

This Act is current to 6 December 2016.

This Act has "Not in Force" sections. See the [Table of Legislative Changes](#).

PROPERTY TRANSFER TAX ACT

[RSBC 1996] CHAPTER 378

Contents

- 1 Definitions and interpretation
 - 1.1 Fair market value of land with industrial improvements
 - 1.2 Fair market value of property subject to certain interests
 - 1.3 Fair market value if improvement on more than one parcel
 - 1.4 Proposed strata lots — determination of fair market value
- 2 General tax imposed
 - 2.01 Definitions in relation to additional tax imposed
 - 2.02 Additional tax imposed
 - 2.03 Additional tax imposed — calculation of tax if transaction includes non-residential property
 - 2.04 Additional tax imposed — anti-avoidance rule
 - 2.1 Nisga'a exemption
 - 2.2 Treaty first nation exemption
- 3 General rate of tax
 - 3.1 Tax payable on registration of correcting transaction
- 4 Definitions in relation to first time home buyers' program
 - 4.1 Fair market value — property transferred by Habitat for Humanity
- 5 First time home buyers' exemption
- 6 First time home buyers' partial exemption
- 7 First time home buyers' refund
- 8 First time home buyers' program — obligations of transferee
- 9 First time home buyers' program - unqualified transferee
- 10 First time home buyers' exemption or refund retained
- 11 Lien for amount of exemption, refund or credit

- 12 False declaration
 - 12.01 Definitions in relation to new housing program
 - 12.02 New housing exemption
 - 12.03 New housing partial exemption
 - 12.04 New housing refund if property contains residential improvement on registration date
 - 12.05 New housing program — obligation of transferee if property contains residential improvement on registration date
 - 12.06 New housing refund if property does not contain residential improvement on registration date
 - 12.07 New housing program — unqualified transferee
 - 12.08 New housing exemption or refund retained
 - 12.09 Definitions for sections 12.09 to 12.12
 - 12.10 Transferee must not apply for both first time home buyers' exemption or refund and new housing exemption or refund
 - 12.11 Application to cancel first time home buyers' application and obtain new housing credit
 - 12.12 Application to cancel new housing application and obtain first time home buyers' credit
 - 12.13 Additional information to be included in return
- 13 Certifying return and additional tax form
 - 13.1 Electronic returns
 - 13.2 Evidence of electronic returns
- 14 Exemptions
- 15 Partial exemption for certain residences
- 16 Exemption for land subject to conservation covenant
- 17 Investigation
- 18 Assessment
- 19 Notice of objection
- 20 Assessment of related individual and associated corporation transactions
- 21 Appeal to court
- 22 Arbitration
- 23 Refunds

- 23.1 Refund of tax paid
- 24 Notice to taxpayer before taking proceedings
- 25 Recovery of taxes due or collected by court action
- 26 Summary proceedings without action
- 27 Attachment
- 28 Lien on land for taxes
- 29 Limitation period
- 30 Exercise of powers for recovery of taxes or collections
- 31 Enforcement
- 32 Confidentiality
- 32.1 Information obtained under certain Acts
- 32.2 Information obtained under a taxation Act
- 33 Access to records
- 34 Offences
- 34.1 Offences in respect of electronic returns
- 35 Limitation
- 36 Administrator's certificate
- 37 Power to make regulations
- 37.1 Regulations by the minister
- 38 Transition — tax imposed

Definitions and interpretation

1 (1) In this Act:

"administrator" means the person that the minister designates as the administrator for the purposes of this Act;

"agreement for sale" means a contract for the sale of an interest in land under which the purchaser agrees to pay the purchase price over a period of time, in the manner stated in the contract, and on payment of which the vendor is obliged to transfer the interest in land to the purchaser;

"assessment" includes reassessment;

"child" includes a person who is the stepchild of a parent;

"electronic" has the same meaning as in Part 10.1 of the Land Title Act;

"electronic return" means a return in electronic format, the form of which is established by the administrator;

"electronic signature" has the same meaning as in Part 10.1 of the Land Title Act;

"fair market value" means

(a) for a transaction referred to in paragraph (a) (i) of the definition of "taxable transaction", the amount that would have been paid for the fee simple interest in the land had it been sold at the date of registration of the taxable transaction in the open market by a willing seller to a willing purchaser free of any trust and unencumbered by

(i) a mortgage, debenture, trust deed, hypothecation agreement or any other financial instrument, other than a prescribed instrument, that secures the payment of money or the performance of an obligation,

(ii) a right to purchase under an agreement for sale,

(iii) a judgment for the payment of money,

(iv) the rights of a lien holder under the Builders Lien Act, or

(v) any other prescribed charge,

(b) for a transaction referred to in paragraph (a) (ii) of the definition of "taxable transaction", the fair market value of the life estate, determined in the prescribed manner,

(c) for a transaction referred to in paragraph (a) (iii) or (c) of the definition of "taxable transaction", the fair market value, determined in the prescribed manner, of the lease agreement or of its extension, as the case may be,

(d) for a transaction referred to in paragraphs (a) (iv) and (b) of the definition of "taxable transaction", the fair market value of the fee simple interest in the land that is the subject of the agreement for sale referred to in those paragraphs, free of any trust, determined in accordance with paragraph (a) of this definition,

(e) for a transaction referred to in paragraph (d) of the definition of "taxable transaction", the fair market value of the interest that is being transferred by the transaction, determined in the prescribed manner,

(f) for a transaction referred to in paragraph (e) of the definition of "taxable transaction", the fair market value of the lease agreement, determined in the manner referred to in paragraph (c), but as though the transaction were a lease agreement having a term consisting of the total period referred to in paragraph (e) of the definition of "taxable transaction", or

(g) for a transaction referred to in paragraph (f) of the definition of "taxable transaction", the fair market value of the interest to which the application under section 191 of the Land Title Act relates, as determined in accordance with the provision of this definition that corresponds to the nature of the interest involved;

"industrial improvement" means an industrial improvement as defined in section 20 (1) of the Assessment Act;

"land title office" means a land title office as defined in the Land Title Act;

"lease agreement" means

(a) an agreement by which a leasehold estate is granted or assigned, or

(b) an agreement by which an option to renew or extend the term of a lease is granted,

and includes a lease modification agreement;

"lease modification agreement" means an agreement between a lessor and a lessee that extends the term of the lease;

"ministry" means the ministry of the minister responsible for the administration of this Act;

"ministry person" means a person who is employed in, or retained under a contract to perform services for, the ministry;

"parcel" means a parcel as defined in the Land Title Act that has not been subdivided into smaller parcels and that

(a) bears a parcel identifier, or

(b) under land title office practice, is to be assigned a parcel identifier on registration under the Land Title Act of a transfer of the parcel;

"parcel identifier" means a permanent parcel identifier assigned under section 58 of the Land Title Act;

"parent" includes a spouse of a parent of the child;

"permanent resident of Canada" means a permanent resident as defined in the Immigration and Refugee Protection Act (Canada);

"personal information" means personal information as defined in Schedule 1 of the Freedom of Information and Protection of Privacy Act;

"related individual" means

(a) a person's spouse, child, grandchild, greatgrandchild, parent, grandparent or greatgrandparent,

(b) the spouse of a person's child, grandchild or greatgrandchild, or

(c) the child, parent, grandparent or greatgrandparent of a person's spouse;

"related person" means a person who is

(a) a related individual, or

(b) a related person within the meaning of section 251 of the Income Tax Act (Canada);

"return" means a return in the form provided by the minister;

"settlor", in relation to land held in trust, means the person who

(a) contributed the land to the trust estate, or

(b) contributed to the trust estate the assets used to acquire the land,

whether or not that person is the creator of the trust;

"spouse" means a person who

(a) is married to another person, or

(b) is living with another person in a marriage-like relationship, and has been living in that relationship for a continuous period of at least 2 years;

"subscriber" has the same meaning as in Part 10.1 of the Land Title Act;

"tax" means the tax imposed by this Act and the regulations and includes all interest and penalties imposed or that may be imposed under this Act;

"taxable transaction" means a transaction

(a) purporting to transfer or grant, by any method including a disposition, an order of a court, including an order absolute of foreclosure, or by the operation of any enactment or law,

(i) an estate in fee simple referred to in section 23 (2) of the Land Title Act,

(ii) a life estate in land,

(iii) a right to occupy land under a lease agreement, or

(iv) a right to

(A) occupy land, or

(B) require the transfer of an estate in fee simple referred to in section 23 (2) of the Land Title Act, under an agreement for sale,

(b) purporting to transfer a right referred to in paragraph (a) (iv), if an agreement for sale is cancelled or determined in any manner, including

(i) a court order cancelling or otherwise determining the agreement, or

(ii) a quit claim releasing the interest of the purchaser under the agreement,

(c) extending the term of a lease agreement by a lease modification agreement,

(d) prescribed under section 2 (3),

(e) between a lessor and a lessee of land such that, following the transaction, that lessee and any other person, if any, having the right to occupy the land under a lease agreement, will have the right to occupy the land for a period that exceeds 30 years in total, or

(f) that consists of an application under section 191 of the Land Title Act in respect of an amalgamation referred to in section 191 (4) of that Act,

and includes

(g) 2 or more lease agreements or options to lease if

(i) those transactions are in respect of the same land,

(ii) the applications for registration of the transactions are made at a land title office within 6 months of each other,

(iii) each of the transactions provides either a term during which a person is given a right to occupy the land or, in the case of an option to lease, a right to enter into a lease agreement under which a person will be given a right to occupy the land for a term specified in the option to lease, and

(iv) the terms referred to in subparagraph (iii), other than terms provided by a time share plan within the meaning of the Real Estate Development Marketing Act, a sublease or an assignment, exceed 30 years in total;

"taxpayer" means a person liable for payment of tax under this Act;

"transferee" means a person to whom land is transferred under a taxable transaction, and, for the purposes of section 3 (7), includes a person to whom an option to lease referred to in paragraph (g) (iii) of the definition of "taxable transaction" gives a right to enter into a lease agreement under which is given a right to occupy land for a term that is not the same as or included within a term provided by any other of the transactions that comprise the taxable transaction referred to in section 3 (7);

"transferor" means a person who transfers land to a transferee under a taxable transaction;

"true copy" means

(a) in relation to a paper document, an exact copy of the document, and

(b) in relation to an electronic return, a legible paper copy of the electronic return containing every material provision and particular contained in the original.

(2) For the purpose of determining the term of the lease,

(a) the term of the lease includes the cumulative total of all options or rights to renew the lease, and

(b) if the lease is a time share plan under the Real Estate Development Marketing Act, the term of the lease must be determined by adding together the number of calendar years during which the transferee may, for any part of a year, occupy the land.

(3) For the purpose of calculating tax payable under this Act, a person registered in the land title office as the owner of land, other than a person registered only as the owner of a charge, is deemed to be the legal and beneficial owner of a fee simple interest in the land, even if the person holds the land in trust.

Fair market value of land with industrial improvements

1.1 (1) For the purposes of a transaction referred to in paragraph (a) (i), (iii) or (iv) of the definition of "taxable transaction",

(a) if

(i) the transferor is the government, or

(ii) the transfer is between associated corporations within the meaning of section 256 of the Income Tax Act (Canada), and

(b) the land being transferred includes an industrial improvement,

the fair market value of the land with industrial improvements is deemed to be, at the election of the transferee,

(c) the value of

(i) the land without industrial improvements as determined under section 19 of the Assessment Act, and

(ii) the industrial improvements as determined under section 20 of the Assessment Act, or

(d) the value resulting from an appraisal of the land with industrial improvements prepared, at the expense of the transferee, by an appraiser referred to in subsection (2).

(2) For the purposes of subsection (1) (d), any of the following persons may do an appraisal:

(a) a person designated Accredited Appraiser Canadian Institute by the Appraisal Institute of Canada;

(b) a person qualified as an appraiser by the Real Estate Institute of British Columbia.

(3) The appraisal referred to in subsection (1) (d) must value the land with industrial improvements on the basis of the following principles:

(a) the value is to be the value of the unencumbered fee simple interest as at the date of the application to register the taxable transaction;

(b) the valuation must be in conformity with the Uniform Standards of Professional Appraisal Practice and the Canadian Supplement;

(c) the valuation must be the most probable price which the land with industrial improvements would bring in a competitive and open market under all conditions requisite to a fair sale;

(d) the valuation must represent the normal consideration for the land with industrial improvements if sold without special or creative financing or sales concessions granted by anyone associated with the sale;

(e) the valuation must be in accordance with the following assumptions:

(i) the buyer and seller are each acting prudently and knowledgeably;

(ii) the buyer and seller are both motivated to transact;

(iii) a reasonable time is allowed for exposure of the land in the open market;

(iv) there is more than one willing purchaser;

(v) properties or supplies which produce input materials for a facility located on the land continue to supply inputs for their natural life span.

(4) Subsection (1) does not apply to a transaction referred to in paragraph (a) (iii) of the definition of "taxable transaction" if the unexpired term of the lease agreement, including all options to renew, is 30 years or less.

Fair market value of property subject to certain interests

1.2 (1) In this section:

"interest of the previous holder" means the interest of the previous holder referred to in the definition of "previous holder";

"new holder" means the person who, through a taxable transaction, acquires an interest in land

(a) as beneficiary, if the interest is held in trust, or

(b) as transferee, if paragraph (a) does not apply;

"previous holder" means a person who, immediately before the registration of a taxable transaction, held an interest

(a) as beneficiary, if the interest was held in trust, or

(b) as legal and beneficial owner, if paragraph (a) does not apply,

in the same land to which the taxable transaction relates.

(2) Subject to section 1.1 and subsection (3) of this section, this section applies in relation to a taxable transaction if

- (a) the previous holder and the new holder are the same person or are related persons, and
- (b) the interest of the previous holder was not registered in the land title office or, when that interest was registered, tax under this Act was not payable.

(3) This section does not apply if the interest of the previous holder

- (a) was registered before March 23, 1987, or
- (b) was a registered interest in the estate in fee simple as a joint tenant or a tenant in common.

(4) For the purposes of determining the fair market value of an estate in fee simple in relation to a taxable transaction to which this section applies, the fair market value is deemed to be the fair market value of the estate in fee simple determined in accordance with paragraph (a) of the definition of "fair market value", but as if the fee simple were not subject to the interest of the previous holder.

Fair market value if improvement on more than one parcel

1.3 (1) If

- (a) the same improvement is located on more than one parcel,
- (b) each parcel on which the improvement is located is the subject matter of a taxable transaction,
- (c) the transferee under each taxable transaction referred to in paragraph (b) is
 - (i) the same person,
 - (ii) a related individual to the other transferees, or
 - (iii) an associated corporation to the other transferees, within the meaning of section 256 of the Income Tax Act (Canada), and

(d) all the applications for registration of the taxable transactions referred to in paragraph (b) are filed at a land title office within 6 months of the date of the first application for registration,

all the taxable transactions are deemed to be a single taxable transaction and the transferees referred to in paragraph (c) are jointly and severally liable to pay the total tax.

(2) The filing date of the application for all the taxable transactions that are deemed to be a single transaction under subsection (1) is deemed to be the date that the first application for registration is filed in the land title office.

(3) Subsection (1) applies only for the purpose of determining the fair market value of the parcels of land described in subsection (1).

Proposed strata lots — determination of fair market value

1.4 (1) In this section:

"owner developer" means an owner developer as defined in the Strata Property Act;

"proposed strata lot" means a strata lot

(a) proposed by an owner developer to be included as part of a strata plan under the Strata Property Act when the strata plan is deposited in the land title office, and

(b) that is the subject of a written instrument executed

(i) after the owner developer proposed the strata lot's inclusion as part of the strata plan, and

(ii) before the deposit of the strata plan in the land title office

under which a person became entitled to a transfer of the strata lot in a form registrable under the Land Title Act,

but does not include a bare land strata lot as defined in the Strata Property Act;

"written instrument" means

(a) a written agreement or another written instrument, or

(b) a written assignment of a written agreement or of another written instrument.

(2) Despite the definition of "fair market value" in section 1 (1), for a transfer of a proposed strata lot for consideration in a taxable transaction, described in paragraph (a) (i) of the definition in section 1 (1) of "taxable transaction", in which the parties dealt with each other at arm's length in the open market, the fair market value for the purposes of this Act is the total amount of that consideration.

(3) Despite the definition of "fair market value" in section 1 (1), for a transfer of a proposed strata lot in a taxable transaction, described in paragraph (a) (i) of the definition in section 1 (1) of "taxable transaction", in which the parties did not deal with each other at arm's length in the open market, the fair market value for the purposes of this Act is the amount the administrator determines would have been the total amount of the consideration in the taxable transaction if the transferor and the transferee had dealt with each other at arm's length in the open market.

(4) For a transfer of a proposed strata lot in a taxable transaction that

(a) is not a taxable transaction to which subsection (2) or (3) applies, and

(b) is a taxable transaction for which the fair market value, under a provision

(i) of this Act other than this section, or

(ii) of the regulations

is determined partly by reference to a fee simple component valued according to paragraph (a) of the definition of "fair market value",

the fair market value in the taxable transaction for the purposes of this Act is the amount the administrator determines by

(c) applying the provision described in paragraph (b) of this subsection without reference to that fee simple component, and,

(d) in doing so, substituting for that fee simple component the amount the administrator determines would have been the total amount of consideration in the taxable transaction if it were a transaction to which subsection (3) applied.

(5) For the purposes of a determination under this section of the fair market value of a proposed strata lot, the transferee of the strata lot, if required to do so by the administrator, must provide the administrator with

(a) a copy of the written instrument that pertains to the transfer, and

(b) any relevant

(i) other records, and

(ii) other information

that the administrator requests for the purpose of assisting in the determination.

(6) On being satisfied that a person was the transferee under a transfer of a proposed strata lot for which the person applied for registration in the land title office on or after January 1, 2001 and that the person paid tax in an amount

(a) calculated based on the fair market value of the strata lot as at the date of the application, and

(b) in excess of the tax for the strata lot that would have been payable if the tax had been calculated in accordance with whichever of subsection (2), (3) or (4) would have been applicable,

the administrator must pay the transferee out of the consolidated revenue fund a refund equal to the difference between the tax paid and the amount of tax for the strata lot that would have been payable if it had been calculated in accordance with whichever of subsection (2), (3) or (4) would have been applicable.

General tax imposed

2 (1) Subject to subsection (2), on application for registration of a taxable transaction at a land title office, the transferee must

(a) pay tax to the government in accordance with section 3 or 38, and

(b) file a return, in the prescribed manner, whether or not the taxable transaction is exempt under this Act.

(1.1) In the case of an application for registration submitted under Part 10.1 of the Land Title Act,

(a) tax required to be paid under subsection (1) (a) must be paid by electronic means at the time and in the manner established by the administrator, and

(b) the return required to be filed under subsection (1) (b) must be an electronic return that is filed by electronic means in the manner established by the administrator.

(2) If the Crown or a municipality registers a taxable transaction at the land title office on behalf of a transferee, the transferee must pay tax in accordance with section 2.02 and section 3 or 38 at the prescribed time and to the person designated in the regulations as the collector of the tax for the purposes of this subsection.

(3) The Lieutenant Governor in Council may prescribe that a transaction that consists of a purported transfer, by a prescribed method of a prescribed interest in land, is taxable under this Act, whether or not that interest is registrable under the Land Title Act.

(4) A regulation under subsection (3) may prescribe

(a) when the liability for the tax arises and when the tax is payable, and

(b) the method by which

(i) returns must be filed, and

(ii) the tax may be remitted and collected.

(5) A transferee who, although entitled to apply, does not apply to register a taxable transaction at a land title office, must, within a prescribed period, file a return under this section and pay tax under this section and section 2.02 to the person designated in the regulations as the collector of the tax for the purposes of this subsection.

(6) If a transferee is not entitled to register a taxable transaction only because of an agreement between the transferor and transferee that the transaction is not to be registered, the transferee is, for purposes of subsection (5) and section 14 (3) and (4), entitled to register the transaction.

(7) Tax is not payable under subsection (5) if no period to file the return and pay the tax has been prescribed.

(8) A registrar may, without a hearing, refuse to accept an application for registration of a taxable transaction if the registrar has reasonable grounds to believe that

(a) the tax under subsection (1) or section 2.02 (3) has not been paid or the return required by subsection (1) of this section is incomplete or has not been filed, and

(b) in the case of an application for registration referred to in subsection (1.1), any of the requirements of that subsection has not been fulfilled.

Definitions in relation to additional tax imposed

2.01 In this section and sections 2.02 and 2.03:

"controlled", in relation to the control of a corporation, means controlled, directly or indirectly in any manner whatever, within the meaning of section 256 of the Income Tax Act (Canada);

"foreign corporation" means a corporation that is one of the following:

(a) a corporation that is not incorporated in Canada;

(b) unless the shares of the corporation are listed on a Canadian stock exchange, a corporation that is incorporated in Canada and is controlled by one or more of the following:

(i) a foreign national;

(ii) a corporation that is not incorporated in Canada;

(iii) a corporation that would, if each share of the corporation's capital stock that is owned by a foreign national or by a corporation described in paragraph (a) of this definition were owned by a particular person, be controlled by the particular person;

"foreign entity" means a foreign national or a foreign corporation;

"foreign national" means an individual who is a foreign national as defined in section 2 (1) of the Immigration and Refugee Protection Act (Canada);

"residential property" means any of the following:

(a) land or improvements, or both, as defined in section 1 (1) of the Assessment Act, that are described as class 1 property in section 1 of the Prescribed Classes of Property Regulation, B.C. Reg. 438/81, but does not include prescribed land or improvements;

(b) an area of land, not including improvements, that

(i) is not larger than 0.5 ha in area, and

(ii) is classified as a farm under the Assessment Act only because the land is used for

(A) an owner's dwelling as defined in section 23 (0.1) of the Assessment Act, or

(B) a farmer's dwelling as defined in section 1 (1) of the Classification of Land as a Farm Regulation, B.C. Reg. 411/95;

"specified area" means any of the following:

(a) the Greater Vancouver Regional District, other than both of the following:

- (i) subject to paragraph (b), the treaty lands of the Tsawwassen First Nation;
- (ii) a prescribed area within the Greater Vancouver Regional District;
- (b) the treaty lands of the Tsawwassen First Nation, if those treaty lands are prescribed for the purposes of this definition;
- (c) a prescribed area that is not within the Greater Vancouver Regional District;

"taxable trustee", in relation to a taxable transaction, means a trustee of a trust in respect of which

- (a) any trustee is a foreign entity, or
- (b) no trustee is a foreign entity but, immediately after the registration of the taxable transaction, a beneficiary of the trust who is a foreign entity holds a beneficial interest in the residential property to which that taxable transaction relates;

"trust" does not include the following:

- (a) a mutual fund trust within the meaning of section 132 (6) of the Income Tax Act (Canada);
- (b) a real estate investment trust as defined in section 122.1 (1) of the Income Tax Act (Canada);
- (c) a SIFT trust as defined in section 122.1 (1) of the Income Tax Act (Canada).

Additional tax imposed

2.02 (1) The tax imposed under this section in respect of a taxable transaction is in addition to the tax imposed under section 2 (1) in respect of the taxable transaction.

(2) Subsection (3) applies to a taxable transaction if

(a) the subject matter of the taxable transaction includes residential property located, in whole or in part, within a specified area, and

(b) any transferee is a foreign entity or taxable trustee, or both.

(3) On application at a land title office for registration of a taxable transaction to which this subsection applies, the transferee must

(a) pay tax to the government, in accordance with subsection (4), by the means, at the time and in the manner required by the administrator,

(b) include with the return filed under section 2 (1) (b) the information and records required by the administrator, and

(c) unless the administrator specifies otherwise, file the form established by the administrator, by the means, at the time and in the manner required by the administrator, whether or not the taxable transaction is exempt under this Act.

(4) The tax payable under subsection (3) by the transferee is,

(a) unless paragraph (b) of this subsection applies, 15% of the taxable amount, or

(b) if a rate of tax is prescribed for the purposes of this subsection, the amount determined by multiplying the prescribed rate by the taxable amount.

(5) For the purposes of subsection (4) and subject to section 2.03, the taxable amount in respect of a taxable transaction is as follows:

(a) in the case of a taxable transaction in respect of which each transferee is a foreign entity or taxable trustee, or both, the taxable transaction's fair market value;

(b) in any other case, the total of all amounts, each of which is one of the following:

(i) in the case of a transferee who is a foreign entity and is not a taxable trustee, the transferee's proportionate share of the taxable transaction's fair market value;

(ii) in the case of a transferee who is a taxable trustee, the transferee's proportionate share of the taxable transaction's fair market value.

(6) For the purposes of calculating the taxable amount under subsection (5) (b) in respect of a taxable transaction whose subject matter includes residential property located, in whole or in part, in a specified area,

(a) if, immediately after the registration of the taxable transaction, a foreign entity holds an interest in the residential property as a taxable trustee and in a capacity other than as a taxable trustee, the foreign entity is deemed to be

(i) a transferee under subsection (5) (b) (i) in respect of the interest held in the capacity other than as a taxable trustee, and

(ii) a separate transferee under subsection (5) (b) (ii) in respect of the interest held as a taxable trustee, and

(b) if there is more than one taxable trustee of a trust, including any taxable trustee who is deemed under paragraph (a) (ii) to be a separate transferee, all of the trustees of the trust are deemed to be a single transferee.

(7) For certainty, each transferee under a taxable transaction referred to in subsection (3) is jointly and severally liable to pay the total amount of tax owing under that subsection in respect of that taxable transaction.

Additional tax imposed — calculation of tax if transaction includes non-residential property

2.03 If the subject matter of a taxable transaction to which section 2.02 (3) applies includes land that is not residential property, the taxable amount for the purposes of section 2.02 (4) is the taxable amount calculated as follows:

VTA x VRP

VFS

where

VTA is the amount that, but for this section, would be the taxable amount under section 2.02 (5) in respect of the taxable transaction;

VFS is the value of the fee simple interest in the land that is the subject matter of the taxable transaction, determined

(a) as though that land were being transferred in a taxable transaction referred to in paragraph (a) (i) of the definition of "taxable transaction" in section 1 (1), and

(b) in accordance with paragraph (a) of the definition of "fair market value" in section 1 (1);

VRP is, subject to the regulations, the value of the residential property included in the subject matter of the taxable transaction, determined

(a) as though that residential property were being transferred in a taxable transaction referred to in paragraph (a) (i) of the definition of "taxable transaction" in section 1 (1), and

(b) in accordance with paragraph (a) of the definition of "fair market value" in section 1 (1).

Additional tax imposed — anti-avoidance rule

2.04 (1) In this section:

"avoidance transaction" means a transaction

(a) that, but for this section, would result, directly or indirectly, in a tax benefit, or

(b) that is part of a series of transactions, which series, but for this section, would result, directly or indirectly, in a tax benefit,

but does not include a transaction that may reasonably be considered to have been undertaken or arranged primarily for bona fide purposes other than for the purpose of obtaining a tax benefit;

"tax benefit" means a reduction, avoidance or deferral of tax payable under section 2.02;

"transaction" includes an arrangement or event.

(2) For the purposes of this section, a series of transactions is deemed to include any related transactions completed in contemplation of the series.

(3) If a transaction is an avoidance transaction, the administrator may determine the tax consequences to a transferee in a manner that is reasonable in the circumstances in order to deny a tax benefit that, but for this section, would result, directly or indirectly, from that transaction or from a series of transactions that includes that transaction.

(4) The tax consequences to any person, after the application of this section, must be determined only through an assessment under section 18.

Nisga'a exemption

2.1 (1) In this section, "Taxation Agreement" has the same meaning as in section 6.1 of the Nisga'a Final Agreement Act.

(2) Despite sections 2 and 2.02, a person is not subject to tax under this Act if and to the extent that the Taxation Agreement provides that the person is not subject to tax under this Act.

Treaty first nation exemption

2.2 (1) [Repealed 2011-11-64.]

(2) Despite sections 2 and 2.02, a person is not subject to tax under this Act if, and to the extent and for the period that, a tax treatment agreement provides that the person is not subject to tax under this Act.

General rate of tax

3 (1) The tax payable under section 2 in respect of a taxable transaction is the sum of the following:

(a) 1% of the taxable transaction's fair market value that does not exceed \$200 000;

(b) 2% of that fair market value that exceeds \$200 000 but does not exceed \$2 000 000;

(c) 3% of that fair market value that exceeds \$2 000 000.

(1.1) Subsections (2) to (7) do not apply to tax under section 2.02 (3).

(2) If a transferee

(a) applies for registration of a taxable transaction at a land title office, and

(b) within 6 months after the application referred to in paragraph (a) applies for registration of one or more additional taxable transactions respecting the same land,

the rate of tax owing on the taxable transaction referred to in paragraph (b) is to be calculated based on the cumulative total of the fair market value of the taxable transactions referred to in paragraphs (a)

and (b) as if all the taxable transactions referred to in paragraphs (a) and (b) were a single taxable transaction.

(3) If

(a) a transferee applies for registration of a taxable transaction at a land title office, and

(b) one or more related individuals of the person referred to in paragraph (a) apply, as transferees, at the same time as or within 6 months after the application referred to in paragraph (a), for registration of one or more taxable transactions respecting the same land for which the transferor is not the person referred to in paragraph (a),

the tax owing on the taxable transactions referred to in paragraphs (a) and (b), in total, is to be calculated based on the total fair market value of the taxable transactions referred to in paragraphs (a) and (b) as if all those taxable transactions were a single taxable transaction, and the transferees referred to in paragraphs (a) and (b) are jointly and severally liable to pay that total tax.

(3.1) In subsections (3.2) to (3.5), words and expressions used have the same meaning as in section 14 (3) (j) and (p.3) and (4) (k) and (k.1).

(3.2) If the exemption set out in section 14 (3) (j) is not available to a transferee only because the condition set out in section 14 (3) (j) (ii) is not fulfilled, the tax payable by the transferee must be calculated as if all of the taxable transactions in relation to a transfer of all of, or a registered ownership interest in, one or more of the smaller parcels created under the subdivision were a single taxable transaction with a fair market value calculated

(a) firstly, by determining the difference between the following 2 percentages by subtracting from the percentage under subparagraph (i) the percentage under subparagraph (ii):

(i) the transferee's proportionate share, expressed as a percentage, of the fair market value of the smaller parcels, calculated using the fair market values as they were immediately after the subdivision;

(ii) the transferee's proportionate share, expressed as a percentage, of the fair market value of the original parcel referred to in section 14 (3) (j) (i), calculated using the fair market value as it was immediately before the subdivision, and

(b) secondly, by multiplying the total fair market value of all of the smaller parcels, calculated at the time of the application to register the transfer to the transferee, by the difference determined under paragraph (a), to obtain the fair market value that is subject to tax.

(3.21) If the exemption set out in paragraph (p.3) of section 14 (3) is not available to a transferee only because the condition set out in that paragraph is not fulfilled, the tax payable by the transferee must be calculated as if all of the taxable transactions in relation to the amendment of the strata plan were a single taxable transaction with a fair market value calculated

(a) firstly, by determining the difference between the following 2 percentages by subtracting from the percentage under subparagraph (i) the percentage under subparagraph (ii):

(i) the transferee's proportionate share, expressed as a percentage, of the fair market value of all the parcels involved in the amendment, calculated using the fair market values as they were immediately after the amendment;

(ii) the transferee's proportionate share, expressed as a percentage, of the fair market value of all the parcels involved in the amendment, calculated using the fair market values as they were immediately before the amendment, and

(b) secondly, by multiplying the total fair market value of all of the parcels involved in the amendment, calculated at the time of the application to register the transfer to the transferee, by the difference determined under paragraph (a), to obtain the fair market value that is subject to tax.

(3.3) If the exemption set out in section 14 (4) (k) is not available to the trustee only because the trustee

(a) transfers all of, or a registered ownership interest in, one or more of the parcels created under the subdivision to one or more transferees, in this subsection called the "third parties", none of whom was a registered owner of one or more of the original parcels immediately before their transfer to the trustee, or

(b) retains all of, or a registered ownership interest in, one or more of the parcels created under the subdivision,

the tax payable by the trustee must be calculated as if the transfer of the original parcels were a single taxable transaction with a fair market value calculated

(c) firstly, by determining the third parties' proportionate share, expressed as a percentage, of the fair market value of the parcels created under the subdivision, calculated using the fair market values as they were immediately after the subdivision,

(d) secondly, by determining the proportionate share retained by the trustee, expressed as a percentage, of the fair market value of the parcels created under the subdivision, calculated using the fair market values as they were immediately after the subdivision,

(e) thirdly, by determining the sum of the percentages determined under paragraphs (c) and (d), and

(f) fourthly, by multiplying the total fair market value of the original parcels, calculated using the fair market values as they were immediately before the subdivision, by the percentage determined under paragraph (e), to obtain the fair market value that is subject to tax.

(3.4) If the exemption set out in section 14 (4) (k.1) is not available to an original owner only because the condition set out in section 14 (4) (k.1) (ii) is not fulfilled, the tax payable by the original owner as transferee must be calculated as if all of the taxable transactions in relation to a transfer of all of, or a registered ownership interest in, one or more of the parcels were a single taxable transaction with a fair market value calculated

(a) firstly, by determining the difference between the following 2 percentages by subtracting from the percentage under subparagraph (i) the percentage under subparagraph (ii):

(i) the original owner's proportionate share, as transferee, expressed as a percentage, of the fair market value of all of the parcels created under the subdivision, calculated using the fair market values as they were immediately after the subdivision;

(ii) the original owner's proportionate share, expressed as a percentage, of the fair market value of the original parcels referred to in section 14 (4) (k.1) (ii), calculated using the fair market values as they were immediately before the subdivision, and

(b) secondly, by multiplying the total fair market value of all of the parcels created under the subdivision, calculated at the time of the application to register the transfer to the original owner, by the difference determined under paragraph (a), to obtain the fair market value that is subject to tax.

(3.5) Subsections (3.2) to (3.4) do not operate to impose a tax that is greater than the tax that would be payable under this Act without those subsections.

(4) If

(a) a transferee that is a corporation (in this subsection and subsection (5) called the "corporate transferee") applies for registration of a taxable transaction at a land title office, and

(b) one or more corporations associated with the corporate transferee apply, as transferees, at the same time as or within 6 months after the application referred to in paragraph (a), for registration of one or more taxable transactions respecting the same land for which the transferor is not the corporate transferee,

the tax owing on the taxable transactions referred to in paragraphs (a) and (b), in total, is to be calculated based on the total fair market value of the taxable transactions referred to in paragraphs (a) and (b) as if all those taxable transactions were a single taxable transaction, and the transferees referred to in paragraphs (a) and (b) are jointly and severally liable to pay that total tax.

(5) For the purposes of subsection (4), a corporation is associated with a corporate transferee if the corporation and the corporate transferee are associated, within the meaning of section 256 of the Income Tax Act (Canada), on the date that the corporation applies to register a taxable transaction respecting the land referred to in subsection (4) of this section.

(6) The tax owing on a taxable transaction referred to in paragraph (g) of the definition of "taxable transaction" is to be calculated as if

(a) the taxable transaction were a single lease transaction referred to in paragraph (e) of the definition of "taxable transaction", and

(b) the term of the lease transaction were the total of the terms referred to in paragraph (g) (iii) of that definition.

(7) Each transferee under the taxable transaction referred to in subsection (6) is jointly and severally liable to pay the tax owing on that taxable transaction.

Tax payable on registration of correcting transaction

3.1 (1) In this section:

"correcting transaction" means a taxable transaction that is a transfer made for the purpose of transferring land that was intended to be transferred to the transferee when the original transaction was registered;

"original transaction" means a taxable transaction in which land was transferred to a transferee and

(a) the land was transferred in error, or

(b) an error was made in the description or survey under which title to the land was registered.

(2) Despite sections 2.02 (3) and 3 (1), the tax payable under this Act for a correcting transaction is the tax payable calculated in accordance with this Act and the regulations, as they read on the date of registration of the original transaction and as if the fair market value of the correcting transaction were determined at that date.

(3) On the registration of a correcting transaction, the amount of tax paid under this Act by a transferee in respect of the original transaction is deemed to be tax

(a) paid by the transferee in respect of the correcting transaction, and

(b) paid on the date the correcting transaction is registered.

Definitions in relation to first time home buyers' program

4 (1) In this section and in sections 4.1 to 12:

"eligible transaction" means, for the purposes of determining the eligibility of a first time home buyer for an exemption or refund under sections 5 to 12, a taxable transaction not referred to in paragraph (f) or (g) of the definition of "taxable transaction", for which an application for registration is made at a land title office after March 23, 1994;

"first time home buyer" means an individual who,

(a) on the registration date, is

(i) a Canadian citizen, or

(ii) a permanent resident of Canada,

(b) either

(i) continuously maintained the individual's principal residence in British Columbia throughout a period of not less than one year immediately before the registration date, or

(ii) was subject to tax under section 2 (1) (a) of the Income Tax Act (British Columbia) and has filed a return under section 29 (1) of that Act in at least 2 of the 6 taxation years immediately preceding the registration date,

(c) has not previously held a registered interest in land, whether in British Columbia or elsewhere, that constituted the individual's principal residence, and

(d) has not previously obtained a first time home buyers' exemption or refund;

"Habitat for Humanity" means a corporation designated by regulation of the minister;

"principal residence" means the usual place where an individual makes his or her home;

"property" means a parcel of land and the improvements, if any, in respect of which an application is made for

(a) an exemption under section 5 or 6, or

(b) a refund under section 7;

"qualifying property" means a property the fair market value of which does not, on the registration date, exceed the sum of the qualifying value of that property and \$25 000;

"qualifying value", in relation to a property, means \$475 000;

"registration date" means, in respect of an eligible transaction, the date on which the application for registration of the eligible transaction is made at a land title office;

"residential improvement", in respect of a property, means

(a) an improvement that is permanently affixed to the property and is intended to be a dwelling, or

(b) if only part of an improvement that is permanently affixed to the property is intended to be a dwelling, that part of the improvement that is intended to be a dwelling.

(2) For the purposes of the definition of "property", if the same residential improvement is located on more than one parcel, the parcels are deemed to be one parcel.

Fair market value — property transferred by Habitat for Humanity

4.1 For the purposes of sections 5, 6 and 8, the fair market value of the fee simple interest in property transferred by Habitat for Humanity to a transferee in an eligible transaction is deemed to be the lesser of

(a) the fair market value, as determined in accordance with paragraph (a) of the definition of "fair market value" in section 1 (1), and

(b) the principal amount secured by the first ranking of the mortgages that

- (i) secure financing applied to a transfer effected by an eligible transaction, and
- (ii) are between the transferee and Habitat for Humanity.

First time home buyers' exemption

5 (1) Subject to subsection (1.1) and sections 6 to 11, a transferee who applies for registration, at a land title office, of an eligible transaction in respect of a qualifying property is exempt from the obligation to pay tax under section 2 (1) (a) on that transaction if

- (a) the transferee is a first time home buyer, and
- (b) the transferee applies for an exemption under this section or section 6 by tendering with the application for registration an application for exemption.
- (c) [Repealed 2008-10-90.]

(1.1) If the fair market value of a qualifying property exceeds the qualifying value of the property, the exemption under subsection (1) is the amount calculated as follows:

where

FMV is the fair market value of the qualifying property,

PTT is the amount of tax that would be payable on the taxable transaction under section 2 (1) (a) but for the exemption under subsection (1), and

QV is the qualifying value of the qualifying property.

(2) An application for exemption under subsection (1) must be in the form required by the minister and must

(a) include a declaration, in the form required by the minister, by which the transferee declares that the transferee is a first time home buyer,

(b) disclose that the property to which the eligible transaction relates is a qualifying property, and

(c) include a consent, in the form required by the minister, by which the transferee consents to the administrator conducting inquiries respecting the transferee that the administrator considers necessary to confirm the qualifications of the transferee for the exemption.

First time home buyers' partial exemption

6 (1) Subject to subsection (3), if a qualifying property that is the subject matter of an eligible transaction is larger than 0.5 ha in area, a transferee who qualifies for an exemption under section 5 is exempt from the obligation to pay tax under section 2 (1) (a) on that transaction

(a) in respect of that portion of the fair market value of the property that is applicable to the residential improvement in which the transferee establishes a qualifying residence within the meaning of section 8 (2) on the property, and

(b) in respect of that portion of the fair market value of the property, not including improvements, that is equivalent to the ratio of 0.5 ha to the total area of the property.

(2) Subject to subsection (3), if a qualifying property not referred to in subsection (1) is the subject matter of an eligible transaction and has improvements on it that are in addition to the residential improvement in which the transferee establishes a qualifying residence within the meaning of section 8 (2), a transferee who qualifies for an exemption under section 5 is exempt from the obligation to pay tax under section 2 (1) (a) on that transaction

(a) in respect of that portion of the fair market value of the property that is applicable to that residential improvement, and

(b) in respect of the fair market value of the property, not including improvements.

(3) If the fair market value of a qualifying property exceeds the qualifying value of the property, the exemption under subsection (1) or (2) is the amount calculated as follows:

where

E is the amount of the applicable exemption under subsection (1) or (2),

FMV is the fair market value of the qualifying property, and

QV is the qualifying value of the qualifying property.

First time home buyers' refund

7 (1) A transferee who is entitled to an exemption under section 5 or 6 in respect of an eligible transaction who fails to apply for that exemption on the registration date may, within 18 months after that date, apply to the administrator for a refund of the tax paid on the registration of the transaction by the transferee.

(1.1) If a transferee is not entitled on the registration date to an exemption under section 5 or 6 in respect of an eligible transaction because the transferee does not meet a requirement under paragraph (a) of the definition of "first time home buyer" on that date, the transferee may apply to the administrator for a refund of the tax paid on the registration of the transaction by the transferee if

(a) the transferee meets a requirement under paragraph (a) of that definition on or before the first anniversary of the registration date, and

(b) the application for the refund is made within 18 months after the registration date.

(2) On receiving an application under subsection (1), the administrator must,

(a) on being satisfied that the transferee would have qualified for an exemption under section 5 or 6 on the registration date, pay out of the consolidated revenue fund a refund of that portion of the amount of tax paid by the transferee that is equivalent to the amount of the exemption to which the transferee would have been entitled had the application for the exemption been made on the registration date, or

(b) if not satisfied that the transferee would have qualified for an exemption under section 5 or 6 on the registration date, refuse the application and provide written notice to the transferee of that refusal under subsection (3).

(2.1) On receiving an application under subsection (1.1), the administrator

(a) if satisfied that the transferee

(i) would have qualified for an exemption under section 5 or 6 on the registration date but for the transferee's failure to meet a requirement under paragraph (a) of the definition of "first time home buyer" on that date, and

(ii) met a requirement under paragraph (a) of that definition on or before the first anniversary of the registration date,

must pay out of the consolidated revenue fund a refund of the portion of the amount of tax paid by the transferee that would have been exempted under section 5 or 6 had the requirement been met on the registration date, and

(b) if not satisfied that the transferee met a requirement under paragraph (a) of the definition of "first time home buyer" on or before the first anniversary of the registration date, must refuse the application and provide the transferee with written notice under subsection (3) of the refusal.

(3) If an application for a refund under subsection (1) or (1.1) is refused, the administrator must send a letter to the applicant stating the reason for the refusal, and the letter is deemed to be a notice of assessment for the purposes of allowing the applicant to file a notice of objection under section 19.

First time home buyers' program — obligations of transferee

8 (1) A transferee who has applied for an exemption under section 5 or 6 or a refund under section 7 must establish a qualifying residence on the property within the meaning of subsection (2) of this section.

(2) For the purposes of subsection (1), a transferee establishes a qualifying residence on a property if, on the registration date,

(a) the property contains a residential improvement that the transferee inhabits as the transferee's principal residence

(i) beginning on a date that is not more than 92 days after the registration date, and

(ii) continuing to a date that is not earlier than the first anniversary of the registration date, or

(b) the property does not contain a residential improvement but, before the first anniversary of the registration date, there is established on the property a residential improvement

(i) that the transferee inhabits as the transferee's principal residence

(A) beginning at the time it is completed, and

(B) continuing to a date that is not earlier than the first anniversary of the registration date, and

(ii) if the total costs incurred to establish the improvement, when added to the fair market value of the property at the registration date, do not exceed the sum of the qualifying value of the property and \$25 000.

(3) and (4) [Repealed 2008-10-91.]

First time home buyers' program - unqualified transferee

9 (1) Subject to section 10, a transferee who has obtained an exemption under section 5 or 6 or a refund under section 7 is liable under subsection (2) of this section if and from the time that the transferee

(a) fails or ceases to qualify for an exemption under section 5 (1) (a),

(b) fails or refuses to comply with section 5 (1) (b) or (2), or

(c) subject to subsection (1.1), fails, refuses or ceases to comply with the obligations under section 8.

(1.1) If a transferee does not meet the obligations under section 8 only because the transferee, before the first anniversary of the registration date, fails to establish a qualifying residence as required under section 8 (2) (a) (ii) or (2) (b) (i) (B) as applicable, the transferee is liable under subsection (2.1) of this section from the date of the failure to establish a qualifying residence.

(2) A transferee referred to in subsection (1) must pay to the administrator tax in the same amount that the transferee would have been obliged to pay under section 2 (1) (a) had the transferee not received the exemption or refund.

(2.1) A transferee referred to in subsection (1.1) must pay to the administrator tax in the amount calculated in accordance with whichever of the following applies:

(a) if the period between the registration date and the date from which the transferee is liable under subsection (1.1) is greater than or equal to 360 days, the transferee is liable for the amount that would apply under subsection (2) reduced by 100%;

(b) if the period between the registration date and the date from which the transferee is liable under subsection (1.1) is less than 360 days, the transferee is liable for the amount that would apply under subsection (2) multiplied by

$1 - (n / 365)$

where

n is the number of days between the registration date and the date from which the transferee is liable under subsection (1.1).

(3) A transferee not referred to in subsection (1) who has obtained an exemption under section 5 or 6 or a refund under section 7 for an amount greater than the amount to which the transferee is entitled under this Act must pay to the administrator as a tax liability the amount by which the exemption or refund received exceeded the exemption or refund to which the transferee was entitled.

(4) [Repealed 2008-10-92.]

First time home buyers' exemption or refund retained

10 Section 9 (1) to (2.1) does not apply to a transferee who has obtained an exemption under section 5 or 6 or a refund under section 7 if the transferee does not comply with section 8 (2) (a) or (b) only because

(a) the transferee dies before the first anniversary date of the registration date, or

(b) the property is transferred by the transferee pursuant to a written separation agreement or a court order under the Family Law Act.

Lien for amount of exemption, refund or credit

11 (1) In order to secure the amount of the tax liability that a transferee is or may be obliged to pay to the administrator under section 9 or 12.12(8), the administrator may register against the property in the appropriate land title office a lien form claiming a lien conferred by this section in the same manner that a charge is registered under the Land Title Act.

(2) On registration of a lien form against the property under subsection (1), a lien for the amount of the tax liability referred to in that subsection is created on the property.

(3) The lien created under this section expires on the first anniversary date of the registration date unless the administrator, before the expiration of the lien,

(a) discharges the lien, in which event the lien ceases to exist on the effective date of the discharge, or

(b) registers a renewal of lien in the appropriate land title office in the same manner that a charge is registered under the Land Title Act.

(4) A lien created on the property under subsection (2) or renewed under subsection (3) (b) has priority over all other claims of every person except any claims secured by liens, charges or encumbrances registered against the property before the date on which the lien form referred to in subsection (1) was registered to create the lien.

(5) If the administrator registers a lien form in respect of a tax liability under subsection (1) or a renewal of lien under subsection (3) (b) and it is subsequently determined that the amount referred to in the lien form or renewal of lien is different than the amount of the tax liability to which the transferee is or may be obliged to pay to the administrator under section 9 or 12.12(8), the administrator may correct the amount by

(a) registering a new lien form or renewal of lien in the revised amount, and

(b) discharging the original lien form or renewal of lien,

but for the purposes of subsection (4) the new registration under paragraph (a) is deemed to have been effected at the same time that the lien form that created the lien was registered under subsection (2).

False declaration

12 If the administrator determines that a transferee who applies for an exemption under section 5 or 6 or a refund under section 7 or makes an application under section 12.12

(a) is not qualified under section 5 to receive an exemption from tax under section 2 (1) (a) or to obtain a refund under section 7, and

(b) provided a declaration under section 5 (2) or an application under section 7 or 12.12 that is false or misleading in respect of the matters referred to in paragraph (c) or (d) of the definition of "first time home buyer" in section 4 (1),

the transferee must pay to the administrator, in addition to the amount of tax that the transferee is obliged to pay the administrator under section 2 (1) (a), 9 or 12.12 (8), as applicable, a penalty in an amount equal to the amount of the exemption, refund or credit claimed in the application.

Definitions in relation to new housing program

12.01 (1) In this section and in sections 12.02 to 12.08:

"eligible transaction", for the purposes of determining the eligibility of a qualifying individual for an exemption or refund under sections 12.02 to 12.08, means a taxable transaction not referred to in paragraph (f) or (g) of the definition of "taxable transaction" in section 1 (1), for which an application for registration is made at a land title office after February 16, 2016;

"principal residence" means the usual place where an individual makes his or her home;

"property" means a parcel of land and the improvements in respect of which an application is made for

(a) an exemption under section 12.02 or 12.03, or

(b) a refund under section 12.04 or 12.06;

"qualifying individual" means an individual who is a Canadian citizen or a permanent resident of Canada;

"qualifying property" means a property the fair market value of which does not, on the registration date, exceed the sum of the qualifying value of that property and \$50 000;

"qualifying value", in respect of a property, means \$750 000;

"registration date", in respect of an eligible transaction, means the date on which the application for registration of the eligible transaction is made at a land title office;

"residential improvement", in respect of a property, means

(a) an improvement that is permanently affixed to the property and is intended to be a dwelling, or

(b) if only part of an improvement that is permanently affixed to the property is intended to be a dwelling, that part of the improvement that is intended to be a dwelling.

(2) For the purposes of the definition of "property", if the same residential improvement is located on more than one parcel, the parcels are deemed to be one parcel.

New housing exemption

12.02 (1) Subject to subsection (2) and sections 12.03 to 12.08, a transferee who applies for registration, at a land title office, of an eligible transaction in respect of a qualifying property that, on the registration date, contains a residential improvement is exempt from the obligation to pay tax under section 2 (1) (a) on the eligible transaction if

(a) the transferee is a qualifying individual on the registration date,

(b) the eligible transaction is in respect of either of the following:

(i) a qualifying property in respect of which the residential improvement

(A) was constructed or placed on the property, and

(B) on the registration date, has not been used as a dwelling since the construction of the residential improvement began or since the residential improvement was placed on the property, as the case may be;

(ii) a qualifying property that resulted from a subdivision of a parcel and in respect of which the residential improvement

(A) was developed from the division of an improvement that was on the parcel that was subdivided, and

(B) on the registration date, has not been used as a dwelling since the subdivision of the parcel,

(c) the qualifying property does not, on the registration date, contain a residential improvement other than a residential improvement that falls within the description in paragraph (b) (i) or (ii),

(d) the application is the first application for registration in respect of the qualifying property,

(i) in the case of a qualifying property described in paragraph (b) (i), since the residential improvement was completed or since the residential improvement was placed on the property, as the case may be, or

(ii) in the case of a qualifying property described in paragraph (b) (ii), since the subdivision of the parcel, and

(e) the transferee applies for an exemption under this section or section 12.03 by tendering with the application for registration an application for exemption.

(2) If the fair market value of a qualifying property exceeds the qualifying value of the property, the exemption under subsection (1) is the amount calculated as follows:

$$\text{PTT} \times \frac{\text{QV} + 50\,000}{50\,000} - \text{FMV}$$

where

FMV is the fair market value of the qualifying property,

PTT is the amount of tax that would be payable on the taxable transaction under section 2 (1) (a) but for the exemption under subsection (1) of this section, and

QV is the qualifying value of the qualifying property.

(3) An application for exemption under subsection (1) must be in the form required by the minister and must

(a) disclose that the property to which the eligible transaction relates is a qualifying property, and

(b) include a consent, in the form required by the minister, by which the transferee consents to the administrator conducting inquiries respecting the transferee that the administrator considers necessary to confirm the qualifications of the transferee for the exemption.

New housing partial exemption

12.03 (1) Subject to subsection (3), if a qualifying property that is the subject matter of an eligible transaction is larger than 0.5 ha in area, a transferee who qualifies for an exemption under section 12.02 is exempt from the obligation to pay tax under section 2 (1) (a) on that transaction

(a) in respect of that portion of the fair market value of the property that is applicable to the residential improvement inhabited as the transferee's principal residence as required by section 12.05, and

(b) in respect of that portion of the fair market value of the property, not including improvements, that is equivalent to the ratio of 0.5 ha to the total area of the property.

(2) Subject to subsection (3), if a qualifying property not referred to in subsection (1) is the subject matter of an eligible transaction and has improvements on it that are in addition to the residential improvement inhabited as the transferee's principal residence as required by section 12.05, a transferee who qualifies for an exemption under section 12.02 is exempt from the obligation to pay tax under section 2 (1) (a) on that transaction

(a) in respect of that portion of the fair market value of the property that is applicable to that residential improvement, and

(b) in respect of the fair market value of the property, not including improvements.

(3) If the fair market value of a qualifying property exceeds the qualifying value of the property, the exemption under subsection (1) or (2) is the amount calculated as follows:

$$E = \frac{QV + 50\,000}{FMV} \times 50\,000$$

50 000

where

E is the amount of the applicable exemption under subsection (1) or (2),

FMV is the fair market value of the qualifying property, and

QV is the qualifying value of the qualifying property.

New housing refund if property contains residential improvement on registration date

12.04 (1) A transferee who is entitled to an exemption under section 12.02 or 12.03 in respect of an eligible transaction and who fails to apply for that exemption on the registration date may, within 18 months after that date, apply to the administrator for a refund of the tax paid on the registration of the transaction by the transferee.

(2) A transferee who is not entitled on the registration date to an exemption under section 12.02 or 12.03 in respect of an eligible transaction because the transferee is not a qualifying individual on that date may apply to the administrator for a refund of the tax paid on the registration of the transaction by the transferee if

(a) the transferee becomes a qualifying individual on or before the first anniversary of the registration date, and

(b) the application for the refund is made within 18 months after the registration date.

(3) On receiving an application under subsection (1), the administrator,

(a) if satisfied that the transferee would have qualified for an exemption under section 12.02 or 12.03 on the registration date, must pay out of the consolidated revenue fund a refund of the portion of the amount of tax paid by the transferee that is equivalent to the amount of the exemption to which the transferee would have been entitled had the application for the exemption been made on the registration date, or

(b) if not satisfied that the transferee would have qualified for an exemption under section 12.02 or 12.03 on the registration date, must refuse the application and provide the transferee with written notice under subsection (5) of the refusal.

(4) On receiving an application under subsection (2), the administrator,

(a) if satisfied that the transferee

(i) would have qualified for an exemption under section 12.02 or 12.03 on the registration date but for the transferee's failure to be a qualifying individual on that date, and

(ii) became a qualifying individual on or before the first anniversary of the registration date,

must pay out of the consolidated revenue fund a refund of the portion of the amount of tax paid by the transferee that would have been exempted under section 12.02 or 12.03 had the transferee been a qualifying individual on the registration date, and

(b) if not satisfied that the requirements for the refund set out in paragraph (a) (i) and (ii) have been met, must refuse the application and provide the transferee with written notice under subsection (5) of the refusal.

(5) If an application for a refund under subsection (1) or (2) is refused, the administrator must send a letter to the applicant stating the reason for the refusal, and the letter is deemed to be a notice of assessment for the purposes of allowing the applicant to file a notice of objection under section 19.

New housing program — obligation of transferee if property contains residential improvement on registration date

12.05 A transferee who has applied for an exemption under section 12.02 or 12.03 or a refund under section 12.04 must,

(a) beginning on a date that is not more than 92 days after the registration date, and

(b) continuing to a date that is not earlier than the first anniversary of the registration date,

inhabit as the transferee's principal residence a residential improvement that the property contained on the registration date.

New housing refund if property does not contain residential improvement on registration date

12.06 (1) A transferee to whom is transferred, under an eligible transaction, a qualifying property that does not, on the registration date, contain a residential improvement may apply to the administrator for a refund of the tax paid on the registration of the transaction by the transferee if

(a) the transferee is a qualifying individual on the registration date or becomes a qualifying individual on or before the first anniversary of the registration date,

(b) before the first anniversary of the registration date, the transferee establishes a residential improvement on the property

- (i) that the transferee inhabits, as the transferee's principal residence,
- (A) beginning at the time the residential improvement is completed, and
- (B) subject to subsection (2) of this section, continuing to a date that is not earlier than the first anniversary of the registration date, and
- (ii) in respect of which the total costs incurred to establish the residential improvement, when added to the fair market value of the property at the registration date, do not exceed the sum of the qualifying value of the property and \$50 000, and
- (c) the application for the refund is made on a date that is
 - (i) after the first anniversary of the registration date, and
 - (ii) on or before the date that is 18 months after the registration date.
- (2) The requirement set out in subsection (1) (b) (i) (B) is deemed to have been met in respect of a property if the transferee fails to meet that requirement only because, before the first anniversary of the registration date,
 - (a) the transferee dies, or
 - (b) the property is transferred by the transferee pursuant to a written separation agreement or a court order under the Family Law Act.
- (3) On receiving an application under subsection (1), the administrator,
 - (a) if satisfied that
 - (i) the property was, on the registration date, a qualifying property that did not contain a residential improvement, and
 - (ii) the requirements for the refund set out in subsection (1) (a), (b) and (c) have been met,
 must pay out of the consolidated revenue fund a refund of the portion of the amount of tax paid by the transferee that is equivalent to the amount of the exemption to which the transferee would have been entitled under section 12.02 or 12.03, as applicable, if there were no requirement in section 12.02 (1) that the property contain a residential improvement described in section 12.02 (1) (b) (i) or (ii), or
 - (b) if not satisfied that the requirements for the refund set out in paragraph (a) (i) and (ii) have been met, must refuse the application and provide the transferee with written notice under subsection (4) of the refusal.
- (4) If an application for a refund under subsection (1) is refused, the administrator must send a letter to the applicant stating the reason for the refusal, and the letter is deemed to be a notice of assessment for the purposes of allowing the applicant to file a notice of objection under section 19.

New housing program — unqualified transferee

12.07 (1) Subject to section 12.08, a transferee who has obtained an exemption under section 12.02 or 12.03 or a refund under section 12.04 is liable under subsection (3) of this section if and from the time that the transferee,

(a) in the case of a transferee who obtained an exemption under section 12.02 or 12.03 or a refund under section 12.04 (3) (a), is not a qualifying individual on the registration date,

(b) in the case of a transferee who obtained a refund under section 12.04 (4) (a), does not become a qualifying individual on or before the first anniversary of the registration date,

(c) in the case of a transferee who obtained an exemption under section 12.02 or 12.03, fails or refuses to comply with section 12.02 (1) (e) or (3), or

(d) subject to subsection (2), fails to inhabit the residential improvement referred to in section 12.05 as the transferee's principal residence as required by that section.

(2) If subsection (1) (d) applies only because the transferee, before the first anniversary of the registration date, fails to comply with section 12.05 (b), the transferee is liable under subsection (4) of this section from the date the transferee ceases to inhabit the property as the transferee's principal residence.

(3) A transferee referred to in subsection (1) must pay to the administrator tax in the same amount that the transferee would have been obliged to pay under section 2 (1) (a) had the transferee not received the exemption or refund.

(4) A transferee referred to in subsection (2) must pay to the administrator tax in the amount calculated in accordance with whichever of the following applies:

(a) if the period between the registration date and the date from which the transferee is liable under subsection (2) is greater than or equal to 360 days, the transferee is liable for the amount that would apply under subsection (3) reduced by 100%;

(b) if the period between the registration date and the date from which the transferee is liable under subsection (2) is less than 360 days, the transferee is liable for the amount that would apply under subsection (3) multiplied by

$$1 - (n / 365)$$

where

n is the number of days between the registration date and the date from which the transferee is liable under subsection (2)

(5) A transferee not referred to in subsection (1) who has obtained an exemption under section 12.02 or 12.03 or a refund under section 12.04 or 12.06 for an amount greater than the amount to which the transferee is entitled under this Act must pay to the administrator as a tax liability the amount by which the exemption or refund received exceeded the exemption or refund to which the transferee was entitled.

New housing exemption or refund retained

12.08 Section 12.07 (1) to (4) does not apply to a transferee who has obtained an exemption under section 12.02 or 12.03 or a refund under section 12.04 if the transferee does not comply with section 12.05 only because, before the first anniversary of the registration date,

(a) the transferee dies, or

(b) the property is transferred by the transferee pursuant to a written separation agreement or a court order under the Family Law Act.

Definitions for sections 12.09 to 12.12

12.09 In this section and in sections 12.10 to 12.12:

"first time home buyers' credit" means a credit referred to in section 12.12 (1) (b);

"first time home buyers' exemption or refund" means an exemption under section 5 or 6 or a refund under section 7;

"new housing credit" means a credit referred to in section 12.11 (1) (b);

"new housing exemption or refund" means an exemption under section 12.02 or 12.03 or a refund under section 12.04 or 12.06.

Transferee must not apply for both first time home buyers' exemption or refund and new housing exemption or refund

12.10 Despite sections 4 to 12.08, a transferee is not entitled to and must not apply for both a first time home buyers' exemption or refund and a new housing exemption or refund in respect of the same taxable transaction.

Application to cancel first time home buyers' application and obtain new housing credit

12.11 (1) A transferee who has applied for a first time home buyers' exemption or refund in respect of a taxable transaction may, whether or not the transferee has received the exemption or refund, apply to the administrator

(a) to cancel the transferee's application for the first time home buyers' exemption or refund, and

(b) to obtain a credit under this section in respect of the tax payable under this Act on the registration of the taxable transaction by the transferee.

(2) An application under subsection (1) may only be made within 18 months after the registration date of the taxable transaction.

(3) On receiving an application under subsection (1), the administrator,

(a) if satisfied that the transferee would have qualified for a new housing exemption or refund in respect of the taxable transaction had the transferee applied for the exemption or refund in accordance with section 12.02, 12.03, 12.04 or 12.06, as applicable, must grant the application under subsection (1) of this section and must

(i) cancel the transferee's application for the first time home buyers' exemption or refund, and

(ii) provide to the transferee a new housing credit in the amount provided for in subsection (4) of this section, or

(b) if not satisfied that the transferee would have qualified for a new housing exemption or refund had the transferee applied for the exemption or refund in accordance with section 12.02, 12.03, 12.04 or 12.06, as applicable, must refuse to grant the application and provide the transferee with written notice under subsection (8) of this section of the refusal.

(4) The amount of the new housing credit to which a transferee is entitled under subsection (3) (a) (ii) in respect of a taxable transaction is equal to the amount of the new housing exemption or refund to which the transferee would have been entitled in respect of the taxable transaction had the transferee applied for the exemption or refund in accordance with section 12.02, 12.03, 12.04 or 12.06, as applicable.

(5) In the case of a transferee who is entitled to a new housing credit for a taxable transaction and who has received a first time home buyers' exemption or refund in respect of the tax payable on the registration of the taxable transaction, the following applies:

(a) the transferee is deemed to have received, instead of a first time home buyers' exemption or refund, a new housing credit in an amount equal to the amount received;

(b) if the amount, under subsection (4), of the new housing credit exceeds the amount received, the administrator must pay out of the consolidated revenue fund to the transferee a refund of the tax paid by the transferee in respect of the taxable transaction equal to the difference between those amounts;

(c) if the amount, under subsection (4), of the new housing credit is less than the amount received, the transferee, from and after the date the transferee makes the application under subsection (1), is liable to pay to the administrator, as tax under this Act in respect of the taxable transaction, the amount of the difference between those amounts;

(d) if the amount, under subsection (4), of the new housing credit is equal to the amount received, no amount is payable by or to the administrator or the transferee.

(6) In the case of a transferee who is entitled to a new housing credit for a taxable transaction and who has not received a first time home buyers' exemption or refund in respect of the tax payable on the registration of the taxable transaction, the administrator must pay out of the consolidated revenue fund to the transferee a refund of the tax paid by the transferee in respect of the taxable transaction equal to the amount, under subsection (4), of the new housing credit.

(7) If the administrator makes a determination under section 12 in respect of an application for a first time home buyers' exemption or refund before or after the cancellation of that application under subsection (3) (a) (i) of this section, the transferee must, despite the cancellation of that application, pay to the administrator the penalty owing under section 12 in respect of the application.

(8) If an application under subsection (1) is refused, the administrator must send a letter to the applicant stating the reason for the refusal, and the letter is deemed to be a notice of assessment for the purposes of allowing the applicant to file a notice of objection under section 19.

(9) A transferee who obtains a new housing credit under this section in an amount greater than the amount to which the transferee is entitled must pay to the administrator as a tax liability the amount by which the credit received exceeds the credit to which the transferee was entitled.

Application to cancel new housing application and obtain first time home buyers' credit

12.12 (1) A transferee who has applied for a new housing exemption or refund in respect of a taxable transaction may, whether or not the transferee has received the exemption or refund, apply to the administrator

(a) to cancel the transferee's application for the new housing exemption or refund, and

(b) to obtain a credit under this section in respect of the tax payable under this Act on the registration of the taxable transaction by the transferee.

(2) An application under subsection (1) may only be made within 18 months after the registration date of the taxable transaction.

(3) On receiving an application under subsection (1), the administrator,

(a) if satisfied that the transferee would have qualified for a first time home buyers' exemption or refund in respect of the taxable transaction had the transferee applied for the exemption or refund in accordance with section 5, 6 or 7, as applicable, must grant the application under subsection (1) of this section and must

(i) cancel the transferee's application for the new housing exemption or refund, and

(ii) provide to the transferee a first time home buyers' credit in the amount provided for in subsection (4) of this section, or

(b) if not satisfied that the transferee would have qualified for a first time home buyers' exemption or refund had the transferee applied for the exemption or refund in accordance with section 5, 6 or 7, as applicable, must refuse to grant the application and provide the transferee with written notice under subsection (7) of this section of the refusal.

(4) The amount of the first time home buyers' credit to which a transferee is entitled under subsection

(3) (a) (ii) in respect of a taxable transaction is equal to the amount of the first time home buyers' exemption or refund to which the transferee would have been entitled in respect of the taxable transaction had the transferee applied for the exemption or refund in accordance with section 5, 6 or 7, as applicable.

(5) In the case of a transferee who is entitled to a first time home buyers' credit for a taxable transaction and who has received a new housing exemption or refund in respect of the tax payable on the registration of the taxable transaction, the following applies:

(a) the transferee is deemed to have received, instead of a new housing exemption or refund, a first time home buyers' credit in an amount equal to the amount received;

(b) if the amount, under subsection (4), of the first time home buyers' credit exceeds the amount received, the administrator must pay out of the consolidated revenue fund to the transferee a refund of the tax paid by the transferee in respect of the taxable transaction equal to the difference between those amounts;

(c) if the amount, under subsection (4), of the first time home buyers' credit is less than the amount received, the transferee, from and after the date the transferee makes the application under subsection (1), is liable to pay to the administrator, as tax under this Act in respect of the taxable transaction, the amount of the difference between those amounts;

(d) if the amount, under subsection (4), of the first time home buyers' credit is equal to the amount received, no amount is payable by or to the administrator or the transferee.

(6) In the case of a transferee who is entitled to a first time home buyers' credit for a taxable transaction and who has not received a new housing exemption or refund in respect of the tax payable on the registration of the taxable transaction, the administrator must pay out of the consolidated revenue fund to the transferee a refund of the tax paid by the transferee in respect of the taxable transaction equal to the amount, under subsection (4), of the first time home buyers' credit.

(7) If an application under subsection (1) is refused, the administrator must send a letter to the applicant stating the reason for the refusal, and the letter is deemed to be a notice of assessment for the purposes of allowing the applicant to file a notice of objection under section 19.

(8) A transferee who obtains a first time home buyers' credit under this section in an amount greater than the amount to which the transferee is entitled must pay to the administrator as a tax liability the amount by which the credit received exceeds the credit to which the transferee was entitled.

Additional information to be included in return

12.13 (1) In this section, "bare trustee" means a trustee of a trust who can reasonably be considered to act as agent for all the beneficiaries under the trust with respect to all dealings with all of the trust's property.

(2) In addition to any other required information, a return that must be filed under section 2 in respect of a taxable transaction must include the information required under this section.

(3) If the transferee is an individual,

(a) the return must state whether or not the transferee is a Canadian citizen or a permanent resident of Canada, and

(b) in the case of a transferee who is not a Canadian citizen or a permanent resident of Canada, the return must state whether or not the transferee is a citizen of a foreign country or state and, if so, must identify the foreign country or state.

(4) If the transferee is a corporation,

(a) the return must state the total number of directors of the transferee and the number of those directors who are Canadian citizens or permanent residents of Canada, and

(b) in relation to each director of the transferee who is not a Canadian citizen or a permanent resident of Canada,

(i) the return must state the name and address of the director, and

(ii) the return must state whether or not the director is a citizen of a foreign country or state and, if so, must identify the foreign country or state.

(5) If the transferee is, as a bare trustee of a trust, acquiring the land to which the taxable transaction relates, the return must include, in addition to the information required under subsection (3) or (4), as applicable, the following information in relation to each settlor and each beneficiary of the trust:

(a) in the case of a settlor or a beneficiary who is an individual,

(i) the return must state the name and address of the settlor or beneficiary and whether or not the settlor or beneficiary is a Canadian citizen or a permanent resident of Canada, and

(ii) in the case of a settlor or a beneficiary who is not a Canadian citizen or a permanent resident of Canada, the return must state whether or not the settlor or beneficiary is a citizen of a foreign country or state and, if so, must identify the foreign country or state;

(b) in the case of a settlor or a beneficiary that is a corporation,

(i) the return must state the name and address of each director of the settlor or beneficiary and whether or not the director is a Canadian citizen or a permanent resident of Canada, and

(ii) in the case of a director who is not a Canadian citizen or a permanent resident of Canada, the return must state whether or not the director is a citizen of a foreign country or state and, if so, must identify the foreign country or state.

Certifying return and additional tax form

13 The return required by section 2 (1) (b) and the form required by section 2.02 (3) (c) must be certified,

(a) if no exemption is claimed, by the transferee or a person with actual authority to certify the return or form on behalf of the transferee,

(b) if an exemption is claimed and the transferee is an individual, by a transferee or by an agent of the transferee who has personal knowledge of the matters certified, or

(c) if an exemption is claimed and the transferee is a corporation, by a person who has personal knowledge of the matters certified and actual authority to certify the return or form on behalf of the transferee.

Electronic returns

13.1 (1) An electronic return must be signed in accordance with this section before it is filed under section 2 (1.1) (b).

(2) An electronic return is signed for the purposes of this section when the electronic signature of a subscriber has been incorporated into the electronic return in accordance with the policies established by the administrator.

(3) A subscriber must not incorporate his or her electronic signature into an electronic return unless

(a) a true copy of the electronic return has been certified in accordance with section 13, and

(b) the true copy referred to in paragraph (a), or a copy of that true copy, is in the possession of the subscriber.

(4) The incorporation of the electronic signature of a subscriber into an electronic return in accordance with this section is a certification by the subscriber of the facts referred to in subsection (3) (a) and (b).

(5) A transferee on whose behalf an electronic return has been filed under this Act, or any other person specified in the policies established by the administrator, must

(a) retain the true copy of the electronic return referred to in subsection (3) (a), or a copy of that true copy, for the period established by the administrator, and

(b) produce it to the administrator for inspection if requested by the administrator.

Evidence of electronic returns

13.2 (1) A copy of an electronic return that is

(a) obtained from the records of the administrator, and

(b) certified by the administrator to be a true copy of the electronic return

is conclusive evidence of the electronic return and is admissible in court as if it were the original.

(2) A certification of the administrator under subsection (1) is conclusive evidence that

(a) the technology and procedure used by the administrator to receive, store, retrieve and copy the electronic return is capable of recording and reproducing all significant details of the electronic return without any additions, deletions or changes, and

(b) the electronic return was received, stored, retrieved and copied by the administrator in the usual and ordinary course of business.

Exemptions

14 (1) In this section:

"family farm" means farm land that

- (a) is used, owned and farmed by one individual or by family members,
- (b) is used, owned and farmed by a family farm corporation,
- (c) for the purpose of an exemption claimed under subsection (3) (c.1) or (c.2), was, immediately before the deceased's death, owned by the deceased and used and farmed by one or more of the following:
 - (i) the deceased;
 - (ii) family members of the deceased;
 - (iii) a family farm corporation that, at the time of the deceased's death, was comprised of shareholders, each of whom was one of the following:
 - (A) a related individual of the deceased;
 - (B) a sibling of the deceased;
 - (C) a spouse of a sibling of the deceased, or
- (d) for the purpose of an exemption claimed under subsection (3) (d.1) or (d.2) or subsection (4) (p.22) (ii) (B), was used, owned and farmed by the settlor or the deceased;

"family farm corporation" means a corporation of which

- (a) the principal activity is farming farm land, and
- (b) no shareholder is a corporation;

"family member" means an individual who is a Canadian citizen or a permanent resident of Canada and who is

- (a) a related individual,
- (b) a person's sibling, cousin, niece, nephew, aunt or uncle,
- (c) the spouse of a person's sibling, cousin, niece, nephew, aunt or uncle, or
- (d) the sibling, cousin, niece, nephew, aunt or uncle of a person's spouse;

"farm land" means land classified under the Assessment Act as farm land;

"principal residence" means a parcel of land

(a) on which the person in relation to whose residency the exemption under this section is claimed usually resided and used as his or her home,

(b) on which there are improvements that are designed to accommodate and that are used only to accommodate 3 or fewer families,

(c) on which all the improvements are classified under section 19 of the Assessment Act as property used for residential purposes, and

(d) that is not larger than 0.5 ha in area;

"recreational residence" means an interest in a parcel of land if the parcel is one

(a) on which, before the transfer,

(i) an individual transferor resided on a seasonal basis for recreational purposes, or

(ii) if an exemption is claimed under subsection (3) (c) or (d) or subsection (4) (p.21) (iii) (B), the settlor or the deceased usually resided on a seasonal basis for recreational purposes,

(b) that has been classified as residential land under the Assessment Act,

(c) that is not larger than 5 ha in area, and

(d) that has a fair market value, determined under paragraph (a) of the definition of "fair market value", of no more than \$275 000;

"related individual" means a related individual who is a Canadian citizen or a permanent resident of Canada;

"sibling" means a sibling who is a Canadian citizen or a permanent resident of Canada;

"spouse" means a spouse who is a Canadian citizen or a permanent resident of Canada.

(1.1) For the purposes of the definition of "principal residence", if the same dwelling is located on more than one parcel, the parcels are deemed to be one parcel.

(2) For the purposes of this section, a person is considered to have only one principal residence at a time.

(2.1) Despite subsections (3) and (4), a transferee is not exempt from the payment of tax under section 2.02 (3) in respect of a taxable transaction that is a transfer described in subsection (3) (m) or (4) (q) or (u) of this section.

(3) If a taxable transaction entitles the transferee, on compliance with the Land Title Act, to registration in a land title office, that transferee is exempt from the payment of tax if the taxable transaction is a transfer within any of the following descriptions:

(a) a transfer from a transferor who is not a trustee referred to in paragraph (c) or (d), to a transferee who is

(i) a related individual, a sibling or a spouse of a sibling, if the land transferred is a family farm, or

(ii) a related individual, if the land transferred is a recreational residence;

(b) a transfer from a transferor who is not a trustee referred to in paragraph (c), (d) or (e), to a transferee who is a related individual, if the land transferred has been the principal residence of either the transferor for a continuous period of at least 6 months immediately before the date of transfer or of the transferee for that period;

(c) a transfer from a transferor who is a trustee of a deceased's estate or of a trust established under a deceased's will and who is registered in that capacity under the Land Title Act as the trustee of the land transferred to a transferee, if

(i) the transferee is a beneficiary of the estate or trust,

(ii) the transferee beneficiary was a related individual of the deceased at the time of the deceased's death, and

(iii) immediately before the deceased's death, the land transferred

(A) was the deceased's recreational residence or principal residence, or

(B) had been the transferee's principal residence for a continuous period of at least 6 months;

(c.1) a transfer from a transferor who is a trustee of a deceased's estate or of a trust established under a deceased's will and who is registered in that capacity under the Land Title Act as the trustee of the land transferred to a transferee, if

(i) the transferee is a family farm corporation,

(ii) at the time of the deceased's death, the relationship between the deceased and each other person, if any, who is a shareholder of the family farm corporation was one of the following:

(A) the shareholder was a related individual of the deceased,

(B) the shareholder was a sibling of the deceased, or

(C) the shareholder is a spouse of a sibling of the deceased, and

(iii) immediately before the deceased's death, the land transferred was the deceased's family farm;

(c.2) a transfer from a transferor who is a trustee of a deceased's estate or of a trust established under a deceased's will and who is registered in that capacity under the Land Title Act as the trustee of the land transferred to a transferee, if

(i) the transferee is a beneficiary of the estate or trust,

(ii) at the time of the deceased's death, the relationship between the deceased and the transferee beneficiary was one of the following:

(A) the transferee was a related individual of the deceased,

(B) the transferee was a sibling of the deceased, or

(C) the transferee was a spouse of a sibling of the deceased, and

(iii) immediately before the deceased's death, the land transferred was the deceased's family farm;

(d) a transfer from a transferor who is a trustee of a trust that is settled during the lifetime of the settlor and who is registered in that capacity under the Land Title Act as the trustee of the land transferred, if

(i) the transferee is a beneficiary of the trust,

(ii) the transferee beneficiary is a related individual of the settlor of the trust, and

(iii) the land transferred is a recreational residence or was the principal residence of either the settlor for a continuous period of at least 6 months immediately before the date of transfer or of the transferee beneficiary for that period;

(d.1) a transfer from a transferor who is a trustee of a trust that is settled during the lifetime of the settlor and who is registered in that capacity under the Land Title Act as the trustee of the land transferred, if

(i) the transferee is a family farm corporation,

(ii) at the time of the land transfer, the relationship between the settlor of the trust and each other person, if any, who is a shareholder of the family farm corporation is one of the following:

(A) the shareholder is a related individual of the settlor,

(B) the shareholder is a sibling of the settlor, or

(C) the shareholder is a spouse of a sibling of the settlor, and

(iii) the land transferred is the settlor's family farm;

(d.2) a transfer from a transferor who is a trustee of a trust that is settled during the lifetime of the settlor and who is registered in that capacity under the Land Title Act as the trustee of the land transferred, if

(i) the transferee is a beneficiary of the trust,

(ii) the relationship between the settlor of the trust and the transferee beneficiary is one of the following:

- (A) the transferee is a related individual of the settlor,
- (B) the transferee is a sibling of the settlor, or
- (C) the transferee is a spouse of a sibling of the settlor, and
- (iii) the land transferred is a family farm;
- (e) a transfer from a transferor who is a trustee of a trust that is settled during the lifetime of the settlor and the transferor is registered in that capacity under the Land Title Act as the trustee of the land transferred, if
 - (i) the transferee is a beneficiary of the trust,
 - (ii) the transferee beneficiary is a related individual of the settlor of the trust,
 - (iii) the land transferred was the principal residence of the settlor, and
 - (iv) between August 18, 1990 and the date of the transfer, the transferor as trustee of the trust was continuously registered as the trustee of the then current principal residence of the settlor and, for the purposes of this paragraph, continuity is deemed not to have been broken if the transferor was not so registered for a period of one month or less but is deemed to have been broken if the transferor was not so registered for a period greater than one month,
- (f) a transfer from a transferor to a transferee, if
 - (i) the transferee is a family farm corporation,
 - (ii) each of the shareholders of the family farm corporation is
 - (A) the transferor,
 - (B) a related individual of the transferor,
 - (C) a sibling of the transferor, or
 - (D) a spouse of a sibling of the transferor, and
 - (iii) the land transferred is a family farm;
- (g) a transfer from a transferor that is a family farm corporation to a transferee, if the land transferred is a family farm and
 - (i) the transferee is the sole shareholder of the family farm corporation, or
 - (ii) the relationship between the transferee and each other person who is a shareholder of the family farm corporation is one of the following:
 - (A) the transferee is a related individual of that shareholder,
 - (B) the transferee is a sibling of that shareholder,
 - (C) the transferee is a sibling of a spouse of that shareholder, or
 - (D) the transferee is the spouse of a sibling of that shareholder;

(h) a transfer from a transferor to a transferee who is a spouse or former spouse of the transferor and the transfer is made pursuant to a written separation agreement or a court order under the Family Law Act;

(i) a transfer that changes a joint tenancy to a tenancy in common, if

(i) the persons owning the interest in the land are the same before and after the transfer, and

(ii) each person owning an interest in the land after the transfer has an interest in the land equal to that owned by the other owners;

(j) a transfer if

(i) a parcel, in this subsection called the "original parcel", is subdivided into smaller parcels and the transferee of all of, or a registered ownership interest in, one or more of those smaller parcels was one of the registered owners of the original parcel immediately before its subdivision, and

(ii) the transferee's proportionate share of the fair market value of those smaller parcels, calculated using the fair market values as they were immediately after the subdivision, does not exceed the transferee's proportionate share of the fair market value of the original parcel, calculated using the fair market value as it was immediately before the subdivision;

(k) a transfer by which land reverts, escheats or is forfeited to the Crown or by which land that has reverted, escheated or been forfeited to the Crown is returned;

(l) a transfer made in accordance with a registered agreement for sale, if the transferee is

(i) the purchaser under the agreement and the tax in respect of the agreement has been paid, or

(ii) the assignee of the purchaser under the agreement and the tax in respect of the assignment has been paid;

(m) a transfer by operation of law to the survivor of a joint tenancy of the land consequent on the death of a joint tenant of the land;

(n) a transfer to the trustee in bankruptcy of land forming part of the estate of a bankrupt;

(o) a transfer from the trustee in bankruptcy to the bankrupt of land forming part of the estate of the bankrupt, if no consideration for the transfer is paid by or on behalf of the transferee and a declaration to that effect is made by the transferee and the transferor in the return filed under section 2;

(p) a transfer from the trustee in bankruptcy to the spouse or former spouse of the bankrupt of land forming part of the estate of the bankrupt, if

(i) the land transferred was the principal residence of the bankrupt immediately before the date of the bankruptcy, and

(ii) no consideration for the transfer is paid by or on behalf of the transferee and a declaration to that effect is made by the transferee and the transferor in the return filed under section 2;

(p.1) 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;

(p.2) a transfer under section 275 of the Strata Property Act of land that was shown on a strata plan cancelled under that section;

(p.3) a transfer to facilitate an amendment to a strata plan under

(i) the provisions of Division 1 of Part 15 of the Strata Property Act, or

(ii) the provisions of Division 1 of Part 15 of the Strata Property Act in combination with either or both of section 80 or 253 of that Act,

if the transferee's proportionate share of the fair market value of all the parcels that are involved in the amendment, calculated using the fair market values as they were immediately after the amendment, does not exceed the transferee's proportionate share of the fair market value of all the parcels that are involved in the amendment, calculated using the fair market values as they were immediately before the amendment;

(q) a transfer to a person in his or her capacity as personal representative, if the land transferred is part of the deceased's estate;

(r) a transfer of a life estate, if the transferee of that life estate transferred the fee simple estate in the same land to the transferor of the life estate in a concurrent transaction;

(r.1) a transfer of a life estate, if

(i) immediately before the transfer of the life estate, a mortgage is registered as a charge on the same land in respect of which that life estate is transferred to the transferee of that life estate,

(ii) the transferee of the life estate was the tenant for life under a registered life estate in the same land but the registration of that life estate was cancelled immediately before the registration of the charge referred to in subparagraph (i), and

(iii) the transfer of the life estate and the transfer of the registered life estate referred to in subparagraph (ii) involve a transfer by the same transferor of a life estate in the same land, on the same conditions and to the same transferee;

(s) a transfer to a regional district, municipality, an improvement district, the Okanagan Basin Water Board, the Islands Trust, a board of school trustees as defined in the School Act, a francophone education authority as defined in the School Act, a water users' community as defined in section 1 (1) of the Water Users' Communities Act, a regional hospital district, a library board as defined in the Library Act, a greater board as defined in the Community Charter, or any board incorporated by letters patent that provides services similar to those provided by a greater board;

(t) a transfer to the government in accordance with a bylaw under section 27 [exchange or other disposal of park land] of the Community Charter or section 281[exchange of park land: application of Community Charter] of the Local Government Act;

(t.1) a transfer to the government from a municipality for the purposes of exchanging land necessary for improving, widening, straightening, relocating or diverting a highway;

(u) [Repealed 2014-1-13.]

(v) a transfer if the government is the transferor, and the transaction has been designated by the minister as exempt from payment of tax under this Act.

(4) If a taxable transaction entitles the transferee, on compliance with the Land Title Act, to registration in a land title office, that transferee is exempt from the payment of tax if the taxable transaction is a transfer within any of the following descriptions:

(a) a transfer to a board as defined by section 1 of the Health Authorities Act for the purposes of that Act;

(b) a transfer to a "registered charity" as defined by section 248 (1) of the Income Tax Act (Canada), if the land being transferred will be used for a charitable purpose;

(c) a transfer to a "designated educational institution" as defined in paragraph (a) of the definition of "designated educational institution" in section 118.6 (1) of the Income Tax Act (Canada) where the land being transferred will be used for an educational purpose;

(d) a transfer to a corporation established under the University Foundations Act or to the corporation established under the Trinity Western University Foundation Act;

(e) and (f) [Repealed 2002-25-65.]

(g) a transfer to the corporation established under the Library Foundation of British Columbia Act;

(h) a transfer to the corporation established under the Cultural Foundation of British Columbia Act;

(i) a transfer to an educational institution that receives grants under the Independent School Act, if the land being transferred will be used for an educational purpose;

(j) a transfer to the corporation or the committee established under the First Peoples' Heritage, Language and Culture Act;

(k) a transfer of 2 or more adjacent parcels, in this subsection called the "original parcels", from their registered owners, in this subsection called the "original owners", to a person who is registered under the transfer as a trustee under the Land Title Act, if

(i) the transfer is to facilitate the subdivision of the original parcels, and

(ii) after the registration under the Land Title Act of the plan of subdivision, the trustee transfers all of the parcels created under the subdivision to the original owners or to any one or more of them;

(k.1) a transfer of all of, or a registered ownership interest in, one or more of the parcels created under a subdivision described in paragraph (k), if

(i) the transfer is from the trustee referred to in paragraph (k) to any of the original owners, and

(ii) that original owner's proportionate share of the fair market value of the parcels created under the subdivision, calculated using the fair market values as they were immediately after the subdivision, does not exceed that original owner's proportionate share of the fair market value of the original parcels, calculated using the fair market values as they were immediately before the subdivision;

(l) a transfer of the vendor's interests under an agreement for sale, if the transferee is not the purchaser under the agreement for sale;

(m) a transfer to a mortgagee, if the mortgagee was the immediately preceding registered owner of the land;

(n) a transfer referred to in paragraph (b) of the definition of "taxable transaction", if the transferee was the original vendor under the agreement for sale;

(o) a transfer of a lease agreement, except a lease modification agreement, with a term of 30 years or less remaining as at the date of registration of that lease agreement;

(p) a transfer from a settlor to the Public Guardian and Trustee or a trustee that is a trust company or credit union authorized under the Financial Institutions Act to carry on trust business by a business authorization under that Act, if

(i) the settlor is a natural person,

(ii) the settlor was the registered owner of the fee simple interest in the land immediately before the transfer to the trustee,

(iii) the administration of the trust estate is for the sole benefit of the settlor, and

(iv) on the termination of the trust the land reverts to the settlor or to the executor or administrator of the settlor's estate;

(p.1) a transfer from a trustee of a trust referred to in paragraph (p) to the settlor of the land being transferred;

(p.2) a transfer to the Public Guardian and Trustee, if

(i) the land transferred is to be held in trust by the Public Guardian and Trustee for the sole benefit of a minor,

(ii) the minor is a related individual of

(A) the transferor, or

(B) the person whose estate is the transferor, and

(iii) the land transferred was

(A) the principal residence of the transferor,

(B) the principal residence of the person whose estate is the transferor, or

(C) the principal residence of the minor;

(p.21) a transfer to the Public Guardian and Trustee, if

(i) the land transferred is to be held in trust by the Public Guardian and Trustee for the sole benefit of a minor,

(ii) the minor is a related individual of

(A) the transferor, or

(B) the person whose estate is the transferor, and

(iii) the land transferred was

(A) a recreational residence of the transferor, or

(B) the recreational residence of the person whose estate is the transferor;

(p.22) a transfer to the Public Guardian and Trustee, if

(i) the land transferred is to be held in trust by the Public Guardian and Trustee for the sole benefit of a minor,

(ii) the minor is a related individual, or a sibling or a spouse of a sibling, of

(A) the transferor, or

(B) the person whose estate is the transferor, and

(iii) the land transferred was a family farm;

(p.3) a transfer from the Public Guardian and Trustee, if

(i) the land transferred was held in trust by the Public Guardian and Trustee for the sole benefit of a minor, and

(ii) the transferee is the beneficiary;

(q) 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

(i) 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 to a change in the terms of the trust, and

(ii) the transferor and the transferee make a declaration to that effect in the return filed under section 2;

(r) a transfer from the Director, the Veterans' Land Act (Canada), to a veteran or the spouse or surviving spouse of a veteran;

(s) 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);

(t) a transfer for the purpose of reconveying land

(i) that was transferred in error, or

(ii) in respect of which an error was made in the description or survey under which title to the land was registered;

(u) a transfer referred to in paragraph (f) of the definition of "taxable transaction", if

(i) the amalgamation was effected under Division 3 of Part 9 of the Business Corporations 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, and

(ii) the continuing corporation files a certificate of amalgamation with the administrator, at the request of the administrator and within the time period specified by the administrator;

(v) a transfer consisting of a lease, sublease or right to occupy premises, if it is coupled with a concurrent transfer of an estate in fee simple to the same land or a right to purchase with respect to the same land and

(i) the lessee, sublessee or occupant, as the case may be, and the transferee of the fee simple estate are the same person, and

(ii) tax was paid on the transfer of the fee simple estate or the right to purchase;

(w) a transfer referred to in paragraph (f) of the definition of "taxable transaction", if

(i) the amalgamation was effected under Division 1 of Part 7 of the Societies Act, and

(ii) at the request of the administrator and within the time period specified by the administrator, the new society files with the administrator a certificate of incorporation respecting the amalgamation.

(5) For the purposes of an exemption under subsection (3) (c) or (d) or subsection (4) (p.21), no more than one recreational residence may be claimed in respect of the deceased's estate or, as the case may be, the trust referred to in subsection (3) (d).

Partial exemption for certain residences

15 (1) If a taxable transaction does not qualify for exemption in relation to a principal residence under section 14 (3) (b) to (e) or (4) (p.2) only because there are improvements on the parcel that are not classified under section 19 of the Assessment Act as property used for residential purposes, the taxable transaction is exempt to the extent provided in subsection (2).

(2) A taxable transaction that is exempt under subsection (1)

(a) is exempt in respect of the fair market value, determined in the prescribed manner, of the interest in those improvements transferred that are improvements classified under section 19 of the Assessment Act as property used for residential purposes, and

(b) is exempt in respect of the fair market value, determined in the prescribed manner, of the land transferred not including improvements.

(3) If a taxable transaction does not qualify for exemption in relation to a principal residence under section 14 (3) (b) to (e) or (4) (p.2)

(a) only because the parcel of land involved is larger than 0.5 ha in area, or

(b) because the parcel of land involved is larger than 0.5 ha in area and because there are improvements on the parcel that are not classified under section 19 of the Assessment Act as property used for residential purposes,

the taxable transaction is exempt to the extent provided in subsection (4).

(4) A taxable transaction that is exempt under subsection (3)

(a) is exempt in respect of the fair market value, determined in the prescribed manner, of the interest in those improvements transferred that are improvements classified under section 19 of the Assessment Act as property used for residential purposes, and

(b) is exempt in respect of that portion of the fair market value, determined in the prescribed manner, of the land transferred, not including improvements, that is equivalent to the ratio of 0.5 ha to the total area of the parcel.

Exemption for land subject to conservation covenant

16 (1) In this section, "conservation covenant" means a covenant in favour of the Crown that

(a) is registered under subsection (2), and

(b) includes

(i) one or more provisions described in section 219 (4) (b) of the Land Title Act,

(ii) provisions that the covenant will not be amended or discharged without the approval of the Lieutenant Governor in Council, and

(iii) any other provision prescribed by regulation for inclusion.

(2) If the Lieutenant Governor in Council approves, a covenant referred to in subsection (1) may be registered against the title to land in the same manner as a covenant under section 219 (1) of the Land Title Act and, when registered, it is deemed to be a covenant under that section.

(3) A taxable transaction is exempt from the payment of tax under section 2 to the extent provided in subsection (4) if, at the time of registration of the taxable transaction, a conservation covenant is registered against the title to the land to which the taxable transaction relates.

(4) A taxable transaction to which subsection (3) applies is exempt to the extent of the fair market value, determined in the prescribed manner, of the interest being transferred that is subject to the conservation covenant.

(5) The administrator may, by certificate, postpone for up to 6 months the time at which tax would otherwise be payable, if satisfied that a conservation covenant is intended to be registered within that time against the title to the land to which the taxable transaction relates.

(6) If, within one year after a taxable transaction is registered, a conservation covenant is registered against the title to the land to which the taxable transaction relates, the transferee may apply to the administrator within that one year period for a refund under subsection (7).

(7) After receiving an application under subsection (6) and on being satisfied that the taxable transaction would have been exempt under subsection (3) from tax had the conservation covenant been registered at the time of the taxable transaction, the administrator must

(a) pay out of the consolidated revenue fund a refund of the tax paid equivalent to the amount of exemption to which the transferee would have been entitled had the conservation covenant been registered at the time of the taxable transaction, or

(b) send a letter to the transferee stating the reasons for the refusal, and the letter is deemed to be a notice of assessment for the purposes of allowing the transferee to file a notice of objection under section 19.

(8) If a conservation covenant is discharged after the taxable transaction has been exempt from taxation because of this section or after the transferee has received a refund under this section, the person registered in the land title office at the time of discharge as owner of the fee simple interest in the land against which the covenant was registered must, at the time of discharge,

(a) file a return referred to in section 2 (1), and

(b) pay to the government, as tax payable under section 2, an amount equal to the tax that would be payable at that time were the title to the land being transferred to that person as transferee in a taxable transaction referred to in paragraph (a) (i) of the definition of "taxable transaction".

(9) A registrar may, without a hearing, refuse to accept an application for discharge of a conservation covenant if there are reasonable grounds to believe

(a) that the Lieutenant Governor in Council has not approved the discharge,

(b) that the return required by subsection (8) has not been filed, or

(c) that the tax imposed by subsection (8) has not been paid.

Investigation

17 The administrator may investigate whether

(a) a return or other record required to be made, provided or kept under this Act is accurate,

(a.1) information required to be provided under this Act is accurate,

(b) the tax has been paid as required by this Act and the regulations, and

(c) a provision of this Act or the regulations has been contravened.

Assessment

18 (1) The administrator may, on information available to the administrator, make a determination of fair market value or tax owing.

(2) If the administrator determines that the correct amount of tax has not been paid, the administrator must make an assessment and mail a notice of assessment to the transferee.

(3) The notice of assessment must state

- (a) the determination of the fair market value made by the administrator,
- (b) the total amount of tax payable,
- (c) the amount of tax paid,
- (d) the balance owing or overpaid, and
- (e) the date of the notice of assessment.

(4) The transferee assessed must pay to the administrator the amount of tax owing as set out in the notice of assessment within 30 days after the date shown on the notice of assessment.

(5) Except as provided in this Act, the administrator must issue the notice of assessment within one year after

- (a) the date that the transaction was registered in the land title office, or
- (b) the expiry of the prescribed period under section 2 (5),

as the case may be.

(5.1) In respect of a taxable transaction to which section 2.02 (3) applies, the administrator must issue the notice of assessment within 6 years after

- (a) the date that the transaction was registered in the land title office, or
- (b) the expiry of the prescribed period under section 2 (5),

as the case may be.

(6) If any of the following exemptions, refunds or credits has been applied for, the notice of assessment may be issued within 24 months after the application for registration of the taxable transaction to which the application under paragraph (a), (b) or (c) relates:

- (a) an exemption applied for under section 5, 6, 12.02 or 12.03;
- (b) a refund applied for under section 7, 12.04 or 12.06;
- (c) a credit applied for as part of an application made under section 12.11 or 12.12.

(6.1) If an exemption has been applied for under section 14 (3) (j), the notice of assessment must be issued within 24 months after the date of the first transfer after the subdivision.

(6.11) If an exemption has been applied for under section 14 (3) (p.3), the notice of assessment must be issued within 24 months after the date of the last of the transfers to facilitate the amendment of the strata plan.

(6.2) If an exemption has been applied for under section 14 (4) (k) or (k.1), the notice of assessment must be issued within 24 months after the date of the last of the transfers to the trustee to facilitate the subdivision.

(6.3) A transferee may file with the administrator a waiver for a transaction, in the form and containing the information required by the administrator, and in accordance with subsection (6.4) or (6.8).

(6.4) A transferee must file a waiver under subsection (6.3) before the date for issuing a notice of assessment set out in subsection (5), (6), (6.1), (6.11) or (6.2) that applies, in the circumstances, to the transferee.

(6.5) If a waiver for a transaction has been filed under subsection (6.3), the administrator may issue a notice of assessment for the transaction at any time during the period that the waiver is in effect.

(6.6) A waiver filed under subsection (6.3) or (6.8) continues in effect until 6 months after the date the transferee files a notice revoking the waiver in accordance with subsection (6.7).

(6.7) A transferee may file with the administrator a notice revoking a waiver, in the form and containing the information required by the administrator.

(6.8) Despite subsection (6.4), a transferee may file with the administrator a new waiver for a transaction during the period of 6 months following the date the transferee filed with the administrator a notice revoking the prior waiver for the transaction.

(7) Subject to being varied or vacated on objection or by reassessment, an assessment is valid and binding despite any error, defect, omission or error in procedure.

(8) The amount of tax assessed is payable whether or not an objection to the assessment is made.

(9) Interest on the amount of tax owing to the government is payable and must be calculated, starting on the 30th day after the date shown on the notice of assessment, at the rate prescribed under section 20 (1) of the Financial Administration Act calculated in the manner prescribed in the regulations.

Notice of objection

19 (1) A person who objects to an assessment made under section 18 must mail a notice of objection to the minister within 90 days after the date shown on the notice of assessment.

(2) A person who objects to any of the following must mail a notice of objection to the minister within 90 days after the date shown on the notice of assessment:

(a) a refusal by the administrator to grant an exemption under section 5, 6, 12.02 or 12.03;

(b) a refusal by the administrator to pay a refund under section 7, 12.04 or 12.06;

(c) a refusal by the administrator to grant an application under section 12.11 or 12.12;

(d) the imposition of a penalty under section 12.

(3) The notice of objection must contain the reasons for the objection and must state all relevant facts, including an estimate of the fair market value if the person objecting considers that estimate to be relevant to the objection.

(4) On receipt of the notice of objection and of the relevant information from the office of the administrator, the minister must decide the amount of the penalty or tax owing or the refund payable, as the case may be.

(5) The minister must deliver to the person who objected to the assessment made under section 18 a notice of the minister's decision under subsection (4) of this section and, if the minister's decision is to vary the assessment, the administrator must deliver a notice of assessment reflecting the variation to the person who objected.

(6) The time limit for mailing a notice of objection under subsection (1) may be extended by the minister if

(a) an application for extension is made in respect of that notice before the expiry of the time allowed under subsection (1) for mailing the notice, and

(b) the application contains the reason for the extension and specifies the period of time applied for.

Assessment of related individual and associated corporation transactions

20 (1) If

(a) tax imposed on taxable transactions in accordance with section 3 (3) or (4) has been paid, and

(b) the administrator is satisfied that a taxable transaction referred to in section 3 (3) (b) or (4) (b) was made for purposes unrelated to the imposition of taxes under this Act,

the administrator may, on application, make an assessment of the tax imposed on the taxable transactions referred to in section 3 (3) or (4), as the case may be, in accordance with subsection (3).

(2) An application under subsection (1) must be made within 6 months after the date that the transaction referred to in subsection (1) (b) was registered in the land title office.

(3) On an assessment under subsection (1),

(a) the tax payable in respect of the taxable transaction referred to in subsection (1) (b) must be calculated in accordance with section 3 (1) based on the fair market value of the interest transferred by that taxable transaction, and

(b) the tax payable in respect of the other taxable transaction or transactions in respect of which the tax referred to in subsection (1) (a) was paid must be calculated without reference to the taxable transaction referred to in subsection (1) (b).

(4) If the tax payable on assessment under subsection (1) is less than the amount actually paid, the administrator must, in accordance with the Financial Administration Act, refund out of the consolidated revenue fund, jointly to the transferees liable under section 3 (3) or (4), as the case may be, for the tax paid, the overpaid tax including any interest relating to the amount overpaid calculated in the manner prescribed in the regulations.

(5) If the administrator refuses an application for an assessment under subsection (1), the administrator must send a letter to the applicant stating the reasons for the refusal, and the letter may

be treated as a notice of assessment for the purposes of allowing the applicant to file a notice of objection under section 19.

Appeal to court

21 (1) A decision of the minister under section 19 may be appealed to the Supreme Court by way of a petition proceeding.

(2) The Supreme Court Civil Rules relating to petition proceedings apply to appeals under this section, but Rule 18-3 of those rules does not apply.

(3) A petition must be filed in the court registry within 90 days after the date on the minister's notice under section 19 (5) of the minister's decision.

(4) Within 14 days after the filing of the petition under subsection (3), it must be served on the Crown in accordance with section 8 of the Crown Proceeding Act and the Crown must be designated "Her Majesty the Queen in right of the Province of British Columbia".

(4.1) An appeal under this section is a new hearing that is not limited to the evidence and issues that were before the minister.

(5) The court may dismiss the appeal, allow the appeal, vary the decision from which the appeal is made or refer the decision back to the administrator for reconsideration.

(6) An appeal lies from a decision of the court to the Court of Appeal with leave of a justice of the Court of Appeal.

Arbitration

22 Within the time referred to in section 21 (3), a person may, instead of filing a petition in a court registry, serve a notice on the administrator that the person waives the right to appeal to the Supreme Court under section 21 and requires the assessment to be decided by arbitration in accordance with the regulations.

Refunds

23 (1) If a person has paid tax under this Act pursuant to a notice of assessment issued under section 18 (3) and, as a result of

(a) a decision of the minister under section 19 (4),

(b) an order of the court under section 21 (5), or

(c) a decision by an arbitrator under section 22,

the tax payable is less than the amount actually paid, the administrator must, in accordance with the Financial Administration Act, refund out of the consolidated revenue fund the overpaid tax including any interest relating to the amount overpaid calculated in the manner prescribed in the regulations.

(2) If, after a person has paid tax under section 2 (1) or 2.02 (3),

(a) the person withdraws the application for registration, or

(b) the application for registration is rejected,

the administrator must, in accordance with the Financial Administration Act, refund out of the consolidated revenue fund the overpaid tax including any interest relating to the amount overpaid calculated in the manner prescribed in the regulations.

(3) If a person is deemed to have paid tax under section 3.1 (3) in respect of a correcting transaction and the tax payable on that transaction is less than the amount deemed to have been paid, the administrator must, in accordance with the Financial Administration Act, refund out of the consolidated revenue fund the overpaid tax including any interest relating to the amount overpaid calculated in the manner prescribed in the regulations.

Refund of tax paid

23.1 (1) If the administrator is satisfied that an amount has been paid as tax under this Act in circumstances where there was no legal obligation to pay the amount as tax, the administrator must refund, out of the consolidated revenue fund, that amount to the person entitled to it.

(2) To claim a refund under subsection (1), a person must

(a) submit to the administrator a written application signed by the person who paid the amount claimed, and

(b) provide sufficient evidence to satisfy the administrator that the person who paid the amount is entitled to the refund.

(3) For the purposes of subsection (2) (a), if the person who paid the amount claimed is a corporation, the application must be signed by a member of the board of directors or an authorized employee of the corporation.

(4) Despite section 16 of the Financial Administration Act,

(a) a refund of less than \$10 must not be made under subsection (1) of this section, and

(b) a refund under subsection (1) of this section must not be made on a claim for a refund made more than 6 years after the date on which the amount claimed was paid.

(5) Despite the Limitation Act, an action for a refund under subsection (1) of this section must not be brought more than 6 years after the date on which the amount claimed was paid.

Notice to taxpayer before taking proceedings

24 (1) Before taking proceedings under this Act or otherwise for the recovery of taxes, the administrator must give notice to the taxpayer of the intention to enforce payment.

(2) Failure to give notice under subsection (1) does not affect the validity of proceedings taken for the recovery of taxes or money to be collected as taxes under this Act.

Recovery of taxes due or collected by court action

25 The amount of taxes that are due and payable under this Act may be recovered by action in any court as a debt due to the government.

Summary proceedings without action

26 (1) If a person defaults in the payment of taxes that are due and payable under this Act, the administrator may issue a certificate stating the amount due, the amount remaining unpaid, including interest, and the name of the person by whom it is payable, and may file the certificate with a district registrar of the Supreme Court and when filed the certificate has the same force and effect, and all proceedings may be taken on it, as if it were a judgment of the court for the recovery of a debt for the amount stated in the certificate against the person named in it.

(2) Even though a person has mailed a notice of objection under section 19 or appealed to the Supreme Court under section 21 or applied for arbitration under section 22, the person must pay the amount of tax owing as set out in the notice of assessment prepared by the administrator under section 18 or 19 (5), and the administrator may exercise the administrator's powers to collect the amount owing if the person fails to pay the amount as provided by this Act.

Attachment

27 (1) If the administrator has knowledge or suspects that a person is or is about to become indebted or liable to make a payment to a taxpayer, the administrator may demand that the person pay the money otherwise payable to the taxpayer in whole or in part to the government on account of the taxpayer's liability under this Act.

(2) Without limiting subsection (1), if the administrator has knowledge or suspects that a person is about to

(a) advance money to a taxpayer,

(b) make a payment on behalf of a taxpayer, or

(c) make a payment in respect of a negotiable instrument issued by a taxpayer,

the administrator may demand that the person pay to the administrator on account of the taxpayer's liability under this Act money that would otherwise be advanced or paid.

(2.1) A demand under this section may be served by

(a) personal service,

(b) registered mail, or

(c) electronic mail or fax.

(3) If under this section the administrator demands that a person pay to the government on account of a taxpayer's liability under this Act money otherwise payable by that person to the taxpayer as interest, rent, remuneration, dividend, annuity or other periodic payment, the demand

(a) applies to all of those payments to be made by the person to the taxpayer until the liability under this Act is satisfied, and

(b) operates to require payments to the government out of each payment of the amount stipulated by the administrator in the demand.

(4) Money or a beneficial interest in money in a savings institution

(a) on deposit to the credit of a taxpayer at the time a demand is served, or

(b) deposited to the credit of a taxpayer after a demand is served

is money for which the savings institution is indebted to the taxpayer within the meaning of this section, but money on deposit or deposited to the credit of a taxpayer as described in paragraph (a) or (b) does not include money on deposit with, or deposited to the credit of, a taxpayer in the taxpayer's capacity as a trustee.

(5) A demand under this section continues in effect until

(a) the demand is satisfied, or

(b) 90 days after the demand is served,

whichever is earlier.

(6) Despite subsection (5), if a demand is made in respect of a periodic payment referred to in subsection (3), the demand continues in effect until it is satisfied unless no periodic payment is made or is liable to be made within 90 days after the demand is served, in which case the demand ceases to have effect on the expiration of that period.

(6.1) Money demanded from a person by the administrator under this section becomes payable

(a) as soon as the person is served with the demand, if the person is indebted or liable to make a payment to the taxpayer at the time the demand is served, or

(b) as soon as the person becomes indebted or liable to make a payment to the taxpayer, in any other case.

(7) A person who fails to comply with a demand under this section is liable to pay to the government an amount equal to the amount that the person was required by the demand to pay.

(8) The receipt of the administrator for money paid under this section is a good and sufficient discharge of the original liability to the extent of the payment.

(9) Money paid by any person to the government in compliance with a demand under this section is conclusively deemed to have been paid by that person to the taxpayer.

(10) If a person carries on business under a name or style other than the person's own name, the demand under this section may be addressed to the name or style under which that person carries on business and, in the case of personal service, the demand is deemed to have been validly served if it was left with an adult person employed at the place of business of the addressee.

(11) If persons carry on business in partnership, the demand under this section may be addressed to the partnership name and, in the case of personal service, the demand is deemed to have been validly served if it was served on one of the partners or left with an adult person employed by the partnership at the place of business of the partnership.

Lien on land for taxes

28 (1) All tax, costs and other amounts imposed under this Act are, on registration by the administrator in the proper land title office of a lien form claiming a lien and charge conferred by this subsection, a lien and charge on land the lien is filed against that is owned by the person liable to pay the tax, costs and other amounts, and the lien and charge has priority over charges, encumbrances or claims registered or attaching to the land after the registration of the lien.

(2) The administrator may apply under the Land Title Act to register the lien form in the same manner as a charge is registered.

(3) The lien form is sufficient for registration if it is in the prescribed form and signed by the administrator.

(4) Sections 89 and 90 of the Court Order Enforcement Act apply as if

- (a) the judgment debtor was the taxpayer,
- (b) the judgment creditor was the administrator,
- (c) the judgment was the lien, and
- (d) the certificate of judgment was the lien form.

Limitation period

29 (1) In this section, "proceeding" means

- (a) an action for the recovery of taxes under section 25,
- (b) the filing of a certificate under section 26,
- (c) the making of a demand under section 27, and
- (d) the registration of a lien under section 28.

(2) A proceeding may be commenced at any time within 7 years after the date on which liability arose for payment of the taxes claimed in the proceeding.

(3) Despite subsection (2), a proceeding that relates to a contravention of this Act or the regulations and that involves wilful default or fraud may be commenced at any time.

Exercise of powers for recovery of taxes or collections

30 (1) The powers conferred by this Act for the recovery of tax or money collected as tax, may be exercised separately, or concurrently or cumulatively.

(2) The liability of a person for the payment of tax under this Act is not affected by the fact that a fine has been imposed on or paid by the person in respect of a contravention of this Act.

Enforcement

31 (1) A person authorized by the administrator for any purpose related to the administration or enforcement of this Act may

(a) during normal office hours enter into a place where a business is carried on or where anything is done in connection with a business or where business records are or should be kept and inspect the records that relate or may relate to tax that is or may be payable under this Act,

(b) examine land described in a transfer or any land an examination of which may, in the person's opinion, assist in determining

(i) the accuracy of

(A) a return or other record required to be made, provided or kept under this Act, or

(B) information that is or should be in, or provided with, a return or record referred to in clause (A),

(ii) whether or not tax is payable under this Act, or

(iii) the amount of tax, if any, payable under this Act, and

(c) by registered letter or by a demand served personally, require from any person any information or additional information, or the production of any records within any reasonable time the person specifies, if it is reasonable to make the demand in order to determine the liability or possible liability to tax under this Act.

(2) If a record has been inspected or produced under this section, the person by whom it is inspected or to whom it is produced may make or cause to be made one or more copies.

(3) A document certified by the administrator or a person authorized by the administrator to be a copy made under this section is evidence of the nature and content of the original.

(4) A person must not obstruct a person doing anything that he or she is authorized by this section to do.

Confidentiality

32 Subject to sections 32.1 and 32.2, a ministry person who collects information or a record under this Act must not use the information or record or disclose the information or record to another person except as follows:

- (a) for the purposes of administering or enforcing this Act, another taxation Act, the Home Owner Grant Act or the Land Tax Deferment Act;
- (b) in court proceedings related to this Act or an Act referred to in paragraph (a);
- (c) under an agreement that
 - (i) is between the government and another government,
 - (ii) relates to the administration or enforcement of tax enactments, and
 - (iii) provides for the disclosure of information and records to and the exchange of similar information and records with that other government;
- (d) for the purpose of the compilation of statistical information by the government or the government of Canada;
- (e) to the British Columbia Assessment Authority.

Information obtained under certain Acts

32.1 (1) Subject to subsection (2), a ministry person who collects personal information as a result of a disclosure under section 13.1 (2) or (3) of the Home Owner Grant Act or section 13.1 of the Land Tax Deferment Act must not use the personal information or disclose the personal information to another person except as follows:

- (a) for the purposes of administering or enforcing this Act;
- (b) for the purposes of administering or enforcing any of the following Acts:
 - (i) the Home Owner Grant Act;
 - (ii) the Land Tax Deferment Act;
 - (iii) the Taxation (Rural Area) Act;
- (c) in court proceedings related to this Act or an Act referred to in paragraph (b) of this subsection.

(2) Subsection (1) (a) or (b) does not permit a disclosure to an employee of, or a person who is retained under a contract to perform services for, a municipality or a government agent office.

Information obtained under a taxation Act

32.2 If a ministry person collects information or a record under this Act as a result of a disclosure under another taxation Act, other than the Taxation (Rural Area) Act, the ministry person must not

use the information or record or disclose the information or record to another person for the purposes of administering or enforcing the Home Owner Grant Act or the Land Tax Deferment Act.

Access to records

33 (1) The British Columbia Assessment Authority and a land title office must provide assistance and access to their records to the administrator free of charge.

(2) Each of the following must provide assistance and access to their records to the administrator free of charge for the purpose of assisting the administrator in determining the past and present principal residences of an individual who applies for an exemption under section 5, 6, 12.02, 12.03 or 14 or a refund under section 7, 12.04 or 12.06 or makes an application under section 12.11 or 12.12:

(a) the British Columbia Hydro and Power Authority;

(b) the Insurance Corporation of British Columbia and the ministry of the minister responsible for the administration of section 3 or 25 of the Motor Vehicle Act, in respect of registration and licensing of motor vehicles and licensing and certification of drivers of motor vehicles.

Offences

34 (1) A person who fails to pay the tax imposed by this Act and the regulations commits an offence.

(2) A person commits an offence who does any of the following:

(a) makes or participates in, assents to or acquiesces in the making of a false or deceptive statement in a return or record required to be made or provided under this Act, or in information required to be provided under this Act;

(b) in order to evade remittance of tax owing by that person, destroys, alters, mutilates, secretes or otherwise disposes of a return or record of a transferor or transferee;

(c) in a record or return of a transferor or transferee, makes or assents to or acquiesces in the making of a false or deceptive entry or omits or assents to or acquiesces in the omission to enter a material particular;

(d) wilfully, in any manner, evades or attempts to evade compliance with this Act or the regulations or remittance or payment of taxes required by this Act or the regulations.

(3) If a corporation commits an offence under this section, every director, officer, employee or agent of the corporation who authorized, permitted or acquiesced in the offence also commits the offence.

(4) A corporation convicted of an offence under subsection (1) or (2) is liable to a fine equal to a minimum of

(a) the amount of tax not paid or remitted, with interest, plus

(b) an amount not exceeding

- (i) \$200 000, in the case of an offence in relation to the tax imposed under section 2.02, or
 - (ii) \$50 000, in any other case.
- (5) An individual convicted of an offence under subsection (1), (2) or (3) is liable to
- (a) a fine equal to
 - (i) the minimum of the amount of tax not paid or remitted, with interest, plus
 - (ii) an amount not exceeding
 - (A) \$100 000, in the case of an offence in relation to the tax imposed under section 2.02, or
 - (B) \$25 000, in any other case,
 - (b) imprisonment for not more than 2 years, or
 - (c) both fine and imprisonment.
- (6) Section 5 of the Offence Act does not apply to this Act or to the regulations.
- (7) In a prosecution under this section, the certificate signed by the minister or the authorized person stating the amount of tax and interest is evidence of the amount of tax and interest referred to in subsection (4) (a) or (5) (a) (i).
- (8) An information or complaint in respect of an offence under this Act may be for one or more than one offence, and no information, complaint, warrant, conviction or other proceeding in a prosecution under this Act is objectionable or insufficient only because it relates to 2 or more offences.
- (9) An action taken under this section does not suspend or affect any remedy for the recovery of any tax or amount payable under this Act.
- (10) Fines collected under this Act must be paid to the minister on behalf of the government.

Offences in respect of electronic returns

34.1 A person commits an offence if the person

- (a) incorporates his or her electronic signature into an electronic return without first complying with the provisions of this Act, or
- (b) incorporates the electronic signature of another person into an electronic return.

Limitation

35 (1) Subject to subsection (2), an information or complaint in respect of an offence against this Act must be laid or made within one year of the time when the matter of the information or complaint arose.

(2) An information or complaint in respect of an offence in relation to the tax imposed under section 2.02 must be laid or made within 6 years after the date that the matter of the information or complaint arose.

Administrator's certificate

36 For the purpose of any proceeding taken under this Act, a certificate signed by the administrator is evidence of the facts necessary to establish compliance with this Act and the regulations by the minister and the administrator.

Power to make regulations

37 (1) The Lieutenant Governor in Council may make regulations considered necessary or advisable for the purpose of carrying out this Act according to its intent and for supplying any deficiency in it.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:

- (a) respecting any matter for which regulations are contemplated under this Act;
- (b) exempting a person or class of person, a transferee or class of transferee, a taxable transaction or class of taxable transaction from tax under section 2 (1) (a) or from the requirement to file a return under section 2 (1) (b) and prescribing any conditions of exemption;
- (c) providing for the collection of tax;
- (d) providing for the refund of tax and prescribing the terms and conditions under which that refund may be made;
- (e) providing for the refund by the administrator of fees paid under the Land Title Act, except fees established by the Board of Directors under that Act, in respect of a taxable transaction;
- (f) providing for the method of calculating and ascertaining fair market value for the purposes of the definition of "fair market value";
- (g) providing for the method of calculating and ascertaining fair market value for the purposes of section 15;
- (h) providing for the method of calculating and ascertaining fair market value for the purposes of section 16;
- (i) providing for the payment of interest on any refund or rebate of tax authorized by this Act or the regulations, or on any money due to the government under this Act;
- (j) defining, for the purposes of this Act, any expression used but not defined in the Act;
- (k) respecting a return or form or class of return or form and the records required to accompany a return or form;

- (l) respecting the form and manner of records to be kept by transferors, transferees or persons to whom the tax is paid;
 - (m) providing that a regulation made under the authority of this Act is effective before its enactment;
 - (n) prescribing persons to whom the tax is payable;
 - (o) respecting arbitrations or classes of arbitrations and discretionary powers related to them, adopting all or part of the Arbitration Act or restricting or prohibiting judicial review of or appeals from an arbitration;
 - (p) respecting appeals from arbitrations or classes of arbitrations to court, entitlement to appeal, grounds for appeal, powers of the court on an appeal and procedure on an appeal;
 - (q) prescribing provisions to be included in a conservation covenant under section 16, which may vary for different conservation covenants and different classes of conservation covenants;
 - (r) respecting the payment of tax under section 2 (4);
 - (s) respecting the payment of tax under section 2 (5);
 - (t) respecting declarations;
 - (u) prescribing the form of electronic returns for the purposes of this Act;
 - (u.1) prescribing the time at which and the manner in which tax is to be paid by electronic means under section 2 (1.1) (a);
 - (v) prescribing the manner in which an electronic return is to be filed by electronic means under section 2 (1.1) (b);
 - (v.1) prescribing the manner in which electronic signatures are to be incorporated into electronic returns for the purposes of this Act;
 - (w) prescribing the information that must be included in electronic returns;
 - (w.1) prescribing the manner in which electronic returns are to be completed;
 - (x) specifying persons who are required to retain copies of electronic returns, and prescribing the period of retention, for the purposes of section 13.1 (5);
 - (y) exempting or authorizing the administrator to exempt any person from any of the provisions of this Act or the regulations respecting the filing of electronic returns.
- (2.1) Without limiting subsections (1) and (2), the Lieutenant Governor in Council may make regulations as follows:
- (a) for the purposes of paragraph (a) of the definition of "residential property" in section 2.01, prescribing land or improvements, or both, as land or improvements that are not residential property;
 - (b) for the purposes of paragraph (a) (ii) of the definition of "specified area" in section 2.01, excluding an area within the Greater Vancouver Regional District from being a specified area within the meaning of that definition;

(c) for the purposes of paragraph (b) of the definition of "specified area" in section 2.01, prescribing the treaty lands of the Tsawwassen First Nation as being a specified area within the meaning of that definition;

(d) for the purposes of paragraph (c) of the definition of "specified area" in section 2.01, prescribing an area that is not within the Greater Vancouver Regional District as being a specified area within the meaning of that definition;

(e) for the purposes of section 2.02 (4), prescribing a rate of tax that is not less than 10% and not greater than 20%;

(f) subject to conditions that may be specified in the regulation, exempting any of the following from tax under section 2.02 (3) (a) or from the requirement to provide information or records under section 2.02 (3) (b) or to file a form under section 2.02 (3) (c):

(i) a person or class of persons;

(ii) a transferee or class of transferees;

(iii) a taxable transaction or class of taxable transactions;

(g) in respect of tax under section 2.02 (3) (a) or in respect of the requirement to file a return under section 2 (1) (b), to provide information or records under section 2.02 (3) (b) or to file a form under section 2.02 (3) (c), and subject to conditions that may be specified in the regulation,

(i) deeming a foreign national or foreign corporation to be a person who is not a foreign national or foreign corporation, and

(ii) deeming persons within a class of foreign nationals or a class of foreign corporations to be persons who are not foreign nationals or foreign corporations;

(h) for the purposes of the description of "VRP" in section 2.03, providing for the method of determining the value of residential property.

(3) Regulations that may be made under this Act may be made retroactive to March 20, 1987 or a later date that the Lieutenant Governor in Council may determine and a regulation made retroactive is deemed to come into force on the date specified in the regulation.

(4) Subsection (3) does not apply to a regulation

(a) under section 2 (3),

(b) prescribing a period under section 2 (5), or

(c) under subsection (2.1) (c), (d), (e) or (h) of this section.

Regulations by the minister

37.1 The minister, for the purposes of the definition of "Habitat for Humanity" in section 4 (1), may make regulations designating a corporation that is operating in British Columbia.

Transition — tax imposed

38 Despite section 3, the tax payable under section 2 must be at the rate of .1% of the fair market value of the interest to be transferred under the taxable transaction if the taxable transaction is a transfer

(a) under a written interim agreement or option to purchase, made before March 20, 1987, whether or not the interim agreement or option was subject to conditions that were not satisfied before that date, if

(i) the application to register the transfer is made before December 31, 1987, and

(ii) a true copy of the interim agreement or option to purchase accompanies the return filed under section 2,

(b) under an executed taxable transaction in writing made before March 20, 1987, if

(i) the application to register the transfer is made before December 31, 1987, and

(ii) a true copy of the transfer documents accompanies the return filed under section 2,

(c) from a transferor who is a personal representative to a transferee who is a beneficiary of an estate of a deceased if the deceased died before March 23, 1987 and the transfer is tendered for registration before December 31, 1988,

(d) under an agreement for sale tendered for registration before March 23, 1987, if the purchaser under the agreement is the transferee of the transfer tendered for registration,

(e) to a transferee who has a leasehold estate with any term of years in land that was tendered for registration at the land title office before March 23, 1987 and the estate being transferred to the transferee is the fee simple in the same land,

(f) under a court order made before March 23, 1987,

(g) under an order absolute of foreclosure, if the order nisi of foreclosure was made before March 23, 1987, or

(h) under an option to purchase contained in a lease agreement in respect of Crown land if the lease agreement was entered into before November, 1987 and the Minister of Forests and Lands received written notice before January, 1989 of the transferee's intention to exercise the option.

Copyright (c) Queen's Printer, Victoria, British Columbia, Canada