

Exemption for Transfers of Land Subject to a Conservation Covenant

Property Transfer Tax Act

This bulletin outlines the exemption provided under section 16 of the *Property Transfer Tax Act* where property is transferred and the purpose of the transfer is to protect or conserve that land in its natural state.

If claiming this exemption, claim code 43.

Please note: This bulletin replaces Information Bulletin 6-91.

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Requirements of the Exemption

Eligibility for this exemption has several requirements.

The covenant must:

- restrict the taxpayer,
- be in favour of the Crown,
- prevent the natural state of the land from being altered, and
- provide that it cannot be removed, changed or discharged without approval from the Lieutenant Governor in Council.

The restrictive covenant must be approved by the Lieutenant Governor in Council (Cabinet). Application is made through the Surveyor General Division of the Land Title and Survey Authority of British Columbia.

The covenant must be registered against the title to the land in the same way a covenant is registered under section 219(1) of the *Land Title Act*.

Claiming the Exemption

Where the Covenant is Registered at the Time the Title is Transferred

Where the covenant is registered against the title to the property at the time the transfer is filed, the transfer qualifies for the exemption.

When Payment of the Tax may be Deferred

There are situations where the taxpayer may request that payment of the tax due be deferred because he or she intends to register a conservation covenant against the property. Under section 16(5), where the administrator is satisfied that the taxpayer intends to register the covenant, a certificate may be issued deferring payment of the tax due for up to six months. For the tax to be deferred, the taxpayer must obtain the Administrator's Certificate and attach it to the tax return filed. If, after the six month period, the covenant has not been registered against the title, an assessment will be issued for the full amount of tax due with respect to the transfer.

When the Covenant is Registered AFTER the Title is Registered (Refund)

Under section 16(6) if, within one year of the transfer being registered, a conservation covenant is registered against the title to the land, the taxpayer may apply within that one year to the administrator for a full refund of the tax paid.

Where the Covenant is Discharged AFTER the Exemption has Been Granted

A conservation covenant registered against the title to property for the purpose of obtaining the exemption provided under section 16, cannot be changed, discharged or removed without the consent of the Lieutenant Governor in Council.

Section 16(8) states that where the covenant is discharged without the necessary consent after an exemption or refund has been granted, a property transfer tax return must be filed. The person who is registered as the owner of the property at the time the covenant was discharged, must pay the property transfer tax that is owed. The amount due is based on the value of the land when it was transferred to this person.

For the Covenant to be Discharged

A conservation covenant cannot be changed or discharged or removed without the consent of the Lieutenant Governor in Council.

Where there is an application to discharge a conservation covenant, the registrar of the land title office may refuse to grant the request if he or she has reasonable and probable grounds to believe that any of the following pre-conditions have not been met:

- the Lieutenant Governor in Council has approved the discharge,
- a tax return has been filed under section 16(8), or
- the tax owed under section 8 has been paid.

Need more info?

Online: gov.bc.ca/propertytransfertax

Email: pttenq@gov.bc.ca

Telephone: 236-478-1593 (Victoria)

Toll free: 1-888-841-0090

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