

Exemptions for the Transfer of a Recreational Residence

Property Transfer Tax Act

UPDATE: FEBRUARY 2006

Added a section on determination of net interest passing, and clarified that only one recreational residence may be transferred exempt from a deceased's estate or a trust.

This bulletin outlines the property transfer tax exemptions available for the transfer of a recreational residence and the specific conditions and requirements that must be met.

There are various ways that a recreational residence may be transferred exempt under the *Property Transfer Tax Act*. The Act deals with situations where there is a direct transfer (where no Trustee is involved), and also where the transfer does involve a Trustee. You must ensure all conditions of these various exemptions are met.

The information in this bulletin is provided for your 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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LEGISLATIVE HISTORY

Bill 2, *Budget Measures Implementation Act, 1998*, introduced an amendment changing the definition of "recreational residence". Previously, to be considered a recreational residence, the entire parcel of land could not have a fair market value of more than \$200,000. With this amendment, the entire parcel may have a fair market value of up to \$275,000 and still qualify for the exemption.

These amendments also provided a definition for the term "settlor" to clarify when the transfer of a recreational residence from a trustee is exempt.

DEFINITION OF A RECREATIONAL RESIDENCE

Section 14(1) of the *Property Transfer Tax Act* defines "recreational residence" as an interest in a parcel of land if the parcel is one:

- on which, before the transfer, an individual transferor resided on a seasonal basis for recreational purposes, or if an exemption is claimed under section 14(3)(c) or 14(3)(d), the settlor or the deceased usually resided on a seasonal basis for recreational purposes,
- that has been classified as residential land under the [Assessment Act](#),
- that is not larger than 5 hectares in area, and
- that has a fair market value, determined under paragraph (a) of the definition of "fair market value", of no more than \$275,000.

To qualify for the exemption, the entire parcel of land must meet the requirements in this definition,

regardless of the interest in the parcel that may actually be transferred.

There are other specific requirements for a property to be considered a recreational residence, depending on how the property is transferred.

Related Individuals

This exemption, as well as the other two exemptions for recreational residence transfers, has as a requirement that the persons involved in the transfer be related individuals. This term has a specific meaning under the Act.

For people to be related individuals, they must be "vertically" related or spouses. Other family relationships are not included in the term.

Examples of people vertically related to the purchaser would be his or her mother, father, grandmother, grandfather, child, mother-in-law, grandfather-in-law. So, a transfer from a mother to her son would be eligible for the exemption.

Examples of people **not** vertically related to a purchaser include his or her sister, brother, uncle, aunt or nephew. So, a transfer from a sister to a brother would not be eligible for the exemption.

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 (joint tenants) → to → A & C (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 NOT INVOLVING A TRUSTEE

Section 14(3)(a) provides an exemption where "related individuals" transfer a recreational residence between themselves. To be eligible for this exemption:

- the person transferring the residence **must not be a Trustee** referred to in section 14(3)(c) or 14(3)(d), and
- the person transferring the residence and the transferee must be related individuals as defined in this bulletin.

If a trustee is involved in the transfer of a recreational residence, please see sections 14(3)(c) and 14(3)(d) of the Act.

If claiming this exemption, claim code 06.

TRANSFERS THROUGH ESTATES OR TRUSTS UNDER WILLS

Section 14(3)(c) provides an exemption where a recreational residence is transferred through a deceased's estate or through a trust set up under a deceased's will. There are two additional requirements for the transfer of a recreational residence to be exempt under this section:

- the person who receives the recreational residence must be a beneficiary of the estate or the trust, and
- when the deceased person died, that person and the beneficiary who is receiving the recreational residence must have been related individuals as defined in this bulletin.

Only one recreational residence may be transferred from a deceased's estate, or a trust set up under the deceased's will, exempt from tax.

If claiming this exemption, claim code 06.

TRANSFERS INVOLVING A TRUST SETTLED DURING THE LIFETIME OF THE SETTLOR

Section 14(3)(d) provides an exemption where a recreational residence is transferred from a Trustee of a trust that is settled while the settlor of the trust is still alive.

An amendment to the Act made in 1998 added a definition of the term "settlor" to section 14(1).

A settlor is a person who contributes land to the trust estate, or who contributes assets that are used to acquire the land that is held in trust by the trust estate. The settlor **does not have to be the creator of the trust.**

There are two additional requirements for the transfer of a recreational residence to be exempt under this section:

- the person who receives the recreational residence must be a beneficiary of the trust, and
- the settlor of the trust and the person who receives the recreational residence must be related individuals as defined in this bulletin.

Only one recreational residence may be transferred from the trust exempt from tax.

If claiming this exemption, claim code 06.

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.