

# Exemption for Transfers Correcting Conveyancing Errors

## *Property Transfer Tax*

This bulletin outlines the exemption provided under section 14(4)(t) of the *Property Transfer Tax Act* (Act), with respect to conveyancing errors resulting from an error in a previous conveyance or an error in the description of the survey under which the title was registered.

The exemption does not give the taxpayer a refund for the tax that was paid on the original incorrect conveyance. Rather, it exempts from tax, the transfer made to correct that original conveyancing error. The exemption exists to place the parties in their originally intended position in the land title system.

An Administrator's Certificate exempting the correcting transfer must be obtained before it may be filed at the Land Title Office.

If claiming this exemption from property transfer tax, claim code 35.

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](http://www.gov.bc.ca/sbr)

Note: This Bulletin replaces Information Bulletin 3-93.

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### REQUIREMENTS OF THE EXEMPTION

To claim the exemption, the taxpayer must first obtain an Administrator's Certificate, and attach it to the tax return filed with the reconveyance (the conveyance done to correct the error with the original conveyance). To obtain this certificate, the taxpayer must provide the Administrator with written evidence that the reconveyance is required to correct an error with the original conveyance.

The evidence needed for the Administrator to issue the certificate is written documentation that shows that the parties did not intend to convey the property as it was conveyed or that the wrong property was conveyed.

### WHAT DOES NOT CONSTITUTE A CONVEYANCING ERROR UNDER THE ACT?

Not every error made during the transfer of property is eligible for the exemption. It is not a conveyancing error if, in hindsight, the taxpayer realizes that there was a better way to transfer the property. It is also not a conveyancing error if the taxpayer changes his or her mind about having transferred the property.

There are also errors made that would be seen as conveyancing errors, but do not require another conveyance to correct them. These errors are not eligible for the exemption. An example of such an error is where a lawyer inadvertently transfers the property before all the requirements for a particular exemption have been met. In such a situation, the taxpayer did expect to be exempt from the property transfer tax, but due to the error, is assessed for tax. Despite this being a conveyancing error, the exemption would not apply because reconveying the property is not required to correct the error. If there is an alternative to the reconveying of the property to correct the error, or the taxpayer is seeking a refund of the tax paid, the exemption will not be allowed.

## WHAT CONSTITUTES A CONVEYANCING ERROR UNDER THE ACT?

Common conveyancing errors occur where there has been a typing error resulting in the wrong property being conveyed, or where the wrong name is on the title because of a clerical error.

An example of a simple reconveyance to correct such an error is where two parties purchased identically priced, adjacent strata lots, but where there was an error in registration. Each pays the correct property transfer tax for the lot they purchased but was registered on title to the other lot. Because the correct amount of tax has already been paid on the value of both lots, the reconveyances are exempt from tax.

Another type of conveyancing error is an error of omission which occurs when a taxpayer buys a residence which straddles two lots. Property transfer tax is paid on the combined fair market value of both lots when the title is registered, but only one lot is registered. Because the tax has already been paid on the value of both lots, the reconveyance of the second lot to correct the error is exempt.

## NEED MORE INFO?

This bulletin is presented as an aid to understanding the *Property Transfer Tax Act*. It is not intended to replace the need to consult the legislation for possible application to a particular fact pattern. Where there is a conflict between this bulletin and the legislation, the legislation prevails.

For further information, please contact:

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

Property Transfer Tax Returns and Guides can be obtained through the forms reorder line at 250 387-2183. Your request can also be faxed to 250 356-2550.