrator or executor) where the property transferred is part of the deceased's estate [section 14(3)(q)].
- 10 A transfer to a trustee, who is registered as such under the *Land Title Act*, by two or more registered owners of adjacent parcels of land in order to complete a plan of subdivision and the transfer(s) back to the original owners after registration of the plan of subdivision provided there is no change in each original owner's proportionate share of the fair market value of the land held before and after subdivision [section 14(4)(k) and (k.1)]. **Information Bulletin 06** provides important information on this exemption. The bulletin is also available on our Web site at: www.rev.gov.bc.ca/itb
- 12 A transfer:
- to a trustee in bankruptcy of land which forms part of the estate of the bankrupt [section 14(3)(n)], or
 - of the same land from the trustee back to the bankrupt [section 14(3)(o)], or
 - of a property, which was the principal residence of the bankrupt immediately before bankruptcy, from the trustee to the spouse or former spouse of the bankrupt [section 14(3)(p)].
- if no consideration for the transfer is paid by, or on behalf of, the transferee. The Administrator will, by separate mailing, seek a declaration from the Trustee in Bankruptcy.

- 13 A transfer of the vendor's interest under an agreement for sale, if the transferee is not the purchaser under the agreement for sale [section 14(4)(l)].
- 14 A transfer made in accordance with a registered agreement for sale where the purchaser under the agreement for sale, or their assignee, is the transferee and where tax was paid at the time the agreement for sale or assignment of the agreement for sale was registered, as the case may be [section 14(3)(l)].
- 15 A transfer made in accordance with a written separation agreement or a court order under the *Family Relations Act* where the transferee and transferor are spouses or former spouses of each other. Attach a copy of the signed separation agreement, court order or divorce decree to the tax return [section 14(3)(h)].
- 16 A transfer changing a joint tenancy to a tenancy in common where the persons holding the interests remain the same after the transfer as before, and each person owning an interest in the land after the transfer has an interest equal to that of the other owners [section 14(3)(i)].
- 17 Registration of a lease agreement with a term of the 30 years or less, including all extensions, remaining at the date of registration of the agreement [section 14(4)(o)].
- 18 A transfer between a family farm corporation and an individual who is either:
- (a) not a shareholder of the family farm corporation, but is related to all of the shareholders of the corporation, or
 - (b) a shareholder of the family farm corporation, and is related to all of the other shareholders of the corporation, or
 - (c) the sole shareholder of the family farm corporation [section 14(3)(f)&(g)].
- 19 A transfer by which land reverts, escheats or forfeits to the Crown, or the transfer back to the original owner [section 14(3)(k)].
- 20 A transfer to a regional district, a municipality, an improvement district, the Islands Trust, a board of school trustees as defined in the *School Act*, a francophone education authority as defined in the *School Act*, the Okanagan Basin Water Board, a water users' community as defined in the *Water Act*, a regional hospital district, a library board as defined in the *Library Act*, a greater board as defined in the *Municipal Act* or any board incorporated by letters patent that provides services similar to those of a greater board [section 14(3)(s)].
- 21 A transfer of a life estate, where the transferee of the life estate transferred the fee simple estate in the property to the transferor of the life estate in a concurrent transaction [section 14(3)(r)].
- 22 A transfer to a "registered charity" as defined by section 248(1) of the *Income Tax Act* (Canada) if the land will be used for a charitable purpose. Please provide the charity's income tax registration number at Item F2 of the Special Return [section 14(4)(b)].
- 23 A transfer to:
- a board or council as defined by section 1 of the *Health Authorities Act* [section 14(4)(a)], or
 - a "designated educational institution" as defined in section 118.6(1)(a) of the *Income Tax Act* (Canada) where the land being transferred will be used for an educational purpose [section 14(4)(c)], or
 - a corporation established under the *University Foundations Act* or the *Trinity Western University Foundation Act* [section 14(4)(d)], or
 - the corporation established under Part 3 of the *Hospital Act* [section 14(4)(e)], or
 - the corporation continued under section 2 of the *Health Research Foundation Act* [section 14(4)(f)], or
 - the corporation established under the *Library Foundation of British Columbia Act* [section 14(4)(g)], or
 - the corporation established under the *Cultural Foundation of British Columbia Act* [section 14(4)(h)], or
 - an educational institution that receives grants under the *Independent School Act*, if the land being transferred will be used for an educational purpose [section 14(4)(i)], or
 - the corporation or the committee established under the *First Peoples' Heritage, Language and Cultural Act* [section 14(4)(j)].
- 25 A transfer from a settlor to the Public Guardian and Trustee, or a trustee that is a trust company under the *Financial Institutions Act* authorized to carry on trust business by an authorization under that Act, if:
- the settlor is a natural person,
 - the settlor was the registered owner of the fee simple interest in the land immediately before the transfer to the trustee,
 - the administration of the trust estate is for the sole benefit of the settlor, and
 - on the termination of the trust, the land reverts to the settlor or to the executor or administrator of the settlor's estate [section 14(4)(p)].
- A transfer from a trustee of a trust referred to in 14(4)(p) to the settlor of the land being transferred [section 14(4)(p.1)].
- 26 A transfer from a transferor to a transferee, each of whom is registered under the *Land Title Act* as a trustee of the land, if the change in trustee is for reasons that do not relate, directly or indirectly, to a change in beneficiaries or in a class of beneficiaries or a change in the terms of the trust [section 14(4)(q)].

Note: If this exemption is claimed the administrator may, by separate mailing, seek a declaration from the transferor and the transferee.

- 27 A conveyance that is a Crown Grant confirmed in writing by the Ministry of Environment, Lands and Parks prior to November 1, 1987. Please attach a copy of the letter of commitment or offer to purchase verifying that the grant was agreed to in writing prior to November 1, 1987 [section 5(2)(v.4) Dec. 5/94 consolidation].
- 28 A transfer where the government of British Columbia is the transferor and the transaction has been designated by the Minister of Finance & Corporate Relations as exempt from payment of tax under this Act. Please attach a copy of the Minister's designation [section 14(3)(v)].
- 29 A transfer to a mortgagee, if the mortgagee was the immediately preceding registered owner of the property [section 14(4)(m)].
- 30 A transfer arising from the cancellation of an agreement for sale where the transferee is the original vendor under the agreement for sale [section 14(4)(n)].
- 31 A transfer consisting of a lease, sublease, or right to occupy premises, coupled with a concurrent transfer of the estate in fee simple or a right to purchase the estate in fee simple to the same land, and the lessee and the transferee are the same and tax was paid on the registration of the transfer or the right to purchase [section 14(4)(v)].
- 32 A transfer to a veteran or the spouse, or surviving spouse of a veteran from the Director of the *Veterans' Land Act* (Canada) [section 14(4)(r)].
- 34 A transfer, immediately following the registration of a subdivision of a single parcel of land into smaller parcels, if each transferee acquires a registered interest in one or more parcels having a proportionate share in the total fair market value of the new parcels that is no greater than the proportionate share in the fair market value of the original parcel they held immediately before the subdivision [section 14(3)(j)]. **Information Bulletin 06** provides important information on this exemption. The bulletin is also available on our Web site at: www.rev.gov.bc.ca/itb
- 35 A transfer for the purpose of reconveying property:
- that was conveyed in error, or
 - in respect of which an error was made in the description or survey under which the title to the property was registered, provided that the Administrator is satisfied the transfer was made for that purpose and the original copy of the Administrator's certificate to that effect is attached to the return [section 14(4)(t)].
- 37 A transfer to the Crown in right of Canada, or to a corporation listed in Schedule 1 of the *Federal-Provincial Fiscal Arrangements and Federal Post-Secondary Education and Health Contributions Act* (Canada) [section 14(4)(s)].
- 38 An application under section 191 of the *Land Title Act* in respect of an amalgamation under sections 247 to 251 of the *Company Act*, under sections 181 to 186 of the *Canada Business Corporations Act* (Canada) or under similar provisions of an enactment of Canada or of a province. Attach a copy of the amalgamation certificate to the tax return [section 14(4)(u)].
- 39 A transfer to the government of British Columbia in accordance with a bylaw under section 305.2 [exchange of dedicated land] or 525(3) [transfer of title to highways] of the *Municipal Act* [section 14(3)(t)].
- 43 A transfer of land encumbered by a restrictive covenant requiring the property, or portion thereof to be preserved, protected or conserved in its natural state, and the restrictive covenant has, or soon will be, approved by an Order in Council [section 16].
- 44 A transfer of land to the Provincial Capital Commission where the land transferred is used solely for park purposes [section 14(3)(u)].
- 45 A transfer:
- to a liquidator appointed under section 277 or 284 of the *Strata Property Act* of land referred to in section 277(3)(c)(i) or (ii) of that Act [Section 14(3)(p.1)], or
 - under section 275 of the *Strata Property Act* of land that was shown on a strata plan cancelled under that section. [Section 14(3)(p.2)].

TRANSITIONAL TAX

The following transactions qualify for the transitional rate (0.1%) of tax:

- 03 A transfer pursuant to an agreement for sale or lease registered before March 23, 1987, where the transferee is the purchaser under the agreement for sale or the lessee under the lease [section 38(d) or (e)].
- 04 A transfer pursuant to a court order or an order absolute of foreclosure, where the order was given before March 23, 1987, or an option to purchase contained in a Crown lease entered into prior to November 1, 1987, provided the lessee notified the Minister of Forests and Lands of their intention to purchase before January 1, 1989. [section 38(f)(g) or (h)]. Please attach a copy of the letter exercising this option.

Complete the calculation in Part G of the Special Return, and insert appropriate code (03 or 04) in Part F of the tax return. The taxable amount on line F3 must be entered as NIL and the amount in Line F1 entered in line G1.