

Application of the Act to Multiple Transactions in Respect of the Same Land

Property Transfer Tax Act

This bulletin outlines application of the *Property Transfer Tax Act* where individual and corporate taxpayers split the transfer of a property to take advantage of the lower rate of tax provided for transfers with a fair market value under \$200,000. There are three common situations where transfers are split: those involving one transferee, those involving related individuals and those involving associated corporations.

Property transfer tax is a registration tax; it becomes payable when a transfer is registered in the land title office. If one certificate of title is registered, regardless of how many transferees are registered on the title, that transaction will be seen as one transaction for tax purposes. Even though the transferees may be claiming an interest in the property that is less than \$200,000, tax will be assessed on the total fair market value of the entire property. To be a valid split transfer, each interest acquired by each transferee must be registered on a separate title number.

Where the transaction is done under a Court Order, the transferee must petition the court to structure the order as separate transactions to allow each transferee to register a separate title at the land title office.

However, even if separate title numbers exist for transferees, there may be situations where the administrator will still consider separate transactions as amalgamated transactions for the purpose of assessing tax. Three of these situations are addressed by the Act.

Please note: This bulletin replaces Information Bulletins 1-A-87, 2-93 and 5-96.

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Recent Legislative Amendments

On May 1, 1996, the *Budget Measures Implementation Act* was introduced to amend the *Property Transfer Tax Act*. The amendments address situations where associated corporations split transactions to take advantage of the progressive tax rate. If certain conditions are met, the apparently separate transactions will be taxed as one transaction.

Split Transaction Involving One Transferee

Under section 3(2), where a purchaser acquires an interest in a property, and within six months acquires another interest in the same property, the rate of tax will be based on the total fair market value of both interests in the property. Despite registering two transfers in the land title office, the Act treats them as one transfer for tax purposes. For split purchases of one property to be valid for the purposes of the Act, they must be held by different, unrelated people.

Split Transactions Involving Related Individual Transferees

Under section 3(3), where a purchaser acquires an interest in property, and within six months, a related individual of the purchaser acquires a further interest in that same property, the rate of tax will be based on the total fair market value of both interests in the property. Despite there being two transfers registered in the land title office, and there being two registered owners, the Act treats them as one transfer for tax purposes.

Related Individuals

This section uses the term, related individual, which has a specific meaning in the Act. Only persons who are vertically related or is a spouse to the first purchaser will be considered a related individual.

Examples of people who are vertically related to the purchaser would be his mother, father, grandmother, grandfather, child, mother-in-law and grandfather-in-law. So, if the second purchaser was the first purchaser's mother, the two transactions would be treated as one.

Examples of people who are not vertically related to the purchaser would be his sister, brother, uncle, aunt or nephew. So, if the second purchaser was the first purchaser's sister, the two transactions would be treated separately.

Liability for Tax

Where there are two or more purchases of interests in a property, by related individuals, within six months of each other, the related purchasers will be jointly and severally liable for the taxes calculated on the combined fair market value of all the interests in the property. Joint and several liability means that the ministry may seek from all or any one or more of the purchasers, the full amount of tax due with respect to the transfers.

Split Transactions Involving Associated Corporations

Under section 3(4), associated corporations splitting transfers are now treated in the same way as the Act treats related individuals when transactions are split. Where one corporation acquires an interest in property, and within six months, an associated corporation acquires a further interest in that same property, the rate of tax will be based on the total fair market value of both interests in the property. Despite there being two or more interests in the property registered in the land title office, and despite there being two registered owners, they are treated as one for tax purposes.

Associated Corporations

Like the term, related individuals, the term, associated corporation, has a specific meaning within the Act. Associated corporations are those which are associated for purposes of section 256 of the *Income Tax Act (Canada)*.

Liability for Tax

Where there are two or more purchases of interests in a property, by associated corporations, within six months of each other, the associated corporations will be jointly and severally liable for the taxes calculated on the combined fair market value of all the interests in the property. Joint and several liability means that the ministry may seek from all or any one or more of the purchasers, the full amount of tax due with respect to the transfers.

Need more info?

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