

Exemptions Generally

Property Transfer Tax Act

This bulletin provides an overview of some of the exemptions commonly claimed under the *Property Transfer Tax Act*. For each exemption listed below, the code that is to be claimed on the *Special Property Transfer Tax Return*, as well as the applicable section of the Act, is provided.

The information provided in this bulletin highlights some of the more commonly claimed exemptions. If unsure, you should refer to the actual legislation to determine if an exemption applies.

If you are claiming **more than one exemption**, claim **code 00** in the *Special Property Transfer Tax Return* form (**FIN 579S**), and attach a letter to the return setting out the details of the circumstances of the transfer.

The information in this bulletin is provided for convenience and guidance and is not a replacement for the legislation. The *Property Transfer Tax Act* and Regulations can be found on the web at www.gov.bc.ca/sbr

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DETERMINATION OF NET INTEREST PASSING

If a registered fee simple ownership of a property is held in joint tenancy, for example between spouses, application of the Act to the transfer of a partial interest is determined based on the **net interest passing**.

As an example, A and B are former spouses and own a property as joint tenants. They wish to transfer the interest of B to C with the result that A and C will hold the registered fee simple ownership of the property as joint tenants.

A & B → to → A & C
(joint tenants) (joint tenants)

For the purposes of the Act, A's interest in the property **has not changed** as a result of the transfer. Whether the transfer is eligible for the exemption is determined based on the transfer of a 50% interest in the property from B to C. For instance, if B and C are related individuals, the transfer of the 50% interest from B to C may qualify for exemption.

TRANSFERS INVOLVING AN AGREEMENT FOR SALE

Section 14(3)(l) provides an exemption where property is transferred pursuant to an agreement for sale. The tax of either the agreement or the assignment must have been paid at the time of registration, and the transferee must be either the purchaser under the agreement or the assignee of the purchaser under the agreement.

If claiming this exemption, claim code 14.

Section 14(4)(l) provides an exemption where the property transferred is the fee simple interest that is subject to a registered agreement for sale, but the transferee is not the purchaser under the agreement for sale.

If claiming this exemption, claim code 13.

Section 14(4)(n) provides an exemption where a transfer arises from the cancellation of an agreement for sale, for example by a court order or a quit claim, if the transferee was the original vendor under the agreement for sale.

If claiming this exemption, claim code 30.

TRANSFERS INVOLVING JOINT TENANTS AND TENANTS IN COMMON

Transfers to Change a Joint Tenancy to a Tenancy in Common

Section 14(3)(i) provides an exemption where property is transferred in order to change a joint tenancy to a tenancy in common. To claim this exemption, the owners before and after the transfer **must be the same**, and after the transfer each person with an interest in the land **must have an interest equal to every other owner's interest** in that land.

Transfers to Change Tenancy in Common to Joint Tenancy

The Property Transfer Tax office administratively provides an exemption when property is transferred to change a tenancy in common to a joint tenancy where there is no change in the value of the registered owner's interest.

If claiming either of these exemptions, claim code 16.

Transfers to the Survivor of a Joint Tenancy

Section 14(3)(m) provides an exemption for the transfer of land to the surviving joint tenant(s) when another joint tenant dies.

If claiming this exemption, claim code 08.

TRANSFERS FOLLOWING BANKRUPTCY

The Act has specific provisions dealing with property that is transferred because a property owner has become bankrupt.

Section 14(3)(n) provides an exemption when land that forms part of the bankrupt's estate is transferred to the trustee in bankruptcy.

Section 14(3)(o) provides an exemption when land that forms part of the bankrupt's estate is transferred from the trustee back to the bankrupt as long as no consideration is paid to the trustee for this transfer.

Section 14(3)(p) provides an exemption for the transfer of the bankrupt's principal residence from the bankruptcy trustee to the former spouse or current spouse of the bankrupt. To claim this exemption, all the following conditions must be met:

- the transfer must be from the trustee to the spouse or former spouse of the bankrupt,
- the land being transferred must have been part of the bankrupt's estate,
- the land being transferred **must have been the bankrupt's principal residence immediately before bankruptcy**, and
- no consideration is paid to the bankruptcy trustee for the transfer.

If claiming this exemption, claim code 12.

TRANSFERS MADE AS A RESULT OF A MARRIAGE BREAKDOWN

Section 14(3)(h) provides an exemption for a transfer from a transferor to his or her former spouse made pursuant to a court order or written separation agreement under the *Family Relations Act*. The definition of "spouse" is provided in section 1(1) of that Act.

It is important to note that the wording of this exemption precludes the exemption from being available where the transfer is to a corporation or other third parties.

If claiming this exemption, claim code 15 and attach a copy of the written separation agreement or court order to the return.

LAND THAT ESCHEATS, REVERTS OR IS FORFEITED TO THE CROWN, OR WHERE THE LAND IS RETURNED

Section 14(3)(k) provides an exemption where land escheats, reverts or is forfeited to the Crown, or where this land is returned to the taxpayer.

Escheated property is property that is transferred to the Crown when there is no one to claim the estate of a deceased person, or a corporate owner that has been struck. Forfeited property is property that is taken by the Crown because of an error, offence or fault of the owner of the property.

All transfers involving land that escheats, reverts or is forfeited to the Crown are included in the exemption. This **includes the transfer of that land back to the owner** after it has reverted, escheated or forfeited to the Crown. There is no time limit for when the property must be returned to the owner for the transfer to qualify for the exemption. A transfer to any party other than the original owner is not eligible for the exemption.

To claim this exemption, claim code 19.

TRANSFERS TO MUNICIPALITIES AND OTHER LOCAL GOVERNMENTS

Section 14(3)(s) provides an exemption if the land is transferred to:

- a regional district
- a municipality
- an improvement district
- the Okanagan Basin Water Board
- the Islands Trust
- a board of school trustees as defined in the *School Act*
- a water users' community as defined in the *Water Act*

- a francophone education authority as defined in the *School Act*
- a regional hospital district
- a library board as defined in the *Library Act*
- a greater board as defined in section 872(1) of the *Municipal Act*
- any board incorporated by letters patent that provides services similar to those provided by a greater board

If claiming this exemption, claim code 20.

TRANSFERS TO REGISTERED CHARITIES

Section 14(4)(b) provides an exemption for transfers made to registered charities. The charity must qualify as a "registered charity" under section 248(1) of the *Income Tax Act* (Canada) and must be used for a charitable purpose.

If claiming this exemption, claim code 22. Provide the charity's income tax registration number in F2 of the *Special Property Transfer Tax Return* form (FIN 579S).

TRANSFERS UNDER THE VETERANS' LAND ACT (CANADA)

Under the *Veterans' Land Act* (Canada), property may be transferred from the director of that Act to a veteran. Section 14(4)(r) provides an exemption for these transfers.

This exemption is available **not only for transfers to a veteran**, but also to the spouse, widow or widower of a veteran, consistent with the administrative practice of the federal government under the *Veterans' Land Act* (Canada).

If claiming this exemption, claim code 32.

SPECIFIC TRANSFERS BETWEEN THE PROVINCE AND MUNICIPALITIES

Section 14(3)(t) provides an exemption where a municipality acquires land owned by the provincial government under either section 535 or 614 of the *Municipal Act*.

Section 535 of the *Municipal Act* deals with the situation where the municipality is purchasing land for highway purposes. Section 614 of that Act deals with the situation where the municipality is purchasing land for park purposes.

If claiming this exemption, claim code 39.

TRANSFERS TO THE PROVINCIAL CAPITAL COMMISSION

Section 14(3)(u) provides an exemption if the land is transferred to the Provincial Capital Commission. To be eligible for this exemption, the land that is transferred must be used **only** for park purposes.

If claiming this exemption, claim code 44.

NEED MORE INFO?

This bulletin is provided for convenience and guidance.

If you have any questions, call us in Victoria at 250 387-0604 or, if you are calling from outside of Victoria, call Enquiry BC toll-free at 1 800 663-7867 and request a transfer to 387-0604, or e-mail your questions to PTTENQ@gov.bc.ca

Information is also on the web at www.gov.bc.ca/sbr While there, you can subscribe to our free electronic update service.