

B.C. Reg. 74/88
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Property Transfer Tax Act
PROPERTY TRANSFER TAX REGULATION

Note: Check the Cumulative Regulation Bulletin 2014
for any non-consolidated amendments to this regulation that may be in effect.

[includes amendments up to B.C. Reg. 91/2013, April 1, 2013]

Point in Time

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Interpretation

1 In this regulation:

"Act" means the *Property Transfer Tax Act*;

"Crown grant" means an instrument in writing conveying Crown land in fee simple;

"Crown lease agreement" means an instrument in writing disposing of a leasehold estate in Crown land;

"minister" means the Minister of Finance;

"return" means an original return provided by the minister.

Part 1 — General

Filing of return

- 2 Except as provided in this regulation, a return shall be filed with the registrar of the land title office at which the application for registration of a taxable transaction is made.

Crown grant or Crown lease agreement

- 3 In the case of a transfer by a Crown grant or Crown lease agreement that is to be submitted directly by the Ministry of Agriculture and Lands to the land title office for registration on behalf of a transferee, the transferee must, on demand made by the administrator, remit tax and file a return with the administrator.

[en. B.C. Reg. 415/92.]

Municipal tax sales

- 4 In the case of a transfer of the fee simple interest in land by notice under section 420 of the *Local Government Act*, the transferee shall, on demand made by the administrator after being notified by the municipality under the *Local Government Act* that a notice under section 420 of that Act has been forwarded to the registrar of land titles, remit tax to and file a return with the administrator.

Refunds

- 5 (1) Repealed. [B.C. Reg. 91/2013, Sch. s. 8 (a).]
(2) Repealed. [B.C. Reg. 122/2010, s. (a).]
(3) Where tax is refunded to a person under section 23 (2) or (3) of the Act, the administrator may, in accordance with the *Financial Administration Act*, refund out of the consolidated revenue fund to that person the fees paid under the *Land Title Act*, except fees established by the Board of Directors under that Act, in respect of the transfer for which the refund of tax is made, less all cancellation fees.
(4) If a person
 - (a) has paid tax under the Act in respect of a taxable transaction, and
 - (b) has also paid tax under the *Provincial Sales Tax Act* in respect of a portion of the fair market value of the interest transferred under the same taxable transaction,

the administrator may refund to the person the amount of property transfer tax paid by that person in respect of the portion on which both property transfer tax and tax under the *Provincial Sales Tax Act* have been paid.

[am. B.C. Regs. 17/2005, Sch. 3, s. 4; 30/2006; 122/2010; 91/2013, Sch. s. 8.]

Interest

- 6 (1) Section 4 of B.C. Reg. 214/83 applies for the purposes of calculating interest on tax due to the government pursuant to a notice of assessment under section 18 of the Act and this interest shall be compounded every 30 days and calculated daily.
- (2) No interest is payable on tax refunded to a person under section 23 of the Act or section 5 of this regulation unless the administrator fails to refund the tax within the period of 60 days after the person establishes that he is entitled to the refund.
- (3) Commencing on the day after the period referred to in subsection (2), interest shall be paid on a refund referred to in that subsection.
- (4) Section 6 of B.C. Reg. 215/83 applies for the purpose of calculating interest on a refund referred to in subsection (2) and this interest shall be compounded every 30 days and calculated daily.

Part 2 – Valuation of Life Estates and Leases

Interpretation

- 7 (1) In this Part "**rent**" does not include an amount that is separately calculated under a lease agreement and is payable to a lessor in reimbursement for
- (a) taxes, or
 - (b) reasonable expenses relating to the operation of a multi-tenant premises of which the demised premises form a part.
- (2) In this Part, the fair market value of the demised premises under a lease agreement does not include the value of improvements made by the lessee for which the lessee is not and will not be reimbursed by the lessor.

Determination of fair market value of lease agreements and life estates

- 8 The fair market value of an interest to be transferred under a lease agreement or life estate shall for the purposes of this Act be determined in accordance with this Part.

Term defined

- 9 (1) In this Part, subject to section 10 and subsections (2) and (4), "**term**" means, in relation to a lease agreement, the sum of
- (a) the number of years for which a lessee has the right to occupy the demised premises, and
 - (b) the maximum number of years not counted under paragraph (a) that, by the exercise of rights or options to renew or extend the lease agreement, the lessee may occupy the demised premises.
- (2) Subject to subsection (4), the term of a lease agreement shall be the unexpired portion of the term on the date application is made to register or transfer the lease agreement under the [Land Title Act](#).
- (3) In this Part, subject to subsection (4), the term of a life estate shall be the number of years of life expectancy based on Table 3 remaining to the holder of the life estate on the date application is made to register the life estate under the [Land Title Act](#).
- (4) Where the term of a lease agreement or life estate would otherwise be expressed as a

fraction of a year or as a number of years plus a fraction of a year, the term shall be rounded up to the next whole number.

Fair market value of a lease modification agreement

- 10** (1) Where the term of a lease agreement is extended by a lease modification agreement registered under the *Land Title Act* on or after March 23, 1987, the lease modification agreement is a taxable transaction.
- (2) The term of the lease modification agreement for the purposes of this section is the sum of
- (a) the term of the lease agreement, before extension by the lease modification agreement, calculated under section 9 (1) without regard to section 9 (2) from the date the lease agreement was first executed, and
 - (b) the number of years, applying section 9 (4), by which the lease agreement is extended by the lease modification agreement.
- (3) For the purposes of subsection (2) (b), options or rights to renew or extend the lease agreement pursuant to the lease modification agreement shall be deemed to be exercised to give the maximum possible extension.
- (4) Where the term of the lease modification agreement is 30 years or less, its fair market value shall be the amount determined in accordance with the following formula:

$$ARP \times PVF$$

where

ARP = the annual rent payment to be made during the last year for which rents are fixed pursuant to the lease agreement as extended by the lease modification agreement;

PVF = the present value factor set out in Column 2 of Table 2 that is opposite the number of years in Column 1 that corresponds to the number of years applicable under subsection (2) (b).

- (5) Where the term of the lease modification agreement exceeds 30 years, section 14 applies for the purpose of calculating the fair market value of the lease modification agreement except that "P" shall equal the percentage in Column 2 of Table 1 that is opposite the period in Column 1 that corresponds to the number of years applicable under subsection (2) (b).
- (6) No tax is payable on a lease modification agreement having a term of 30 years or less.

Valuation of life estates

- 11** The fair market value of a life estate in land shall be the amount determined in accordance with the following formula:

$$\frac{VFS \times P}{P}$$

where

VFS = the fair market value of the fee simple of the land determined

(a) as though the life estate did not exist, and

(b) under paragraph (a) of "fair

market value" in section 1 of the Act;

P = the percentage in Column 2 of Table 1 that is opposite the period in Column 1 that corresponds to the term of the life estate.

Prepaid leases

12 The fair market value of a lease agreement shall be the amount of the rent where

- (a) the rent under the lease agreement is not subject to renegotiation and has been paid for the term of the lease agreement before the date of registration or will be paid within one year of that date, and
- (b) the lessor and the lessee deal with each other at arm's length.

Leases for a term not exceeding 30 years

13 (1) Where

- (a) section 12 does not apply,
- (b) the term of the lease agreement does not exceed 30 years, and
- (c) the lessor and the lessee deal with each other at arm's length,

the fair market value of the lease agreement shall, subject to an election under subsection (2), be the amount determined in accordance with the following formula:

$$\frac{ARP \times PVF}{P}$$

where

ARP = the annual rent payment to be made during the last year for which rents are fixed pursuant to a lease agreement;

PVF = the present value factor set out in Column 2 of Table 2 that is opposite the number of years in Column 1 that corresponds to the term of the lease agreement.

(2) The lessee may elect to calculate the fair market value of the lease agreement under section 14 where paragraphs (a), (b) and (c) of subsection (1) apply.

Other leases

14 (1) Subject to sections 13 and 15 and subsection (2), the fair market value of a lease agreement to which section 12 does not apply shall be the amount determined in accordance with the following formula:

$$\frac{VSI \times P}{P}$$

where

VSI = the fair market value, determined under paragraph (a) of "fair market value" in section 1 of the Act, of the fee simple interest in all the demised premises;

P = the percentage set out in Column 2 of Table 1 opposite the period in Column 1 that corresponds to the term of the lease agreement.

(2) For the purposes of subsection (1) where part of the improvements on a parcel of land are leased, the fair market value of the demised premises shall be determined in accordance with the following formula:

$$VSI \times P$$

$$\frac{X}{ARADP}$$

ARA
where

VSI = the fair market value, determined under paragraph (a) of "fair market value" in section 1 of the Act, of the land, including improvements, within which the demised premises are situated;

P = the percentage set out in Column 2 of Table 1 opposite the period in Column 1 that corresponds to the term of the lease agreement;

ARADP = the aggregate rentable area of the demised premises;

ARA = the aggregate rentable area of the improvements on the land within which the demised premises are situated.

Time share leases

- 15** Where section 12 or 13 does not apply and the lease agreement is a time share plan as defined in the *Real Estate Development Marketing Act*, the fair market value of the lease agreement shall be the amount determined in accordance with the following formula:

$$A \times \frac{D}{365.25}$$

where

A = the amount determined under section 14;

D = the number of days in a year on which the lessee is entitled to occupy the demised premises.

[am. B.C. Reg. 518/2004, Sch. s. 15.]

Part 3 — Principal Residence Exemption

Valuation of residential improvements

- 16** For the purposes of section 15 (2) (a) and (4) (a) of the Act, the fair market value of the interest in improvements transferred that are improvements classified under section 19 of the *Assessment Act* as property used for residential purposes shall be determined in accordance with the following formula:

$$\frac{VTT}{VFS} \times VRI$$

where

VTT = the fair market value in respect of the taxable transaction, determined in accordance with the Act and this regulation;

VFS = the value of the fee simple interest in the land to which the taxable transaction relates, 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 of the Act, and

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

VRI = the value of the improvements to which the taxable transaction relates that are improvements classified under section 19 of the *Assessment Act* as property used for residential purposes, determined

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

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

[en. B.C. Reg. 242/91.]

Valuation of land not including improvements

17 For the purposes of section 15 (2) (b) and (4) (b) of the Act, the fair market value of the land transferred, not including improvements, shall be determined in accordance with the following formula:

$$\frac{VTT}{VFS} \times VL$$

where

VTT = the fair market value in respect of the taxable transaction, determined in accordance with the Act and this regulation;

VFS = the value of the fee simple interest in the land to which the taxable transaction relates, determined in the same manner as under section 16;

VL = the value of the land to which the taxable transaction relates, not including improvements, 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 of the Act, and

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

[en. B.C. Reg. 242/91.]

Table 1

Column 1	Column 2
Term of Lease Agreement or Life Expectancy	Percentage of Fair Market Value of the Demised Premises or the Land subject to the life estate
5 years or less	40%
More than 5 years but not more than 10 years	50%

More than 10 years but not more than 20 years	60%
More than 20 years but not more than 30 years	70%
More than 30 years but not more than 40 years	80%
More than 40 years but not more than 50 years	90%
More than 50 years	100%

Table 2

Column 1 Term of Lease Agreement	Column 2 Present Value Factor (at 8%)
1	1.0
2	1.8
3	2.6
4	3.3
5	4.0
6	4.6
7	5.2
8	5.7
9	6.2
10	6.7
11	7.1
12	7.5
13	7.9
14	8.2
15	8.6
16	8.9
17	9.1
18	9.4
19	9.6
20	9.8
21	10.0
22	10.2
23	10.4
24	10.5
25	10.7
26	10.8
27	10.9
28	11.1
29	11.2
30	11.3

Table 3

Life Expectancy Table

AGE OF TRANSFEREE	MALE LIFE EXPECTANCY	FEMALE LIFE EXPECTANCY	AGE OF TRANSFEREE	MALE LIFE EXPECTANCY	FEMALE LIFE EXPECTANCY
0	71.88	78.98	28	45.99	52.30
1	71.67	78.65	29	45.05	51.33
2	70.73	77.70	30	44.11	50.36
3	69.77	76.74	31	43.17	49.39
4	68.80	75.77	32	42.22	48.42
5	67.84	74.79	33	41.28	47.45
6	66.86	73.81	34	40.34	46.48
7	65.88	72.83	35	39.39	45.51
8	64.90	71.84	36	38.45	44.55
9	63.91	70.86	37	37.52	43.59
10	62.92	69.87	38	36.58	42.63
11	61.94	68.88	39	35.65	41.68
12	60.95	67.90	40	34.72	40.73
13	59.97	66.91	41	33.80	39.78
14	59.00	65.93	42	32.88	38.84
15	58.04	64.95	43	31.97	37.90
16	57.10	63.97	44	31.06	36.97
17	56.16	63.00	45	30.16	36.04
18	55.23	62.02	46	29.27	35.11
19	54.31	62.05	47	28.39	34.19
20	53.39	60.08	48	27.52	33.28
21	52.47	59.11	49	26.66	32.37
22	51.55	58.14	50	25.81	31.47
23	50.63	57.16	51	24.97	30.57
24	49.71	56.19	52	24.14	29.68
25	48.78	55.22	53	23.33	28.80
26	47.86	54.25	54	22.52	27.93
27	46.92	53.27	55	21.73	27.06
56	20.95	26.20	79	7.25	9.39
57	20.18	25.35	80	6.85	8.84
58	19.43	24.51	81	6.48	8.32
59	18.69	23.68	82	6.12	7.82
60	17.96	22.85	83	5.78	7.34
61	17.25	22.03	84	5.45	6.88
62	16.56	21.22	85	5.14	6.45
63	15.88	20.42	86	4.85	6.04
64	15.21	19.63	87	4.57	5.65
65	14.57	18.85	88	4.30	5.28
66	13.93	18.09	89	4.05	4.93

67	13.32	17.33	90	3.82	4.60
68	12.72	16.59	91	3.59	4.29
69	12.14	15.86	92	3.38	3.99
70	11.58	15.14	93	3.19	3.71
71	11.03	14.44	94	2.96	3.39
72	10.49	13.75	95	2.65	2.99
73	9.98	13.08	96	2.27	2.51
74	9.48	12.42	97	1.84	1.99
75	9.00	11.78	98	1.41	1.50
76	8.53	11.15	99	1.05	1.10
77	8.09	10.54	100	0.79	0.81
78	7.66	9.95	101	0.60	0.61
			102 or older	0.50	0.50

[Provisions relevant to the enactment of this regulation: [Property Transfer Tax Act](#), R.S.B.C. 1996, c. 378, section 37 (2) (d) and (3)]