

Exemption for Transfers to and from Trust Companies or the Public Trustee

Property Transfer Tax Act

This bulletin outlines the exemptions provided in sections 14(4)(p) and (p.1) of the *Property Transfer Tax Act*, where property is transferred to and from a trustee. Several conditions exist that must be met for the exemptions to be available.

This bulletin also outlines legislative amendments to this exemption which clarify the availability of the exemption.

If claiming this exemption from property transfer tax, claim code 25.

Please note: This bulletin replaces Information Bulletin 5-91.

Table of Contents

Recent Legislative Amendments.....	1
Exemption for Transfers from a Settlor to the Public Trustee or Other Trustee.....	2
Exemption for Transfers from the Trustee to the Settlor of the Trust.....	3

Recent Legislative Amendments

The *Budget Measures Implementation Act*, 1998 (Bill 2) introduced amendments to the Act concerning the exemption provided for transfers involving either the Public Trustee or another trust company under the *Financial Institutions Act* authorized to carry out trust business by a business authorization issued under that Act.

These amendments to section 14(4)(p) require that the settlor of the trust must have been the registered owner of the land immediately before it was transferred to the trustee.

These amendments also provided a definition of the term settlor as the person who contributed the land to the trust, or who contributed to the trust the assets that were used to acquire the land that is held in trust.

Finally, section 14(4) (p.1) was added to clarify that the exemption applies to both a transfer from the settlor to the trustee and a transfer from the trustee to the settlor.

Exemption for Transfers from a Settlor to the Public Trustee or Other Trustee

Section 14(4)(p) of the Act provides an exemption for certain transfers that involve a settlor and either the public trustee or another specific trustee. As discussed above, the recent amendments to the Act provide a definition of settlor that is to be used in this exemption.

The section states that some transfers from a settlor to the public trustee or a trustee may be exempt from property transfer tax. If the transfer involves a trustee that is not the public trustee, the Act requires that it must be a trust company under the *Financial Institutions Act* authorized to carry on trust business by a business authorization issued under that Act.

There are also several other conditions set out in this section for this exemption to be available:

1. the settlor must be a natural person,
2. the settlor must have been the registered owner of the fee simple interest in the land immediately before the transfer to the trustee,
3. the administration of the trust estate must be for the sole benefit of the settler, and
4. when the trust is terminated the land must go back to the settler or to the executor or administrator of the settlor's estate.

Exemption for Transfers from the Trustee to the Settlor of the Trust

Section 14(4) (p.1) has been added to the Act. This new section and the changes to section 14(4)(p) clarify that the exemption is available for transfers of property both from the settlor to the trustee, and to the settlor from the trustee.

To qualify for the exemption, the transfer from the trustee back to the settlor must meet the requirements set out in the section above.

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The information in this bulletin is for your convenience and guidance and is not a replacement for the legislation.