



May 2, 2012

RE: Property Transfer Tax Advance Ruling

Dear

I am responding to your letter of April 16, 2012, requesting an advance tax ruling with respect to exemption from property transfer tax ("PTT") for transfers proposed by your clients, and We received payment for this ruling on April 20, 2012.

I. BACKGROUND

I understand the facts of your request are as follows:

1. The properties in question (the "Property") are 2 parcels located in and legally described as follows:

2. is currently registered in the name of is currently registered in the name of

3. The parties were married on and divorced on

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Property Taxation Branch
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4. By agreements dated _____ (the "Original Agreements"), the parties agreed upon the division of matrimonial property. At the time the parties entered into the agreements, the Property was held jointly in the names of _____ and _____
5. Under the Original Agreements the parties agreed, among other things, that _____ would take full title to _____ and that _____ would take full title to _____
6. Pursuant to the Original Agreements, _____ interest in _____ was transferred to _____ and _____ interest in _____ was transferred to _____
7. The parties have subsequently determined that they are unhappy with the properties they have taken pursuant to the Original Agreements, and would like to trade them such that _____ has full title to _____ and _____ has full title to _____
8. To achieve this, the parties have entered into an agreement dated _____ amending the Original Agreements (the "Amending Agreement"). The Amending Agreement provides that the exchange of _____ and _____ between _____ and _____ will be subject to the payment from _____ to _____ of _____ and a ruling that property transfer tax will not be payable for the proposed transactions.

II. RULING REQUEST

You are requesting a ruling as to whether the proposed transfers of the Property are exempt from property transfer tax (PTT).

III. RULING

It is my ruling that the proposed transactions are exempt from PTT.

IV. LEGISLATION AND ANALYSIS

Legislation

PTT is due at the time an application to register a taxable transaction is made at the Land Title Office, and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax. Under the *Property Transfer Tax Act* (PTTA), all transfers are taxable transactions unless specifically exempt.

Section 14(3)(h) of the Act provides an exemption for 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 Relations Act*.

"Spouse" is defined in section 1(1) of the PTTA as meaning a person who is married to another person, or is living and cohabiting with another person in a marriage-like relationship, including a marriage-like relationship between persons of the same gender, and has been living and cohabiting in that relationship for a continuous period of at least 2 years.

"Separation agreement" is not defined in the PTTA. However, Ministry of Finance policy requires that a separation agreement must be an agreement that is signed by both parties, demonstrates the intention of the parties to transfer property, and is executed prior to the transfer of that property.

Section 14(3)(h) also requires that the property for which the exemption is claimed be transferred "pursuant to" a written separation agreement, or a court order. Therefore, as long as the transfer of property is occurring pursuant to a written separation agreement or a court order under the *Family Relations Act*, and the other criteria set out in the PTTA and policy are met, the exemption under section 14(3)(h) will be applicable.

Analysis

The proposed transfers of the Property are exempt from PTT. Based on the information you have provided:

- The transferor and transferee are "former spouses" for the purposes of the PTTA;
- The Amending Agreement meets the criteria set out in section 14(3)(h) of the PTTA and in Ministry of Finance policy, as it is an agreement that has been signed by both parties prior to the transfer of the Property, and demonstrates the intention of the parties to transfer the Property; and,
- Although the parties have already transferred the Property to each other under the Original Agreements, the transfers you are proposing would also be "pursuant to" a written separation agreement (the Amending Agreement).

This ruling is issued for the purposes of this transaction only, and with the understanding that all of the facts provided by you are accurate and complete. If upon auditing, facts are found to be different, the proposed transaction might not be PTT exempt.

In the event the PTTA is amended with respect to such transactions, and the proposed transfer is not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT, provided the transactions are completed in the manner described in the advance tax ruling request.

As noted above, after registration of the transfer for which this advance tax ruling has been provided, the Administrator may review the transaction. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the PTT returns submitted with the applications for registration at the Land Title Office. Alternatively, if you submit the applications for

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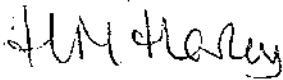
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registration electronically, please include the reference number in section G3 of the electronic tax return. Please also attach copies of the Amending Agreement, and the Original Agreements, to the PTT returns that are submitted.

Additional information may be obtained by accessing the Ministry of Finance web site and reviewing Tax Bulletin PTT 003 entitled "Property Transfer Tax Exemptions" at http://www.sbr.gov.bc.ca/documents_library/bulletins/PTT_003.pdf or by calling us in Victoria at **250-387-0604** or outside of Victoria by calling our toll-free Enquiry BC number at **1-800-663-7867** and requesting a transfer to 387-0604.

You can also e-mail us your questions to PTTENQ@gov.bc.ca.

Yours truly,



Hilary Harley
Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance

Ministry of Finance

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July 3, 2012

Re: Property Transfer Tax Advance Ruling

Dear

I am responding to your letter dated May 14, 2012 requesting a ruling with respect to exemption from property transfer tax ("PTT") under the *Property Transfer Tax Act* ("PTTA") for transfers proposed by your clients.

We received payment for this ruling on June 5, 2012.

I. BACKGROUND

I understand the facts of your request are as follows:

1. The property to be transferred (the "Property") is located in _____ is currently owned by _____ and is legally described as: _____
2. You are proposing to transfer _____ interests in the Property as follows:
 - a. _____ will transfer its one-half interest to _____ and
 - b. _____ will then transfer that one-half interest to _____
3. You have provided information regarding _____ from the Central Securities Register, and financial statements for the period ending June 30, 2011. The information indicates that both _____ are corporations. The shareholders of _____ are _____ The shareholders of _____ are _____ The Central Securities Register also indicates that _____ is a _____

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shareholder of _____ and you have confirmed that
You have advised that there are no corporate shareholders of _____

4. The information you have provided from BC Assessment indicates that the Property is comprised of _____ acres, with farm classification for the 2012 assessment year, and no assessed improvements on the Property.
5. You have advised that the Property is currently being used to grow _____ and that it has been farmed jointly by _____, with labour carried out by _____ and employees of _____.
6. Since the transfer of _____ interest in the Property to _____ and the transfer of that interest from _____ to _____ will be registered in the Land Title Office concurrently, _____ will not be actively farming the Property during the period of time between these transfers.

II. RULING REQUEST

You are requesting a ruling with respect to PTT exemptions for the proposed transactions.

III. RULING

It is my ruling that the proposed transfers are exempt from PTT.

IV. LEGISLATION AND ANALYSIS

A. Legislation and Analysis

PTT is due at the time an application to register a taxable transaction is made at the Land Title Office, and is based on the fair market value (FMV) of the land or interest in land transferred. The transferee is subject to the tax. Under the PTTA, all transfers are taxable transactions unless specifically exempt.

Transfer from _____ to _____

Section 14(3)(g) of the PTTA provides an exemption for the transfer of a family farm from a transferor that is a family farm corporation to a transferee, provided that the following criteria are met:

1. The **land transferred** has to be classified under the *Assessment Act* as farm land and must be a "**family farm**" as defined in section 14(1) of the PTTA. "Family farm" means farm land that is used, owned and farmed by one individual or by family members, or is used, owned and farmed by a family farm corporation.
2. The **transferor** must be a "**family farm corporation**" as defined in section 14(1) of the PTTA. "Family farm corporation" means a corporation of which the principal activity is farming farm land, and no shareholder is a corporation.

3. The **transferee** must be the **sole shareholder** of the family farm corporation, or the transferee must have one of the following **relationships with each other person who is a shareholder** of the family farm corporation:

- a. Transferee is a related individual of that shareholder;
- b. Transferee is a sibling of that shareholder;
- c. Transferee is a sibling of a spouse of that shareholder; or
- d. Transferee is a spouse of a sibling of that shareholder.

4. Sections 1(1) and 14(1) of the PTTA define "related individual" to mean a Canadian citizen or permanent resident as defined in the *Immigration and Refugee Protection Act (Canada)*, who is:

- A person's spouse, child, grandchild, great-grandchild, parent, grandparent or great-grandparent, the spouse of a person's child, grandchild or great-grandchild, or
- The child, parent, grandparent or great-grandparent of a person's spouse.

Section 1(1) defines "spouse" to mean a person who is married to another person or is living and cohabiting in a marriage like relationship, including persons of the same gender, and has been living and cohabiting in that relationship for a continuous period of at least 2 years. Section 14(1) adds to the definition the requirement that the spouse is either a Canadian citizen or a permanent resident as defined in the *Immigration and Refugee Protection Act (Canada)*.

Section 14(1) defines "family member" to mean a Canadian citizen or permanent resident as defined in the *Immigration and Refugee Protection Act (Canada)*, who is:

- A related individual;
- A person's sibling, cousin, niece, nephew, aunt or uncle;
- The spouse of a person's sibling, cousin, niece, nephew, aunt or uncle, or
- The sibling, cousin, niece, nephew, aunt or uncle of a person's spouse.

Based solely upon the information you have provided, it appears that the legislative requirements for PTT exemption in respect of the proposed transfer from _____ to _____ have been met. The 2012 report from BC Assessment confirms the Property is classified as farm land. The Property is a family farm as it is used, owned and farmed by _____ which is a family farm corporation. _____ is the transferor, and _____ is the transferee who is a shareholder of _____ and is a related individual of each other _____ shareholder. For the purposes of this ruling, we are assuming that all of these individuals are Canadian citizens or permanent residents as defined in the *Immigration and Refugee Protection Act (Canada)*.

Transfer from _____ to _____

Section 14(3)(f) of the PTTA provides an exemption for the transfer of a family farm from a transferor to a family farm corporation, provided that the following criteria are met:

1. As stated above, the **land transferred** has to be classified under the *Assessment Act* as farm land and must be a **"family farm"** as defined in section 14(1) of the PTTA.
2. The **transferor** cannot be transferring the property as a trustee.
3. The **transferee** must be a **"family farm corporation"** as defined in section 14(1) of the PTTA.
4. Each of the **shareholders** of the transferee family farm corporation must be the transferor, a related individual of the transferor, a sibling of the transferor or a spouse of a sibling of the transferor. As noted above, "related individual" is defined in sections 1(1) and 14(1) of the PTTA, and "spouse" is defined in section 1(1) and must also meet the citizenship or permanent residency requirement included in the definition of "related individual" in section 14(1).

Based solely on the documentation submitted, it appears that the legislative requirements for PTT exemption in respect of the proposed transfer from _____ to _____ have been met. As noted above, the 2012 report from BC Assessment confirms the Property is classified as farm land. At the date of transfer, the Property will be a family farm as defined in the PTTA since it will be owned by _____ and farmed by his family members and by a family farm corporation. You have not stated that _____ is transferring the Property as a trustee and for the purposes of this ruling we are assuming he is not doing so. As transferee, _____ is a family farm corporation, and its shareholders are the transferor, _____ and persons who are related individuals of _____

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you are accurate and complete. If upon auditing, facts are found to be different, the proposed transaction might not be PTT exempt.

In the event the PTTA is amended with respect to such transactions, and the proposed transfer is not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration of the transfers for which this advance tax ruling has been provided, the Administrator may review the transactions. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

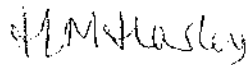
Please attach a copy of this ruling to the PTT return submitted with the application for registration at the Land Title Office. Alternatively, if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance web site and reviewing Tax Bulletin PTT 008 entitled "Exemptions for Transfers to and from a Family Farm Corporation" at:

http://www.sbr.gov.bc.ca/documents_library/bulletins/PTT_009.pdf

You may also call us in Victoria at **250-387-0604** or outside of Victoria by calling our toll-free Enquiry BC number at **1-800-663-7867** and requesting a transfer to 387-0604. You can also e-mail us your questions to PTTENQ@gov.bc.ca.

Yours truly,



Hilary Harley
Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance



July 30, 2012

Re: Property Transfer Tax Advance Ruling

Dear

I am responding to your letter of May 29, 2012, requesting an advance property transfer tax (PTT) ruling with respect to the proposed extension of the terms of three leases. We received payment for this ruling on June 26, 2012.

I. BACKGROUND

I understand the facts are as follows:

1. _____ currently leases three premises located in stratified commercial buildings located at _____ and in _____ (the Property), and comprised of the following:

2. According to the lease documents provided, the lessor of _____ is _____ and the lessor of _____ is The Owners, Strata Plan _____ (the Strata Corporation). You have advised that

3. According to the 2012 BC Assessment information you have provided, the current assessed value of the Property is _____ BC Assessment has not determined a value for the common property owned by the Strata Corporation.

4. The Property has several agreements registered on title, including the following agreements relating to _____

(a) By leases dated _____ leased to _____ (Original Lease and Original Lease). Each of these leases had a term of _____ commencing _____ and expiring _____ with options to renew for two further terms of _____ These leases were registered in the Land Title Office (LTO) on _____ You have noted in your correspondence that _____ was entitled to possession of _____ upon execution of the leases on _____ However, the leases appear to contemplate entitlement for _____ to occupy these premises starting at the commencement of the terms of the leases, on _____

(b) Lease modifications were registered in the LTO on July 25, 2002 (LM#1 _____ and LM#1 _____). Pursuant to these lease modifications, _____ exercised its first renewal option under each of the Original Lease and Original Lease.

(c) Further lease modifications were registered in the LTO on _____ (LM#2 _____ and LM#2 _____). Pursuant to these lease modifications, _____ agreed to lease _____ to _____ for further terms of _____ with terms commencing on _____ and ending on _____ The lease modifications provided that _____ would have no further right to renew the terms, unless _____ and _____ agreed otherwise in writing.

5. There are also a number of agreements relating to _____ The information provided in your correspondence indicates that the history of the leases with respect to _____ is similar to that for the leases of _____ as follows:

(a) The Strata Corporation leased _____ to _____ by agreement dated _____ (Original Lease). The initial term and options to renew were the same as for _____ However, the Original Lease was registered in the LTO on _____ You have also indicated that _____ was entitled to possession of the _____ upon commencement of the term of the lease on _____

(b) Lease modifications were registered in the LTO for _____ Premises on _____ (LM#1 _____) and _____ (LM#2 _____). The terms of these lease modifications, and options to renew, were the same as for the lease modifications for _____ as referred to in paragraph 4(b) and (c) above.

6. is now proposing to enter into further lease modification agreements with for (Proposed LM#3 and Proposed LM#3). is also proposing a further lease modification agreement with the Strata Corporation for the (Proposed LM#3). The terms of each of these lease modifications would be commencing on and ending on with no further rights for to renew the terms.

II. RULING REQUEST

You are requesting a ruling as to the application of the PTT to the registration of the Proposed LM#3 LM#3 and LM#3

III. RULING

The registrations of the proposed lease modifications are exempt from PTT.

IV. LEGISLATION AND ANALYSIS

Legislation

Under the *Property Transfer Tax Act* (PTTA), all transfers are taxable transactions, unless specifically exempt. The tax is due at the time an application to register a taxable transaction is made at the LTO and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax.

Section 1(1) of the PTТА defines "taxable transaction" as 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...*

(iii) *a right to occupy land under a lease agreement...*

(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...*

Section 1(1) of the PTТА defines "lease agreement" as:

(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.*

That section also defines "lease modification agreement" as "*an agreement between a lessor and a lessee that extends the term of the lease*".

Therefore, under section 1(1) of the PTTA, a "taxable transaction" includes registration of a lease agreement, and of an agreement providing an option to renew or extend the term of a lease, including a lease modification agreement.

Section 10(1) of the *Property Transfer Tax Regulation (PTT Regulation)* provides that 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. However, under section 10(6) of the PTT Regulation no tax is payable on a lease modification agreement if its term is 30 years or less.

Section 10(2) of the PTT Regulation sets out the method for calculating the term of a lease modification agreement. The term is the sum of:

- (a) the maximum number of years that the lessee has the right to occupy the leased premises under the original lease, including the years for which the lessee may exercise options to renew or extend the term of the lease, without regard for the date when the original lease was registered in the LTO; and
- (b) the maximum number of years that the original lease agreement was extended by the lease modification agreement, including the years for which the lessee may exercise options to renew or extend the term of the lease in accordance with the lease modification agreement.

Analysis

As per the facts presented and documentation submitted, we determined that the registrations of the Proposed LM#3 LM#3 and LM#3 are exempt from PTT.

Each of these lease modifications is a "lease modification agreement" as defined in the PTTA, since each is an agreement between a lessor and a lessee that extends the term of the lease. Therefore, the term of each of these lease modifications is calculated under section 10(2) of the PTT Regulation.

Applying the method in section 10(2) of the PTT Regulation, the maximum number of years that has the right to occupy under the original leases for each premises (including the terms of the first and second lease modification agreements for each of those premises) is commencing on and ending on The term of the proposed new lease modification agreement for each of the premises is commencing on and ending on Therefore, for the purposes of section 10(2) of the PTT Regulation, the term of each of the Proposed LM#3 LM#3 and LM#3 is

Since each of these agreements is a "lease modification agreement" with a term of each is exempt from PTT under section 10(6) of the PTT Regulation, and PTT will not be payable upon registration of these agreements in the LTO.

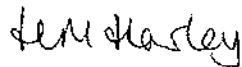
This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you or your clients are accurate and complete. In the event the PTTA or PTT Regulation are amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the property transfer tax return submitted with the application for registration at the LTO, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance and Revenue Web site at www.gov.bc.ca/fin/ or by calling us in Victoria at 250-387-0604 or outside of Victoria by our toll free Enquiry BC number at 1 800 663 7867 and requesting a transfer to 387-0604 or email your questions to PTTENQ@gov.bc.ca.

Yours truly,



Hilary Harley
Director, Audit and Compliance
Property Taxation Branch Ministry of Finance



May 30, 2012

Re: Property Transfer Tax Advance Ruling

Dear

I am responding to your letter of April 3, 2012, requesting an advance property transfer tax (PTT) ruling with respect to a proposed lease modification involving

We received payment for this ruling on April 17, 2012.

I. BACKGROUND

I understand the facts are as follows:

1. currently leases property (the "Property"), located in
from
The Property is comprised of parcels.
and are legally described as follows:

2. The Property has several agreements registered on title.
3. By leases dated _____ ("**Original Leases**,"
 leased the _____ to _____
 and to _____ The lease of _____
 was assigned to _____ as of _____.
4. By leases dated _____ and _____ ("**Original Leases**,"
 the _____ were leased by _____ to _____.
5. On _____ the Original Leases for the _____ and the _____
 were surrendered pursuant to another lease ("**Renewal Lease**")
 which was entered into between _____ and _____ The Renewal Lease was for
 the Property in its entirety _____
 It provided that the Original Leases were renewed, and their
 terms extended _____ It also provided for a right of renewal for a further
 term _____ expiring on _____ Therefore, under the Renewal Lease,
 acquired a right to occupy the Property for up to _____ years in total.
6. Two agreements between _____ and _____ dated _____ modified the
 Renewal Lease. The first of these agreements ("**First
 Modification**") provided that the Renewal Lease was surrendered only with respect to
 the _____ for the purpose of renewing the Renewal Lease for these
 premises. The second agreement ("**First Modification**")
 modified the Renewal Lease only in respect of the _____
 However, neither of these agreements extended the term of the Renewal Lease for the
 or the _____.
7. Two further agreements between the parties were made on _____ making further
 modifications to the Renewal Lease. The first agreement relates only to the
 ("**Second Modification**"), while the
 second is with respect to the
 ("**Second Modification**"). These agreements make modifications relating to calculation of
 rent for the balance of the Renewal Lease term.
8. An application will be made for subdivision of the Property, to alter the lot lines as
 follows:

9. You have advised that once the portions of land are subdivided and consolidated, the _____ and the _____ will be equal in size.

10. _____ and _____ now propose to enter into an agreement that would make further modifications to the renewal lease ("**Third Modification of Renewal Lease**"). This agreement deems the _____ to include the _____ and exclude the _____ It will also deem the _____ to include the _____ and exclude the _____ It provides that the square footage area of the _____ and _____ will not change in any material respect. _____ have also become parties to the agreement, as the lenders of _____ to consent to the changes in configuration of the Property and confirm these changes will not contravene the terms of the lending arrangements between them and _____ The Third Modification of Renewal Lease does not change the term of the lease as provided for under the Renewal Lease.

II. RULING REQUEST

You are requesting a ruling as to the application of the PTT to the proposed registration of the Third Modification of Renewal Lease.

III. RULING

The proposed registration of the Third Modification of Renewal Lease is **not a taxable transaction under the PTTA.**

IV. LEGISLATION AND ANALYSIS

Legislation

Under the *Property Transfer Tax Act* (PTTA), all transfers are taxable transactions, unless specifically exempt. The tax is due at the time an application to register a taxable transaction is made at the LTO and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax.

Section 1 of the PTTA defines the term "taxable transaction" to include the following lease transactions:

- a transaction purporting to transfer or grant a right to occupy land under a lease agreement;
- a transaction extending the term of a lease agreement by a lease modification agreement;
- a transaction 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; and

- a transaction involving 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.

Section 1 of the PTTA defines the term "lease agreement" to mean an agreement by which a leasehold estate is granted or assigned or by which an option to renew or extend the term of a lease is granted, including a lease modification agreement. A "lease modification" is defined as an agreement between a lessor and a lessee to extend the term of the lease.

Section 10(1) of the *Property Transfer Tax Regulation* ("PTT Regulation") stipulates that, when the term of a lease agreement is extended by a lease modification agreement, the lease modification agreement is a taxable transaction. Under section 10(2), the term of the lease modification agreement is determined to be the sum of 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 the number of years by which the lease agreement is extended by the lease modification agreement.

Under section 9(1) of the PTT Regulation, subject to section 10 and subsections (2) and (4), the "term" of a lease agreement is calculated by adding: (a) the number of years for which a lessee has the right to occupy the leased premises, and (b) the maximum number of years not counted under (a) that, by exercise of rights or options to renew or extend the lease agreement, the lessee may occupy the leased premises.

Section 10(6) of the PTT Regulation provides that no tax is payable on a lease modification agreement if its term is 30 years or less.

Analysis

As per the facts presented and documentation submitted, we determined that **PTT will not be payable** in relation to registration of the Third Modification of Renewal Lease between
and

The Third Modification of Renewal Lease is not a "lease agreement" as defined in the PTTA, as it is not granting or assigning a leasehold estate in the Property, or granting an option to renew or extend the term of a lease.

leasehold estate in the Property was granted by
on under the Renewal Lease, the terms of which have been modified by
subsequent modifications in The Third Modification of Renewal Lease is simply
amending the Renewal Lease to alter the lot lines between two of the parcels that comprise the
Property for which the leasehold estate has already been granted. The parties to the
Renewal Lease will not be changing, nor will the property for which the leasehold estate has
been granted, since the alteration of the lot lines will merely result in a portion of the
being subdivided and consolidated with the

and a portion of the

being subdivided and consolidated with the

The Third Modification of Renewal Lease is also not a "lease modification agreement" as defined in the PTTA, as it is not extending the term of a lease agreement. The term of the Renewal Lease has previously been extended by the lease modification agreements that were registered in the LTO on _____ and _____

Since the Third Modification of Renewal Lease is neither a lease agreement nor a lease modification agreement as those terms are defined in the PTTA, it is **not a taxable transaction under the PTTA**, and PTT will not be payable when this agreement is registered in the Land Title Office.

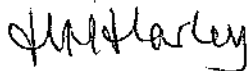
This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you or your clients are accurate and complete. In the event the PTTA or PTT Regulation are amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the property transfer tax return submitted with the application for registration at the LTO, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance and Revenue Web site at www.gov.bc.ca/fin/ or by calling us in Victoria at 250-387-0604 or outside of Victoria by our toll free Enquiry BC number at 1 800 663 7867 and requesting a transfer to 387-0604 or email your questions to PTTENQ@gov.bc.ca.

Yours truly,



Hilary Harley
Director, Audit and Compliance
Property Taxation Branch Ministry of Finance



June 4, 2012

Please deliver the following pages to:

Name:

Branch/Company:

City:

Phone Number:

FAX Number:

From:

Name: Kelly Dunsdon, Policy Analyst

Phone Number: (250) 356-8961

FAX Number: (250) 953-3094

Number of pages transmitted (including cover page): 6

If you do not receive all pages, please call the sender immediately.

Additional Information/Comments:

Re: Advance Tax Ruling – Property Transfer Tax –

Hi

Further to our conversation this afternoon, please replace the Advance Tax Ruling (ATR) faxed to your office on May 29th, 2012, with the attached **revised** ATR. I have revised page 2 of the ATR to clarify that the ruling has been requested with respect to application of the property transfer tax to the registration of the "Proposed Lease" that is described in paragraph 8 on page 2. Apologies for any inconvenience this may have caused.

Kelly



May 29, 2012

Re: Property Transfer Tax Advance Ruling

Dear

I am responding to your letter of March 29, 2012, requesting an advance tax ruling regarding exemption from property transfer tax ("PTT") for a proposed lease agreement between your client, and

We received payment for this ruling on April 17, 2012, and a copy of the proposed lease on May 1, 2012.

I. BACKGROUND

I understand the facts of your request are as follows:

1. The property involved is located in and is legally described as:

(the "Property")
2. The Property has several agreements registered on title.
3. The first agreement is a lease ("Original Lease") between as lessee, and as lessors, and as guarantor. It was registered in the Land Title Office (LTO) on (LTO Registration #). The initial term of the Original Lease was years, commencing on and ending on . The Original Lease included an option to renew for 2 further terms of years each.
4. A second agreement between the parties ("Lease Modification Agreement #1") dated was registered in the LTO on (LTO Registration #). Under this agreement, the parties amended the Original Lease to provide

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for 2 further renewal periods of years each, commencing on and . They also agreed to release the guarantor from all obligations under the Original Lease.

5. A third agreement between the parties ("**Lease Modification Agreement #2**") dated _____ was registered in the LTO on _____ (LTO Registration # _____). Under this agreement, the parties amended the Original Lease to provide for 2 further renewal periods of _____ years each, commencing on _____ and _____.
6. A fourth agreement between the parties ("**Lease Modification Agreement #3**") dated _____ was registered in the LTO on _____ (LTO Registration # _____). Under this agreement, the parties amended the Original Lease to provide for one further renewal period of _____ years, commencing on _____.
7. A fifth agreement between the parties ("**Lease Modification Agreement #4**") dated _____ was registered in the LTO on _____ (LTO Registration # _____). Under this agreement, the parties amended the Original Lease to provide for one further renewal period of _____ years, commencing on _____.
8. _____ now wish to register a lease agreement (the "**Proposed Lease**") with an 18 month term commencing on _____ and ending on _____. The Proposed Lease would also include an option to renew for a further term of 5 years, such that it will have a possible term including renewals of 6 years and 6 months. You have advised that _____ leases other premises in the vicinity of the Property and, for business reasons, wishes to align all of its leases so that they renew at the same time. You have also advised that the Original Lease no longer meets the needs of the parties.

II. RULING REQUEST

You are requesting a ruling as to the application of the PTT to the proposed registration of the Proposed Lease.

III. RULING

The registration of the Proposed Lease is exempt from PTT.

IV. LEGISLATION AND ANALYSIS

Legislation

Under the *Property Transfer Tax Act* (PTTA), all transfers that are taxable transactions are subject to PTT, unless specifically exempt. The tax is due at the time an application to register a taxable transaction is made at the LTO and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax.

Section 1(1) of the PTTA defines "taxable transaction" as 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...*

(iii) *a right to occupy land under a lease agreement...*

(e) *between a lessor and a less of land such that, following the transaction, that less 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...*

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...*

Section 1(1) of the PTTA defines "lease agreement" as:

- (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.*

That section also defines "lease modification agreement" as "an agreement between a lessor and a lessee that extends the term of the lease".

Therefore, under section 1(1) of the PTTA, a "taxable transaction" includes registration of a lease agreement, and of an agreement providing an option to renew or extend the term of a lease, including a lease modification agreement.

Section 14(4)(o) of the PTTA provides an exemption for the registration of a taxable transaction if the transaction is 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".

Section 10(6) of the Property Transfer Tax Regulation ("PTT Regulation") provides that no tax is payable on a lease modification agreement if its term is 30 years or less.

The PTT Regulation sets out the methods for calculating the terms of lease agreements and lease modification agreements.

Under section 9(1) of the PTT Regulation, the term of a lease agreement is calculated from the date the application is made to register the lease in the LTO, and consists of the unexpired portion of the lease as follows:

- (a) The number of years for which the lessee has the right to occupy the demised premises under the lease, plus
- (b) The maximum number of years that, by the exercise of options to renew the lease, that the lessee may occupy the demised premises.

Under section 10(2), the term of a lease modification agreement is determined by calculating:

- (a) the term of the original lease agreement, before extension by the lease modification agreement, as determined under section 9 (1), from the date the lease agreement was first executed, plus
- (b) the number of years by which the lease agreement is extended by the lease modification agreement.

Analysis

As per the facts presented and documentation submitted, we determined that the registration of the Proposed Lease between _____ is exempt from PTT.

The Proposed Lease is a "lease agreement", not a "lease modification agreement", as defined in the PTTA and according to Property Taxation Branch policy, since:

- It is an agreement that grants a leasehold estate and options to renew or extend the term of the lease, and
- It does not make reference to the Original Lease.

Therefore, the term of the Proposed Lease is calculated under section 9(1) of the PTT Regulation, and will consist of the unexpired portion of the lease from the date the application is made to register it in the LTO, plus the maximum number of years that, by exercising options to renew, _____ may occupy the Property. Since the Proposed Lease provides for a term of 18 months, with an option to renew for a further term of 5 years, the term of the Proposed Lease if registered on the date its term is to commence, will be 6 years and 6 months.

Since the term of the Proposed Lease will not exceed 30 years, the exemption in section 14(4)(o) of the PTTA is applicable and no PTT will be payable upon registration of the Proposed Lease in the LTO.

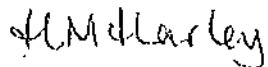
This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you or your clients are accurate and complete. In the event the PTTA or PTT Regulation are amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the property transfer tax return submitted with the application for registration at the LTO, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance and Revenue Web site at www.gov.bc.ca/fin/ or by calling us in Victoria at 250-387-0604 or outside of Victoria by our toll free Enquiry BC number at 1 800 663 7867 and requesting a transfer to 387-0604 or email your questions to PTTENQ@gov.bc.ca.

Yours truly,



Hilary Harley
Director, Audit and Compliance
Property Taxation Branch Ministry of Finance



July 26, 2012

Re: Property Transfer Tax Advance Ruling

Dear

I am responding to your letter received in our office on June 29, 2012, requesting an advance tax ruling with respect to exemption from property transfer tax ("PTT") for a transfer proposed by your clients,

We received payment for this ruling on July 20, 2012.

I. BACKGROUND

I understand the facts of your request are as follows:

1. The properties in question (the Property) are 2 parcels located in _____ and legally described as follows:

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Victoria, BC V8T 4K6
PII: 250 387 - 0602
FAX: 250 953 - 3094
Page 1 of 5

IV. LEGISLATION AND ANALYSIS

Legislation

PTT is due at the time an application to register a taxable transaction is made at the Land Title Office, and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax. Under the *Property Transfer Tax Act* (PTTA), all transfers are taxable transactions unless specifically exempt.

Section 14(3)(f) of the PTTA provides an exemption for the transfer of a family farm from a transferor to a family farm corporation, provided that certain eligibility criteria are met.

For the transfers you have proposed to be exempt from PTT:

1. The land transferred has to be classified under the *Assessment Act* as farm land and must be a "family farm" as defined in section 14(1) of the Act. "Family farm" means farm land that is used, owned and farmed by one individual and/or family members, or is used, owned and farmed by a family farm corporation.
2. The **transferor** cannot be transferring the property as a trustee.
3. The **transferee** is a family farm corporation and each shareholder of the family farm corporation is the transferor, a related individual, a sibling or spouse of a sibling of the transferor under section 14(3)(f).

Sections 1(1) and 14(1) of the PTTA define "related individual" to mean a Canadian citizen or permanent resident as defined in the *Immigration and Refugee Protection Act* (Canada), who is:

- a person's spouse, child, grandchild, great-grandchild, parent, grandparent or great-grandparent, the spouse of a person's child, grandchild or great-grandchild, or
- the child, parent, grandparent or great-grandparent of a person's spouse.

Section 1(1) defines "spouse" to mean a person who is married to another person or is living and cohabiting in a marriage-like relationship, including persons of the same gender, and has been living and cohabiting in that relationship for a continuous period of at least 2 years. Section 14(1) adds to this definition the requirement that the spouse is either a Canadian citizen or a permanent resident as defined in the *Immigration and Refugee Protection Act* (Canada).

Section 14(1) defines "family member" to mean a Canadian citizen or permanent resident as defined in the *Immigration and Refugee Protection Act* (Canada), who is:

- a related individual
- a person's sibling, cousin, niece, nephew, aunt or uncle
- the spouse of a person's sibling, cousin, niece, nephew, aunt or uncle, or
- the sibling, cousin, niece, nephew, aunt or uncle of a person's spouse.

Section 14(1) also defines "family farm corporation" as a corporation of which the principal activity is farming the farm land, and no shareholder is a corporation.

Analysis

Provided that the corporate reorganizations occur as described on page 2, paragraph 8 above, the proposed transfer of interests in the Property from _____ to _____ are exempt from PTT under section 14(3)(f) of the PTTA, for the following reasons:

- The Property is classified under the *Assessment Act* as farm land for the 2012 assessment year.
- Applying the definitions in section 14(1) of the PTTA, the Property is a "family farm" as it is owned by the transferor _____ and is being used and farmed by her and her family members, and by _____ which are "family farm corporations".
- _____ is not transferring the Property as a trustee.
- As transferee of interests in the Property, _____ is a "family farm corporation" as defined in section 14(1) of the PTTA. The financial statements for _____ confirm that the company's principal activity is _____
Provided that the corporate reorganizations occur as described on page 2, paragraph 8 above, there will be no corporate shareholders in _____
- You have confirmed that there will be no other shareholders of _____ other than the transferor _____ who are related individuals as defined in sections 1(1) and 14(1) of the PTTA. For the purposes of this ruling, we have assumed that all of these individuals are Canadian citizens. If this assumption is incorrect, a revised ruling will be required.

This ruling is issued for the purposes of this transaction only, and with the understanding that all of the facts provided by you are accurate and complete. If upon auditing, facts are found to be different, the proposed transaction might not be PTT exempt.

In the event the PTTA is amended with respect to such transactions, and the proposed transfer is not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT, provided the transactions are completed in the manner described in the advance tax ruling request.

As noted above, after registration of the transfer for which this advance tax ruling has been provided, the Administrator may review the transaction. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the PTT return submitted with the application for registration at the Land Title Office. Alternatively, if you submit the application for registration electronically, please include the reference number in section G3 of the electronic tax return.

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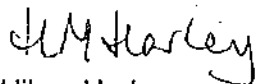
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Additional information may be obtained by accessing the Ministry of Finance web site and reviewing Tax Bulletin PTT 009 entitled "Exemptions for Transfers to and from a Family Farm Corporation" at http://www.sbr.gov.bc.ca/documents_library/bulletins/PTT_009.pdf or by calling us in Victoria at **250-387-0604** or outside of Victoria by calling our toll-free Enquiry BC number at **1-800-663-7867** and requesting a transfer to 387-0604.

You can also e-mail us your questions to PTTENQ@gov.bc.ca.

Yours truly,



Hilary Harley
Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance



November 13th, 2012

Re: Property Transfer Tax Advance Ruling

Dear

I am responding to your correspondence of July 10, 2012 requesting an advance property transfer tax ("PTT") ruling on behalf of your clients,

We received payment for this ruling on July 20, 2012.

Subsequently, additional information to allow us to complete the ruling was received on August 2 and more recently on October 15, 2012.

I. BACKGROUND

I understand the facts are as follows:

1. The property in question is currently owned by _____ and is legally described as:

("the Property")

2. On _____ a contract of purchase and sale for the Property was signed by _____ A transfer of the Property was subsequently registered in the Land Title Office ("LTO") on _____. At that time, the Property was registered in the name of _____. The Property has remained registered in that name.
3. You have advised that registration of title in the name of _____ was an error, and have provided a statutory declaration of _____ describing how the error occurred.
4. According to the declaration, when _____ purchased the Property he intended to register title to it in the name of _____ not to _____. At the date of LTO registration, _____ were the sole shareholders, and _____ was the sole director, of both of those companies.

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Victoria, BC V8T 4K6
PH: 250 387 - 0602
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5. In his declaration, _____ states that in _____ he learned that _____ no longer exists, as it has been part of a number of re-organizations with other companies in which he was involved as director, officer and/or shareholder, and with other corporations with which he has no involvement or knowledge. As a result of those re-organizations, the company is now operating as _____. _____ also states that he has no beneficial interest in _____ and has indicated that at no time during any of the corporate re-organizations was the Property considered to be an asset of _____ or any of its successors.
6. In his declaration, _____ states that since transfer of the Property was registered on _____ he has mistakenly believed that _____ was the legal owner of the Property, and that _____ have paid all property taxes and costs of maintaining the Property.
7. You are now proposing to register a transfer of the Property to _____ which is the successor to _____ are the sole shareholders and directors of _____
8. You have provided a copy of the 2012 BC Assessment report which states that the value of the Property is _____
9. You have also provided copies of the signed contract of purchase and sale, pages from the initial public offering of _____ pages from the registers of members and directors of _____ and documentation regarding the corporate history of _____ and its successor _____ and role in that company.
10. You have advised that additional evidence regarding the asserted original intention of to register the Property in the name of _____ is not available, as the notary public who prepared documents relating to transfer of the Property is no longer in practice. You cannot advise if or when you will be in a position to provide a statutory declaration from an officer of _____, stating that company has never intended to hold title to the Property.
11. Our records indicate that when the transfer to _____ was registered on _____ PTT in the amount of _____ was paid, based on a declared market value of _____. The tax return filed at that time states that _____ is the purchaser of the Property.

II. RULING REQUEST

You are requesting a ruling regarding the application of PTT to the proposed transfer. Specifically, you have asked if the transfer will be exempt from PTT on the basis that it is necessary to correct an ownership registration error that occurred in _____ and has been ongoing since then.

III. RULING

The proposed transfer is a taxable transaction for which PTT will be due when the transfer is registered in the LTO.

IV. LEGISLATION AND ANALYSIS

Legislation

Under the *Property Transfer Tax Act* ("PTTA"), all transfers are taxable transactions, unless specifically exempt. Under section 2 of the PTТА, the tax is due at the time an application to register a taxable transaction is made at the LTO and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax.

Section 3.1 of the PTТА applies to tax payable on the registration of a correcting transaction. A "correcting transaction" is defined in section 3.1(1) of the PTТА as "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".

Section 3.1(1) defines "original transaction" as "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".

Section 3.1(3) of the PTТА provides that when a correcting transaction is registered, the amount of PTT paid by the transferee in respect of the original transaction is deemed to be tax paid by that person for the correcting transaction. The PTT is deemed to have been paid by the transferee on the date the correcting transaction is registered. This means that if PTT has already been paid on the original transaction, it will be applied to the correcting transaction. For the purposes of a correcting transaction, section 3.1(2) of the PTТА provides that the fair market value of a correcting transaction is deemed to be the fair market value of the property as declared at the time the original transaction was registered.

When assessing whether a transfer is a "correcting transaction", the Property Taxation Branch requires evidence that supports the taxpayer's asserted intention when the property was transferred under the original transaction. This includes the contract of purchase and sale, and lawyers' notes and clients' instructions. To qualify as a "correcting transaction" under the PTТА, it is not sufficient for the purchaser to simply state that he or she intended a conveyance different from that which was registered.

Analysis

Based on the facts as you have stated them and the documents you have provided, there is insufficient evidence demonstrating that the registration of the Property in the name of _____ was in error.

The documents provided do not include sufficient evidence that the original intention of _____ was to register the Property in the name of _____ rather than _____. The contract of purchase and sale does not indicate that the purchase is being made by or on behalf of _____.

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of _____, nor does the PTT return that was filed in _____ when the transfer was registered indicate that. It appears from the certificates of incorporation for _____ that at the date the transfer of Property was registered, _____ did not exist in that name, as a Certificate of Change of Name had been issued by the Registrar of Companies on _____ changing the company's name to _____. A certificate changing the company name back to _____ was not issued until _____ after transfer of the Property was registered in the LTO.

You have been unable to provide any notes or correspondence between _____ and the notary public who handled the transaction, reflecting _____ intention to register the Property in the name of _____. You have also been unable to provide a declaration from _____ confirming that company has not intended to hold title to the Property.

Therefore, the proposed transfer from _____ to _____ is not a "correcting transaction" under the PTTA, and PTT will be due based on the market value of the Property at the time the transfer is registered in the LTO. Upon registration of the transfer, you must file a General PTT Return and attach a copy of this ruling to the return.

Alternatively, if you submit the application for registration electronically, please include the reference number of this ruling on the electronic tax return. For instructions on completing the electronic form, please refer to the Ministry of Finance Tax Bulletin "PTT 011".

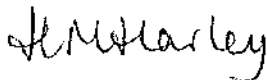
This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you or your clients are accurate and complete. In the event the PTTA or PTT Regulation are amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Additional information may be obtained by reviewing the Ministry of Finance Tax Bulletin entitled "Transfers to Correct a Conveyance Error", which is found on the Ministry of Finance web site at http://www.sbr.gov.bc.ca/documents_library/bulletins/PTT_011.pdf

You may also call us in Victoria at 250-387-0604 or outside of Victoria by our toll free Enquiry BC number at 1 800 663 7867 and request a transfer to 387-0604, or email your questions to PTTENQ@gov.bc.ca.

Yours truly,



Hilary Harley
Director, Audit and Compliance
Property Taxation Branch Ministry of Finance



November 15, 2012

Re: Property Transfer Tax Advance Ruling

Dear

I am responding to your correspondence dated May 18, 2012, which was received in our office on July 30, 2012. You have requested a ruling with respect to exemption from property transfer tax for the proposed registration of an Assignment of a Lease from the

We received payment for this ruling on August 20, 2012.

I. BACKGROUND

I understand the facts of your request are as follows:

1. Your client, _____ owns _____ in _____ which is legally described as:

(the "Property").

2. _____ entered into a lease (the "Lease") for a portion of the _____ Property in _____ The term of the lease is _____ expiring on _____ It is registered in the Land Title Office ("LTO").

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3. _____ assigned all of its right, title and interest in the _____ Lease to _____ by an assignment dated _____ (the "Assignment"). The Assignment was not registered in the LTO.
4. _____ amalgamated with _____ on _____ to form _____ under the *Canada Business Corporations Act* ("CBCA").
5. Subsequently, on _____ entered into a new lease (the "Lease") with respect to the portion of the Property that had been leased under the _____ Lease. The _____ Lease provides that it supersedes the _____ Lease, which has no further force or effect after _____. The _____ Lease was not registered in the LTO.
6. _____ was dissolved on _____ under the CBCA.
7. You propose to register the Assignment in the LTO. You have advised that this will be done concurrently with registration of the discharge of the original Lease.

II. RULING REQUEST

You are requesting a ruling as to whether registration of the Assignment is exempt from property transfer tax (PTT).

III. RULING

The proposed transaction is exempt from PTT.

IV. LEGISLATION AND ANALYSIS

A. Legislation

PTT is due at the time an application to register a taxable transaction is made at the Land Title Office and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax. Under the *Property Transfer Tax Act* (PTTA), all transfers are taxable transactions unless specifically exempt.

Section 1(1) of the PTTA defines "taxable transaction" as 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...*
- (iii) *a right to occupy land under a lease agreement...*

Section 1(1) of the PTTA defines "lease agreement" as:

- (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.*

Therefore, under section 1(1) of the PTTA, a "taxable transaction" includes registration of a lease agreement.

Section 14 of the PTTA provides exemptions for certain transfers, provided that all of the criteria as described in each section are strictly met. Section 14(4)(o) of the PTTA provides an exemption for the registration of a taxable transaction if the transaction is 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".

The PTT Regulation sets out the method for calculating the terms of lease agreements. Under section 9(1) of the PTT Regulation, the term of a lease agreement is calculated from the date the application is made to register the lease in the LTO, and consists of the unexpired portion of the lease as follows:

- (a) The number of years for which the lessee has the right to occupy the demised premises under the lease, plus
- (b) The maximum number of years that, by the exercise of options to renew the lease, that the lessee may occupy the demised premises.

B. Analysis

As per the facts presented and documentation submitted, we determined that the registration of the Assignment is **exempt from PTT**.

The Assignment is a "lease agreement" as defined in the PTTA since it is an agreement that assigns a leasehold estate. As a lease agreement, when the Assignment is registered in the LTO, the transaction will be a "taxable transaction" as defined in the PTTA since it will be "purporting to transfer or grant... a right to occupy land under a lease agreement".

As a lease agreement, the term of the Assignment is calculated under section 9(1) of the PTT Regulation, and will consist of the unexpired portion of the lease from the date the application is made to register the Assignment in the LTO, plus the maximum number of years that, by exercising options to renew, has the right to occupy the Property. Since the discharge of the Lease will be registered concurrently with registration of the Assignment, the remaining term of the lease agreement at the time of registration of the Assignment is zero, and the transaction is eligible for exemption under section 14(4)(o) of the PTTA. No PTT will be payable upon registration of the Assignment.

This ruling is issued for the purposes of this transaction only, and with the understanding that all of the facts provided by you or your clients are accurate and complete. In the

event the PTTA or PTT Regulation are amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

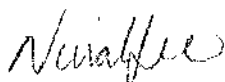
Please attach a copy of this ruling to the property transfer tax return submitted with the application for registration at the LTO, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

After registration, the transaction for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the property transfer tax return submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance and Revenue Web site at www.gov.bc.ca/fin/ or by calling us in Victoria at 250-387-0604 or outside of Victoria by our toll free Enquiry BC number at 1 800 663 7867 and requesting a transfer to 387-0604 or email your questions to PTTENQ@gov.bc.ca.

Yours truly,



 Hilary Harley
Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance



September 24, 2012

Re: Property Transfer Tax Advance Ruling

I am responding to your correspondence of May 10, 2012 and August 14, 2012, requesting an advance property transfer tax ("PTT") ruling on behalf of your clients,
We received
payment for this ruling on September 6, 2012.

I. BACKGROUND

I understand the facts are as follows:

1. The property in question is legally described as:

("the Property")

2. The Property is currently registered in the Land Title Office ("LTO") in the names of
3. In purchased the Property and intended to register it in their names, with holding an undivided 99/100 interest, and holding an undivided 1/100 interest.
4. However, when the transfer was registered in the LTO on the wrong schedule was attached to the Form A transfer and the incorrect ratio of ownership was registered. Title to the Property was registered in the names of as tenants in common, each with a 50% interest in the Property.

5. You have provided a copy of the PTT Return that was filed when transfer of the Property was registered. It reflects the originally intended ratio of ownership, indicating that is acquiring a 99% interest in the Property, and that is acquiring a 1% interest in the Property.
6. You have also provided a copy of correspondence dated between you and In that correspondence, you advise that you "can set up the title with you having 99% and 1%", and confirms his intention to proceed in this manner. The correspondence indicates that registration of title in this way is necessary for mortgage purposes.
7. In order to correct the error, you are proposing that will transfer 49% of her interest in the Property to such that he will hold a 99% interest and will hold a 1% interest, as originally intended.
8. Our records indicate that when the transfer to was registered on PTT in the amount of was paid, based on a declared fair market value of

II. RULING REQUEST

You are requesting a ruling regarding the application of PTT to the proposed transfer. Specifically, you have asked if exemption code 35 (transfer for the purpose of reconveying property that was conveyed in error, as provided for in section 14(4)(t) of the *Property Transfer Tax Act*, or "PTTA") is applicable.

III. RULING

The proposed transfer is a "correcting transaction" as defined in section 3.1(1) of the PTTA. The PTT that was paid by your clients when the original transaction was registered in the LTO on will be applied to the correcting transaction. If the PTT paid on the original transaction is not correct, a Notice of Assessment will be issued for the additional PTT due, or a refund will be issued.

IV. LEGISLATION AND ANALYSIS

Legislation

Under the *Property Transfer Tax Act* ("PTTA"), all transfers are taxable transactions, unless specifically exempt. Under section 2 of the PTTA, the tax is due at the time an application to register a taxable transaction is made at the LTO and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax.

Section 14(4)(t) of the PTTA provides that if a taxable transaction entitled the transferee, on compliance with the *Land Title Act*, to registration in a Land Title Office, that transferee is exempt from payment of PTT if the transfer is for the purpose of reconveying land that was either:

- Transferred in error, or
- In respect of which an error was made in the description or survey under which title to the land was registered.

Therefore an exemption from PTT is only available under this provision for a transfer that, as a step toward correcting a conveyancing error, returns title back to the state in which it existed immediately before the erroneous transfer was made (i.e., the property is transferred back to the original owner).

Section 3.1 of the PTTA applies to tax payable on the registration of a correcting transaction. A **"correcting transaction"** is defined in section 3.1(1) of the PTTA as "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".

Section 3.1(1) defines **"original transaction"** as "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".

Section 3.1(3) of the PTTA provides that when a correcting transaction is registered, the amount of PTT paid by the transferee in respect of the original transaction is deemed to be tax paid by that person for the correcting transaction. The PTT is deemed to have been paid by the transferee on the date the correcting transaction is registered. This means that if PTT has already been paid on the original transaction, it will be applied to the correcting transaction.

Under section 18 of the PTTA, the administrator may make a determination of the fair market value or tax owing and, if it is determined that the correct amount of tax was not paid in respect of the original transaction, a Notice of Assessment will be issued indicating the PTT owing or overpaid.

For the purposes of a correcting transaction, section 3.1(2) of the PTTA provides that the fair market value of a correcting transaction is deemed to be the fair market value of the property as declared at the time the original transaction was registered.

Analysis

Based on the facts as you have stated them and the documents you have provided, it appears that the _____ transfer to _____ was made in error since the wrong ratio of ownership was registered. Section 14(4)(t) is not applicable in this case since you are not proposing a transfer that would return title back to the state in which it existed immediately before the erroneous transfer was made (i.e., you are not proposing that the property is transferred back to the individuals that were the owners of the Property immediately before the registration).

Section 3.1 of the PTTA applies in this case. The _____ transfer is an "original transaction" as defined in section 3.1(1) of the PTTA. The proposed transfer of a 49% interest in the Property from _____ is a "correcting transaction" as defined in section 3.1(1) of the PTTA, which is a taxable transaction for which no exemption is available. However, while this transfer will not be exempt from PTT, our records indicate that PTT in the amount of _____ was paid by _____ in respect of the original transaction on _____. Pursuant to section 3.1(3) of the PTTA, this amount will be applied to the

correcting transaction and tax will be deemed to have been paid by your clients at the date of registration of the original transaction.

Upon registration of the correcting transaction in the LTO, you must file a General PTT Return and attach a copy of this ruling to the return. However, do not remit the tax since the tax paid on the original transaction from October 29, 2010 will be applied to the correcting transaction. If the PTT paid on the original transaction is not correct, a Notice of Assessment will be issued.

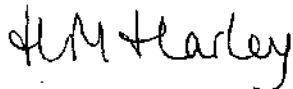
Alternatively, if you submit the application for registration electronically, please include the reference number of this ruling on the electronic tax return. For instructions on completing the electronic form, please refer to the Ministry of Finance Tax Bulletin "PTT 011". Please note that, since you have obtained a ruling, you will not need to include the attachments listed in the Tax Bulletin.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you or your clients are accurate and complete. In the event the PTTA or PTT Regulation are amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Additional information may be obtained by accessing the Ministry of Finance and Revenue Web site at www.gov.bc.ca/fin/ or by calling us in Victoria at 250-387-0604 or outside of Victoria by our toll free Enquiry BC number at 1 800 663 7867 and requesting a transfer to 387-0604 or email your questions to PTTENQ@gov.bc.ca.

Yours truly,



Hilary Harley
Director, Audit and Compliance
Property Taxation Branch Ministry of Finance



October 3, 2012

Re: Property Transfer Tax Advance Ruling #1282

Dear

I am responding to your letter of September 13, 2012, requesting an advance tax ruling on exemption from property transfer tax ("PTT") for transfers proposed by your clients,

We received payment in full for this ruling on September 21, 2012.

I. BACKGROUND

I understand the facts of your request are as follows:

1. The properties in question (the "Property") are contiguous parcels of land located in
and are legally described as follows:

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Property Taxation Branch
1802 Douglas Street- 4th floor
Victoria, BC V8T 4K6
PH: 250 387 - 0602
FAX: 250 953 - 3094

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2. Lot is currently registered in the name of Lots and are currently registered in the name of
3. The first proposed transaction would be to apply to the Registrar of Land Titles to transfer title to the Property from and to a trustee registered as such under the *Land Title Act* (LTA) for the purpose of consolidating the 3 parcels into a single lot and filing a subdivision plan.
4. The second proposed transaction would be for the trustee, following filing of the subdivision plan, to transfer the newly consolidated lot back to the original owners and
5. You have provided 2012 BC Assessment information showing that the assessments of the Property total Lot has no improvements and its assessed value is You have also advised that since the assessments were completed the improvements on each of Lot and Lot have been demolished and therefore you believe the improvement values on each of these lots (which are each) should be deducted to arrive at the present values. If so, the value for Lot would be while the land value for Lot would be This would bring the total assessed value of the Property to
6. You have advised that your clients' proportionate shares of the total fair market value of the Property prior to the subdivision are as follows:
and;
7. You have also advised that following transfer of the newly consolidated lot from the trustee to , the proportionate share each holds will be the same as the proportionate shares held prior to the consolidation and subdivision (i.e., the newly consolidated lot will be transferred to as to an undivided interest, and to as to an undivided interest).

II. RULING REQUEST

You are requesting a ruling as to whether the proposed transfers of the Property to the trustee, and the subsequent transfers to are exempt from property transfer tax (PTT).

III. RULING

It is my ruling that the proposed transfers to the trustee will be **exempt from PTT**.

The transfers from the trustee to will also be **exempt from PTT**, provided that the information you have provided is accurate and each original owner's proportionate share of the fair market value of the newly consolidated lot immediately following the transfer to them does not exceed their proportionate share of the fair market value of the Property immediately before Lots were consolidated for the purposes of subdivision.

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FAX: 250 953 - 3094

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IV. LEGISLATION AND ANALYSIS

Legislation

PTT is due at the time an application to register a taxable transaction is made at the Land Title Office, and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax. Under the *Property Transfer Tax Act* ("PTTA"), all transfers are taxable transactions unless specifically exempt.

Section 14 of the PTTA provides exemptions for certain transfers, provided that all of the criteria as described in each section and subsection are strictly met.

Section 14(4)(k) provides a PTT exemption for the transfer to a trustee registered as such under the LTA, by two or more registered owners of adjacent parcels of land, in order to complete a subdivision plan.

Section 14(4)(k.1) provides a PTT exemption for the transfer from the trustee back to the original owners, after filing of the subdivision plan. This latter exemption only applies if the original owners' proportionate shares of the fair market value of the new parcels created by the subdivision, calculated immediately after the subdivision, are not greater than their proportionate share of the fair market value of the original parcels, calculated immediately before the subdivision.

Analysis

The criteria for exemption under section 14(4)(k) of the PTTA will be met, and the transfer of the Property from _____ to the trustee will be exempt from PTT, as long as the trustee is registered as such under the LTA, adjacent parcels are being transferred to the trustee to facilitate their subdivision, and all new parcels created by the subdivision are transferred back to _____ from the trustee after the subdivision plan is registered.

Part 7, Division 2 of the LTA sets out the requirements in relation to the subdivision of land. If the Registrar of Land Titles accepts that the proposed transaction meets the requirements of the LTA and the plan of subdivision is registered, a subsequent transfer of the newly consolidated lot from the trustee back to the original owners, _____ will also be eligible for a PTT exemption under section 14(4)(k.1) as long as neither _____ nor _____ receive a greater proportionate share of the fair market value of that lot than they had in the original parcels. If this is not the case, they will not be eligible for the PTT exemption and PTT will be payable by them based on their increase in the proportionate share of fair market value. This would be calculated in accordance with section 3(3.4) of the PTTA.

This ruling is issued for the purposes of the proposed transactions only, and with the understanding that all of the facts provided by you are accurate and complete. If upon auditing, facts are found to be different, the proposed transactions might not be PTT exempt.

In the event the PTTA is amended with respect to such transactions, and the proposed transfer is not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT, provided the transactions are completed in the manner described in the advance tax ruling request.

As noted above, after registration of the transfer for which this advance tax ruling has been provided, the Administrator may review the transaction. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the PTT return submitted with the application for registration at the Land Title Office. Alternatively, if you submit the application for registration electronically, please include the reference number in section G3 of the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance web site and reviewing Tax Bulletin PTT 009 entitled "Exemptions for Transfers in the Course of Subdivisions" at http://www.sbr.gov.bc.ca/documents_library/bulletins/PTT_006.pdf or by calling us in Victoria at **250-387-0604** or outside of Victoria by calling our toll-free Enquiry BC number at **1-800-663-7867** and requesting a transfer to 387-0604.

You can also e-mail us your questions to PTTENQ@gov.bc.ca.

Yours truly,



for
Hilary Harley
Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance



October 12, 2012

Re: Property Transfer Tax Advance Ruling

Dear

I am responding to your e-mail of September 17, 2012, requesting a ruling with respect to exemption from property transfer tax for a proposed transfer of strata lots and common property. We received payment for this ruling on September 28, 2012.

I. BACKGROUND

I understand the facts of your request are as follows:

1. Strata Plan is located in Strata Lots are currently owned by The legal descriptions of Strata Lots are included in Attachment 1 to this letter.
2. The first proposed transaction is for to transfer each of Strata Lots to The Owners, Strata Plan for the purpose of consolidating each of the strata lots with the Common Property of Strata Plan
3. Once Strata Lots are consolidated with the Common Property of Strata Plan the second proposed transaction is to transfer the newly-consolidated parcel from The Owners, Strata Plan back to This will allow the newly-consolidated parcel to be consolidated with a neighbouring parcel of land owned by (legally described as

II. RULING REQUEST

You are requesting a ruling as to whether the proposed transactions are exempt from property transfer tax (PTT).

III. RULING

The proposed transfer of Strata Lots _____ from _____ to The Owners, Strata Plan _____ is exempt from PTT.

The second proposed transaction, transferring the newly-consolidated parcel to _____ will be subject to PTT based on the increase in the proportion of fair market value that was received in accordance with section 3(3.21) of the PTTA.

IV. LEGISLATION AND ANALYSIS

A. Legislation

PTT is due at the time an application to register a taxable transaction is made at the Land Title Office and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax. Under the *Property Transfer Tax Act* (PTTA), all transfers are taxable transactions unless specifically exempt.

Section 14 of the PTTA provides exemptions for certain transfers, provided that all of the criteria as described in each section are strictly met.

Section 14(3) (p.3) provides an exemption for 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.

If a transferee's proportionate share of the fair market value of the parcels involved in the strata plan amendment increases as a result of the amendment, the increase in value is taxable under section 3(3.21) of the PTTA. That section sets out the formula for

determining the fair market value of the increase in proportionate share, for the purposes of calculating the PTT. PTT is assessed and payable on the net increase in the transferee's proportionate share of the fair market value of the parcels involved in the strata plan amendment.

B. Analysis

Division 1 of Part 15 of the *Strata Property Act* sets out the rules in regards to the amendment of strata plans that lead to adding, consolidating or subdividing strata lots. Sections 80 and 253 of the *Strata Property Act* establish what is required to subdivide and/or dispose of common property.

If the Registrar of Land Titles accepts that the two proposed transfers meet the requirements of Division I Part 15, or section 80 or 253 in combination with Division 1, Part 15, these transfers are eligible for an exemption under section 14(3)(p.3) of the PTTA.

However, section 14(3)(p.3) further requires that _____ have the same proportionate share in the fair market value of the newly-consolidated lot after amendment of the strata plan as it had in Strata Lots _____ and the unit entitlement of those strata lots to the Common Property of Strata Plan _____ prior to the amendment of the strata plan. In your letter you have indicated that, as a result of the second transaction, _____ will be newly acquiring the part of the Common Property that was located to the south of Strata Lot _____. Therefore, the second proposed transaction will be subject to tax based on the increase in the proportion of fair market value that was received by _____ in accordance with section 3(3.2) of the PTTA.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you are accurate and complete. If upon auditing, facts are found to be different, the proposed transaction might not be PTT exempt.

In the event the Act is amended with respect to such transactions and the proposed transfer is not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the Property Transfer Tax, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transaction for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the property transfer tax return submitted with the application for registration at the Land Title Office, or if you submit the application for

registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by reviewing the Ministry of Finance Tax Bulletin entitled "Exemptions for Transfers in the Course of Subdivisions" at:

http://www.sbr.gov.bc.ca/documents_library/bulletins/PTT_006.pdf

or by calling us in Victoria at **250-387-0604** or outside of Victoria by our toll free Enquiry BC number at **1 800 663 7867** and requesting a transfer to **387-0604** or email your questions to **PTTENQ@gov.bc.ca**.

Yours truly,



Hilary Harley
Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance

ATTACHMENT 1 TO ADVANCED TAX RULING

**Legal descriptions of strata lots to be consolidated
with common property of Strata Plan**



January 22, 2013

Re: Property Transfer Tax Advance Ruling

Dear

I am responding to your letter dated December 7, 2012, requesting an advance tax ruling (ATR) on the application of the property transfer tax (PTT) for transfers proposed by your clients,

We received payment for this ruling on December 21, 2012.

I. BACKGROUND

I understand the facts of your request are as following.

1. The properties in question (the Property) are parcels of land legally described as:

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1802 Douglas Street- 4th floor
Victoria, BC V8T 4K6
PH: 250 387 - 0602
FAX: 250 953 - 3094

2. The first proposed transaction would be to deposit and register at the Land Title Office (LTO) pre-plan sliver transfers between the parcels mentioned above in order to obtain changed lot lines of the initial parent parcels.
3. You have provided us with both the pre sliver transfer plans and the post sliver transfer plans as well as with a plan that shows the individual sliver transfers itemized in detail (**See Appendix A**).
4. The second proposed transaction, following the changes to the original parent lot lines, would be the registration of a subdivision plan and the subdivision of the new parent lots into lots (shown on the subdivision plan).

Please note that the use or not of a trustee during the subdivision process can change the application of the PTT to the second proposed transaction. For the taxpayer's benefit we addressed the scenario where a trustee is used and there might be a PTT exemption available for the subdivision of the newly created parent lots created as a result of the sliver transfers.

II. RULING REQUEST

You are requesting a ruling as to the application of the PTT in regards to the calculation of the fair market value (FMV) for the sliver transfers requesting guidance as to how the owners are to calculate it.

You are requesting a ruling as to the application of the Property Transfer Tax Act (PTTA) to the subdivision of the newly created parent parcels into lots. Finally, you are requesting some guidance in regards to filing the PTT forms (Form A) and some technical questions related to the issue. Due to the technical nature of the latter questions and the fact that they are not addressed in the legislation, the answers will be provided in the **Appendix A** attached and will not be binding. Should you have questions or concerns on the latter issue you can always contact the Branch for clarification.

III. RULING

A. It is my ruling that the proposed sliver transfers will be taxable transactions **not exempt from PTT.**

B. The transfers to a trustee and from the trustee back in the name of the original owners **might be exempt from PTT,** provided that the requirements in sections 14(4)(k)-(k.1) of the PTTA will be met accordingly.

IV. LEGISLATION AND ANALYSIS

A. PTT is due at the time an application to register a taxable transaction is made at the LTO, and is based on FMV of the land or interest in land transferred. The transferee is subject to the tax. Under the PTTA, all transfers are taxable transactions unless specifically exempt. There is no provision in the PTTA to exempt sliver transfers.

Transfers such as the pre-plan sliver transfers are taxable transactions for which PTT is payable on the FMV of the interest transferred as of the date of registration of the transfers. As per your submission there will be 13 transfers (8 PTT tax returns) to obtain the desired lot line readjustments. As indicated above, each of the 13 transfers, once registered at the LTO will become taxable transactions for which PTT is payable on the FMV as of the day of registration (**see Appendix A for more detailed explanation on how to file**).

B. Section 14 of the PTTA provides exemptions for certain transfers, provided that all of the criteria as described in each section and subsection are strictly met.

Section 14(4)(k) provides a PTT exemption for the transfer to a trustee in order to complete a subdivision plan. The transfer to the trustee will be exempt from PTT, as

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long as the trustee is registered under the Land Title Act (LTA) as a trustee and the adjacent parcels are being transferred to the trustee only to facilitate their subdivision and all of the newly created parcels by the subdivision are transferred back to the original owners after the subdivision plan is registered. The trustee does not retain any interest in the property (**the details on how to file the PTT tax returns are addressed in Appendix A**).

Section 14(4)(k.1) provides a PTT exemption for the transfer from the trustee back to the original owners. Part 7, Division 2 of the Land Title Act (LTA) sets out the requirements in relation to the subdivision of land. If the Registrar of Land Titles accepts that the proposed transaction meets the requirements of the LTA, and the plan of subdivision is registered, a subsequent transfer of the Property from the trustee back to the original owners might also be eligible for a PTT exemption under section 14(4)(k.1) as long as neither of the owners receive a greater proportionate share of the FMV of the Property than they had in the original parcels. If this is not the case, they will not be eligible for the PTT exemption and PTT will be payable by them based on their increase in the proportionate share of the FMV. This would be calculated in accordance with section 3(3.4) of the PTTA.

This ruling is issued for the purposes of the proposed transactions only, and with the understanding that all of the facts provided by you are accurate and complete. If upon auditing, facts are found to be different, the proposed transactions might not be PTT exempt.

In the event the PTTA is amended with respect to such transactions, and the proposed transfer is not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT, provided the transactions are completed in the manner described in the advance tax ruling request.

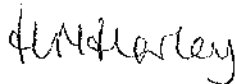
As noted above, after registration of the transfer for which this advance tax ruling has been provided, the Administrator may review the transaction. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the PTT return submitted with the application for registration at the Land Title Office. Alternatively, if you submit the application for registration electronically, please include the reference number in section G3 of the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance web site and reviewing Tax Bulletin PTT 009 entitled "Exemptions for Transfers in the Course of Subdivisions" at http://www.sbr.gov.bc.ca/documents_library/bulletins/PTT_006.pdf or by calling us in Victoria at **250-387-0604** or outside of Victoria by calling our toll-free Enquiry BC number at **1-800-663-7867** and requesting a transfer to 387-0604.

You can also e-mail us your questions to PTTENQ@gov.bc.ca.

Yours truly,



Hilary Harley
Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance

Page 058 to/à Page 060

Withheld pursuant to/removed as

s.13,s.21



April 15, 2013

Re: Property Transfer Tax Advance Ruling

Dear

I am responding to your letter dated February 27, 2013 requesting a ruling with respect to exemption from property transfer tax ("PTT") under the *Property Transfer Tax Act* ("PTTA") for transfers proposed by your clients,

We received payment for this ruling on March 14, 2013.

I. BACKGROUND

I understand the facts of your request are as follows:

1. The property to be transferred (the "Property") is located in _____ is currently owned by _____ as to a 1/2 undivided interest each, and, is legally described as: _____
2. You are proposing to transfer _____ interests in the Property as follows:
 - a. _____ will transfer its 1/2 undivided interest to _____; and
 - b. _____ will then transfer that 1/2 undivided interest to _____
3. You have provided information regarding _____ from the Central Securities Register, and financial statements for the period ending June 30, 2012. The information indicates that both _____ are corporations. The shareholders of _____ are _____ The shareholders of _____

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are

You have confirmed that
and that

are the only directors of
are the only directors of

4. The information you have provided from BC Assessment indicates that the Property is comprised of farm classed acres, and a residential improvement. You have confirmed that the residence on the Property is being rented to a non-family member, whom is not otherwise associated with the farming operations carried out by and has lived there for approximately There is no formal written rental agreement with the existing tenant. You have confirmed no other leases exist either for the land or for the farm improvements.
5. You have advised that the Property is currently being used to grow which are used for The Property has been farmed jointly by both with labour carried out by and employees of
6. Since the transfer of interest in the Property to and the transfer of that interest from to will be registered in the Land Title Office concurrently, will not be actively farming the Property during the period of time between these transfers.

II. RULING REQUEST

You are requesting a ruling with respect to PTT exemptions for the proposed transactions.

III. RULING

It is my ruling that the proposed transfers are exempt from PTT.

IV. LEGISLATION AND ANALYSIS

A. Legislation and Analysis

PTT is due at the time an application to register a taxable transaction is made at the Land Title Office, and is based on the fair market value (FMV) of the land or interest in land transferred. The transferee is subject to the tax. Under the PTTA, all transfers are taxable transactions unless specifically exempt.

Transfer from to

Section 14(3)(g) of the PTTA provides an exemption for the transfer of a family farm from a transferor that is a family farm corporation to a transferee, provided that the following criteria are met:

1. The **land transferred** has to be classified under the *Assessment Act* as farm land and must be a "family farm" as defined in section 14(1) of the PTTA. "Family farm" means farm land that is used, owned and farmed by one individual or by family members, or is used, owned and farmed by a family farm corporation.

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Victoria, BC V8T 4K6
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2. The **transferor** must be a "**family farm corporation**" as defined in section 14(1) of the PTTA. "Family farm corporation" means a corporation of which the principal activity is farming farm land, and no shareholder is a corporation.
3. The **transferee** must be the **sole shareholder** of the family farm corporation, or the transferee must have one of the following **relationships with each other person who is a shareholder** of the family farm corporation:
 - a. Transferee is a related individual of that shareholder;
 - b. Transferee is a sibling of that shareholder;
 - c. Transferee is a sibling of a spouse of that shareholder; or
 - d. Transferee is a spouse of a sibling of that shareholder.
4. Sections 1(1) and 14(1) of the PTTA define "**related individual**" to mean a Canadian citizen or permanent resident as defined in the *Immigration and Refugee Protection Act (Canada)*, who is:
 - A person's spouse, child, grandchild, great-grandchild, parent, grandparent or great-grandparent, the spouse of a person's child, grandchild or great-grandchild, or
 - The child, parent, grandparent or great-grandparent of a person's spouse.

Section 1(1) defines "**spouse**" to mean a person who is married to another person or is living and cohabiting in a marriage like relationship, including persons of the same gender, and has been living and cohabiting in that relationship for a continuous period of at least 2 years. Section 14(1) adds to the definition the requirement that the spouse is either a Canadian citizen or a permanent resident as defined in the *Immigration and Refugee Protection Act (Canada)*.

Section 14(1) defines "**family member**" to mean a Canadian citizen or permanent resident as defined in the *Immigration and Refugee Protection Act (Canada)*, who is:

- A related individual;
- A person's sibling, cousin, niece, nephew, aunt or uncle;
- The spouse of a person's sibling, cousin, niece, nephew, aunt or uncle, or
- The sibling, cousin, niece, nephew, aunt or uncle of a person's spouse.

Based solely upon the information you have provided, it appears that the legislative requirements for PTT exemption in respect to the proposed transfer from _____ to _____ have been met. The 2013 report from BC Assessment confirms the Property is classified as farm land. The Property is a family farm which is used, owned and farmed by _____ which is a family farm corporation. _____ is the transferor, and _____ is the transferee who is a shareholder of _____ and is a related individual of each other _____ shareholder. For the purposes of this ruling, we are assuming that all of these individuals are Canadian citizens or permanent residents as defined in the *Immigration and Refugee Protection Act (Canada)*.

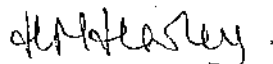
Please attach a copy of this ruling to the PTT return submitted with the application for registration at the Land Title Office. Alternatively, if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance web site and reviewing Tax Bulletin PTT 008 entitled "Exemptions for Transfers to and from a Family Farm Corporation" at:

http://www.sbr.gov.bc.ca/documents_library/bulletins/PTT_009.pdf

You may also call us in Victoria at 250-387-0604 or outside of Victoria by calling our toll-free Enquiry BC number at 1-800-663-7867 and requesting a transfer to 387-0604. You can also e-mail us your questions to **PTTENQ@gov.bc.ca**.

Yours truly,



Hilary Harley
Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance



May 2013

Re: Property Transfer Tax Advance Ruling

Dear

I am responding to your letter of March 25, 2013, requesting an advance tax ruling ("ATR") on the application of the property transfer tax ("PTT") for transfers proposed by your clients, the Owners of the Strata Plan ("the Strata Corporation"). We received payment in full for this ruling on May 7, 2013.

I. BACKGROUND

I understand the facts of your request are as follows:

1. The property in question (the "Property") is part of the Strata Plan ("the Strata Plan"). The Strata Corporation was developed in by The Strata Plan was registered at the Land Title Office ("LTO") as a bare land strata plan containing bare land strata lots. The bare land strata lots are defined on a horizontal plan by survey markers placed on the land as opposed to strata lots defined by the midpoint of walls, floors and ceilings, typically done in a strata plan that contains improvements.

In plan of the development contemplated a strata corporation as an apartment building

Nonetheless, in individual lots were sold to individual owners together with the units built on the lots.

The Strata Corporation continues to be a "bare land strata corporation", although it is run and managed as a strata corporation with improvements.

2. Once the *Strata Property Act* ("SPA") and the *Strata Property Act Regulations* ("SPA Reg") were introduced in 2001, the Strata Corporation became incompatible with the SPA and the SPA Reg's rules. In _____ the Strata Corporation voted to amend and change the Strata Plan and move from a bare land strata corporation to a building strata corporation. In _____ the BC Supreme Court approved the unanimous vote which supported the change.
3. It is my understanding that the current strata owners are proposing to wind up the existing Strata Plan _____ and register a new strata plan reflecting the existence of the improvements on the lots; the lots will be defined by the midpoint of walls, floors, and ceilings like a typical strata plan for a townhouse style strata corporation.
4. The proposed transactions are as following:
 - The current owners of the Strata Corporation propose to voluntarily wind up the Strata Plan and become tenants in common meeting all the criteria in sections 272 to s. 275 of the SPA.
 - Once the registrar at the LTO is satisfied that all the requirements under s. 272 to s. 275 in the SPA were met, the Strata Corporation will be formally wrapped up and the Strata Plan is cancelled. Immediately after the dissolution of the Strata Corporation, a new strata plan will be filed and registered at the LTO, granting title to the newly created lots to each of the previous strata lot owners.
 - The owners will re/register new mortgages on similar terms as the previous mortgages over each of the newly created strata lots.

II. RULING REQUEST

You are requesting a ruling as to whether the proposed transfers of the Property into the name of the owners as tenants in common pursuant to the wind up of the Strata Corporation, and the subsequent transfers of the newly created strata lots, are exempt from PTT.

III. RULING

It is my ruling that the proposed transfers will be exempt from PTT.

IV. LEGISLATION AND ANALYSIS

Legislation

PTT is due at the time an application to register a taxable transaction is made at the LTO, and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax. Under the *Property Transfer Tax Act* ("PTTA"), all transfers are taxable transactions unless specifically exempt.

Section 14 of the PTTA provides exemptions for certain transfers, provided that all of the criteria described in each section and subsection are strictly met.

Section 14(4)(p.2) provides a PTT exemption for the transfer under section 275 of the *Strata Property Act* of land that was shown on a strata plan cancelled under that section.

Section 14(3)(j) provides a PTT exemption for the transfer of the smaller parcels created post subdivision of the "original parcel" to the transferee/s of all of, or a registered ownership interest in, one or more of those smaller parcels. To be exempt, the transferee needs to have been one of the registered owners of the original parcel immediately before its subdivision. This latter exemption only applies if the original owners' proportionate share of the fair market value of the new parcels created by the subdivision, calculated immediately after the subdivision, is not greater than their proportionate share of the fair market value of the original parcels, calculated immediately before the subdivision.

Analysis

As per the evidence submitted we can only assume that the criteria for exemption under section 14(4)(p.2) of the PTTA will be met by your clients, and the transfer of the Property pursuant to the voluntary wind up of the Strata Corporation will be exempt from PTT.

The transfer of the newly created strata lots as a result of the wind up of the bare land strata corporation, and the filling of a new strata plan reconfiguring the strata lots to reflect the existence of improvements (including the creation of a new strata corporation) are exempt under the section 14(3)(j) if each and one of the legislative requirements are met¹.

This ruling is issued for the purposes of the proposed transactions only, and with the understanding that all of the facts provided by you are accurate and complete. If upon auditing, facts are found to be different, the proposed transactions might not be PTT exempt.

In the event the PTTA is amended with respect to such transactions, and the proposed transfer is not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT, provided the transactions are completed in the manner described in the advance tax ruling request.

As noted above, after registration of the transfer for which this advance tax ruling has been provided, the Administrator may review the transaction. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the PTT return submitted with the application for registration at the Land Title Office. Alternatively, if you submit the application for registration electronically, please include the reference number in section G3 of the electronic tax return.

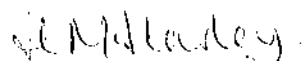
Additional information may be obtained by accessing the Ministry of Finance web site and reviewing Tax Bulletin PTT 009 entitled "Exemptions for Transfers in the Course of

¹ It is not clear from your submission whether the original owners' proportionate share of the fair market value of the new parcels created by the subdivision, calculated immediately after the subdivision, is not greater than their proportionate share of the fair market value of the original parcels, calculated immediately before the subdivision.

Subdivisions" at http://www.sbr.gov.bc.ca/documents_library/bulletins/PTT_006.pdf or by calling us in Victoria at **250-387-0604** or outside of Victoria by calling our toll-free Enquiry BC number at **1-800-663-7867** and requesting a transfer to 387-0604.

You can also e-mail us your questions to **PTTENQ@gov.bc.ca**.

Yours truly,



Hilary Harley
Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance



Re: Property Transfer Tax Advance Ruling

Dear

I am responding to your letter of March 25, 2013, requesting an advance tax ruling on the application of the property transfer tax ("PTT") to the transfers proposed by your clients,
We received payment in full for this ruling.

I. BACKGROUND

I understand the facts of your request are as follows:

1. The property in question (the "Property") is located in
and is legally described as:

The Registered owner on title to the Property is

2. There are lease charges registered on title. The leased as joint tenants
shown on the Plan in for
a period of At the time of registration of title at the Land Title Office ("LTO"),

¹ The registered leases are:

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paid PTT for the fair market value ("FMV") of the land and improvement in the amount of

The leased as joint tenants shown on the Plan in for a period of At the time of registration of title at the LTO, paid PTT for the FMV of the land and improvement in the amount of

3. The proposed transaction would be to file a phased strata plan for the Property. Once the subdivision of the Property is achieved, you propose to convert (the "Conversion") the registered residential leases into fee simple strata lots (the "strata lots"). The motivation behind the Conversion is the inability to secure the CMHC insurance for high ratio mortgages on long term leases.
4. As per the documents submitted and the new phased strata plan will receive an interest in the newly created strata lots, together with the interest in the sitting on those lands.

will receive interest in the newly created strata lots, together with the interest in sitting on those lands.

II. RULING REQUEST

You are requesting a ruling as to whether the Conversion and the subsequent transfers to the transferees, are exempt from PTT.

III. RULING

It is my ruling that the proposed transfers are not exempt from PTT.

IV. LEGISLATION AND ANALYSIS

Legislation

PTT is due at the time an application to register a taxable transaction is made at the LTO, and is based on the FMV of the land or interest in land transferred. The transferee is subject to the tax. Under the PTTA all transfers are taxable transactions unless specifically exempt.

Section 14 of the PTTA provides exemptions for certain transfers, provided that all of the criteria as described in each section and subsection are strictly met.

Sections 14(3)(j), 14 (4)(k-k.1), provide PTT exemptions in the following circumstances:

- 14(3)(j) provides a PTT exemption when the original parcel is subdivided into smaller parcels and the transferee of all or some of the newly created parcels was the registered owner of the original parcel immediately before its subdivision; in addition, the transferee's proportionate share in the FMV of the newly created parcels, calculated immediately after the subdivision, should not exceed the

transferee's proportionate share in the FMV of the original parcel, calculated immediately before the subdivision³.

Sections 14(4)(k)-(k.1) provide a PTT exemption when adjacent parcels of land owned by multiple owners are transferred, and the transfers meet the following criteria.

- 14(4)(k) provides a PTT exemption for the transfer to a trustee registered as such under the *Land Title Act* by two or more registered owners of adjacent parcels of land, in order to complete a subdivision plan.
- 14(4)(k.1) provides a PTT exemption for the transfer from the trustee back to the original owners, after the filing of the subdivision plan.

This latter exemption only applies if the original owners' proportionate shares in the FMV of the new parcels created by the subdivision, calculated immediately after the subdivision, are not greater than their proportionate share in the FMV of the original parcels, calculated immediately before the subdivision.

Analysis

The exemption under section 14(3)(j) doesn't apply in this subdivision of the Property. The lessees will become registered owners after the subdivision and will not be eligible for the exemption because they were not registered owners of the original parcel but was. Whether the transferees own shares in or not is not relevant for the proposed transfers.

The transfer of the strata lots from the transferor to the transferees is a **taxable transaction** that purports to transfer or grant an estate in fee simple referred to in section 23(2) of the *Land Title Act*.

This ruling is issued for the purposes of the proposed transactions only, and with the understanding that all of the facts provided by you are accurate and complete. If upon auditing, facts are found to be different, the proposed transactions might not be PTT exempt.

In the event the PTTA is amended with respect to such transactions, and the proposed transfer is not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT, provided the transactions are completed in the manner described in the advance tax ruling request.

As noted above, after registration of the transfers for which this advance tax ruling has been provided, the Administrator may review the transactions. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

³ There is not clear evidence whether the transferees' proportionate share in the FMV of all the parcels involved in the subdivision, as calculated immediately after the subdivision, does not exceed the transferees' proportionate share in the FMV as calculated using the FMV as immediately before the subdivision, as registered owners of a charge on title.

Please attach a copy of this ruling to the PTT return submitted with the application for registration at the LTO. Alternatively, if you submit the application for registration electronically, please include the reference number in section G3 of the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance web site or by calling us in Victoria at **250-387-0604** or outside of Victoria by calling our toll-free Enquiry BC number at **1-800-663-7867** and requesting a transfer to 387-0604.

You can also e-mail us your questions to PTTENQ@gov.bc.ca.

Yours truly,



Hilary Harley
Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance



November 22, 2013

Re: Property Transfer Tax Advance Ruling

I am responding to your email on October 13, 2013, requesting an advance tax ruling on exemption from property transfer tax ("PTT") for transfers proposed by your clients. Thank you for the payment in full for this ruling, which we received on October 28, 2013.

I. BACKGROUND

I understand the facts of your request are as follows:

1. The properties in question (the "Property") are adjacent parcels of land located in the and are legally described as follows:

2. _____ is currently registered in the names of _____
3. _____ is currently registered in the name of _____
4. _____ is currently registered in the name of _____
5. The first proposed transaction would be to apply to the Registrar of Land Titles to transfer title to _____ from _____ and _____ to _____
6. The second proposed transaction would be to apply to the Registrar of Land Titles to transfer title of a _____ interest of _____ from _____ to _____
7. The third proposed transaction would be to apply to the Registrar of Land Titles to transfer titles to _____ to _____
 The purpose of the third proposed transaction is for _____ as trustee for _____ to complete a plan of subdivision for _____ will be registered as a trustee under the *Land Title Act* (LTA).
8. The fourth proposed transaction would be for the trustee, following filing of the subdivision plan to create three new lots (Lots A, B and C), to transfer Lot A to _____ and Lots B and C to _____

II. RULING REQUEST

You are requesting a ruling as to whether the proposed transfers of the Property to _____, the transfers to the trustee, and the subsequent transfers back to _____ and to _____ are exempt from property transfer tax (PTT).

In your correspondence, you have noted that the newly-created Lot C will be transferred to _____. However you have confirmed that you are not requesting a ruling on the proposed subsequent transfer of Lot C from _____ to _____.

III. RULING

It is my ruling that the first proposed transfer, of _____ from _____ to _____ will **not be exempt from PTT** since the transfer will be made prior to the subdivision plan being filed with the Land Title Office.

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The second proposed transfer, of _____ interest in _____ from _____ to _____ will also **not be exempt from PTT** since the transfer will be made prior to the subdivision plan being filed with the Land Title Office.

The proposed transfers to the trustee from _____ will be **exempt from PTT**.

The fourth proposed transfer, from the trustee, of Lot A to _____ will be **exempt from PTT** provided that the proportionate share of the fair market value of the land immediately following the transfer back to _____ does not exceed his proportionate share of the fair market value of the original parcels, calculated immediately before the subdivision.

The proposed transfer, from the trustee, of Lots B and C to _____ will also be **exempt from PTT** provided that the proportionate share of the fair market value of the land immediately following the transfer back to _____ does not exceed the company's proportionate share of the fair market value of the original parcels, calculated immediately before the subdivision.

IV. LEGISLATION AND ANALYSIS

Legislation

PTT is due at the time an application to register a taxable transaction is made at the Land Title Office, and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax. Under the *Property Transfer Tax Act* ("PTTA"), all transfers are taxable transactions unless specifically exempt.

Section 14 of the PTTA provides exemptions for certain transfers, provided that all of the criteria as described in each section and subsection are strictly met.

Section 14(4)(k) provides a PTT exemption for the transfer to a trustee registered as such under the LTA, by two or more registered owners of adjacent parcels of land, in order to complete a subdivision plan.

Section 14(4)(k.1) provides a PTT exemption for the transfer from the trustee back to the original owners, after filing of the subdivision plan. This latter exemption only applies if the original owners' proportionate shares of the fair market value of the new parcels created by the subdivision, calculated immediately after the subdivision, are not greater than their proportionate share of the fair market value of the original parcels, calculated immediately before the subdivision.

Analysis

With respect to the transfer of the three lots:

_____ to the trustee _____ the criteria for exemption under section 14(4)(k) of

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the PTTA will be met, and the transfer of the Property from _____ to _____ as trustee will be exempt from PTT. This will be the case, as long as: _____ is registered under the LTA as a trustee; adjacent parcels are being transferred to _____ as trustee to facilitate their subdivision; and, all of the new parcels created by the subdivision are transferred back to the original owners from the trustee after the subdivision plan is registered.

Part 7, Division 2 of the LTA sets out the requirements with respect to the subdivision of land. If the Registrar of Land Titles accepts that the proposed transaction meets the requirements of the LTA, and the plan of subdivision is registered, a subsequent transfer of the Property from the trustee, _____ back to the original owners will also be eligible for a PTT exemption under section 14(4)(k.1). This will be the case as long as neither of the original owners receives a greater proportionate share of the fair market value of the Property than they had in the original parcels. If this is not the case, they will not be eligible for the PTT exemption and PTT will be payable by them based on their increase in the proportionate share of fair market value. This would be calculated in accordance with section 3(3.4) of the PTTA.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you are accurate and complete. If upon auditing, facts are found to be different, the proposed transactions that have been ruled to be exempt might not be PTT exempt.

In the event the PTTA is amended with respect to such transactions, and the proposed transfer is not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT, provided the transactions are completed in the manner described in the advance tax ruling request.

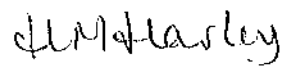
After registration of the transfers for which this advance tax ruling has been provided, the Administrator may review the transactions. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the PTT return submitted with the application for registration at the Land Title Office. Alternatively, if you submit the application for registration electronically, please include the reference number in section G3 of the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance web site and reviewing Tax Bulletin PTT 006 entitled "Exemptions for Transfers in the Course of Subdivisions" at http://www.sbr.gov.bc.ca/documents_library/bulletins/PTT_006.pdf or by calling us in Victoria at 250-387-0604, or outside of Victoria by calling our toll-free Enquiry BC number at 1-800-663-7867 and requesting a transfer to 387-0604.

You can also e-mail us your questions to PTTENQ@gov.bc.ca.

Yours truly,



Hilary Harley
Director, Audit and Compliance
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March 11, 2014

Re: Property Transfer Tax Advance Ruling

Dear

I am responding to your letter dated January 29, 2014 requesting an advance tax ruling on the application of the Property Transfer Tax (PTT) to the transfer proposed by your client, (the "Company"). We received payment in full for this ruling on February 13, 2014.

I. BACKGROUND

I understand the facts of your request are as follows:

1. The properties to be transferred are legally described as:

(collectively, the "Property")

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2. The Property is currently registered in the name of
3. died on and at the time of her death was the registered owner of the Property.
4. By order of the British Columbia Supreme Court, a grant of probate of will was issued to (the "Executors").
5. The Statement of Assets, Liabilities and Distribution filed in support of the application for probate listed the Property as assets of estate.
6. Application will be made at the Land Title Office (LTO) to transfer the Property from the name of to the Executors.
7. Title to the Property will subsequently be transferred from the Executors to the Company.

II. RULING REQUEST

You are requesting a ruling as to whether PTT will be payable on the transfer of title to the Property from the name of to the Executors. In your correspondence you have stated the Property will subsequently be transferred to the Company, but have requested a ruling solely on the transfer from to the Executors.

III. RULING

It is my ruling that the proposed transfer of title from the deceased to the Executors is exempt from PTT.

IV. LEGISLATION AND ANALYSIS

A. Legislation

Under the *Property Transfer Tax Act* (PTTA), all transfers are taxable transactions, unless specifically exempt. PTT is due at the time an application to register a taxable transaction is made at the LTO and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax.

Section 14 of the Act provides exemptions for certain transfers, provided that all of the criteria as described in each section and subsection are strictly met.

Section 14(3) (q) of the Act provides an exemption for: "a transfer to a person in his or her capacity as personal representative, if the land transferred is part of the deceased's estate".

B. Analysis

As per the facts presented, the transfer of the Property from the deceased to the Executors will be exempt from PTT.

This ruling is issued for the purposes of this transaction only, and with the understanding that all of the facts provided by you are accurate and complete. In the event the PTTA or the PTT Regulation are amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advance tax ruling has been provided may be subject to review by the Administrator. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the property transfer tax return submitted with the application for registration at the LTO, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance web site at: www.gov.bc.ca/fin/ or by calling us in Victoria at **250-387-0604** or outside of Victoria by our toll free Enquiry BC number at **1-800-663-786** and requesting a transfer to **387-0604**, or email your questions to PTTENQ@gov.bc.ca.

Yours truly,



Hilary Harley
Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance



April 16, 2014

RE: Property Transfer Tax Advance Ruling

Dear

I am responding to your letter dated February 24, 2014, requesting a ruling with respect to the application of the property transfer tax (PTT) to the transactions proposed by your client,

We also received your email dated February 28, 2014 (in which you provided further information), and payment in full for this ruling on March 7, 2014.

I. BACKGROUND

I understand the facts of your request are as follows:

1. The property in question (the "Property") is approximately acres located in British Columbia, and is legally described as:
2. The registered owner on title to the Property is a family farm corporation.
3. wishes to grant a life estate to a shareholder (the "transferee") for his residence and the surroundings 2 acres, located on the Property.
4. The balance of the Property includes grazing lands, another residence, work sheds, barns and corrals.

II. RULING REQUEST

You are requesting a ruling as to whether the transferee of the Life Estate will be required to pay PTT on the fair market value (FMV) of the residence and surrounding 2 acres, or on the FMV of the entire acre parcel of land and improvements.

Ministry of Finance

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Telephone: 250 387-0604
Facsimile: 250 953-3094

III. RULING

It is my ruling that the proposed transfer is not exempt from PTT, and that PTT would be payable on the FMV of the entire property, including improvements.

IV. LEGISLATION AND ANALYSIS

Legislation

PTT is due at the time an application to register a taxable transaction is made at the Land Title Office (LTO), and is based on the FMV of the land or interest in the land transferred. The transferee is subject to the tax. Under the *Property Transfer Tax Act* (PTTA), all transfers are taxable transactions unless specifically exempt.

Section 14(3)(a) (i) provides an exemption from PTT for the transfer of property from a transferor, who is not a trustee, to a transferee who is a related individual if the land transferred is a family farm.

Section 14(3) (b) provides an exemption from PTT for the transfer of property from a transferor, who is not a trustee, 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.

Section 1(1) of the PTTA defines "related individual" as: a person's spouse, child, grandchild, greatgrandchild, parent, grandparent or greatgrandparent; the spouse of a person's child, grandchild or greatgrandchild; or the child, parent, grandparent or greatgrandparent of a person's spouse.

Section 14(1) defines "related individual" as: a related individual who is a Canadian citizen or a permanent resident as defined in the *Immigration and Refugee Protection Act* (Canada).

Section 14(1)(3) (g) provides an exemption from PTT for the transfer from a transferor that is a family farm corporation, to a transferee, if the land transferred is a family farm and the transferee is the sole shareholder of the family farm corporation, or if 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.

Section 73 (1) of the *Land Title Act* (LTA) states: "except on compliance with this Part, a person must not subdivide land into smaller parcels than those of which the person is the owner for the purpose of (a) transferring it, or (b) leasing it, or agreeing to lease it, for life, or for a term exceeding 3 years."

Analysis

An exemption under section 14(1)(3) (g) of the PTTA does not apply in the proposed transfer because, as stated in your February 24, 2014 letter, some of the shareholders of the family farm corporation are the nieces and nephews of the transferee. This exemption requires that the relationship between the transferee and each other person, who is a shareholder of the family farm corporation, be a related individual as per PTTA definitions.

With respect to the question of whether the transferee is obliged to pay PTT on the FMV of the entire Property and improvements, there is no provision in the PTTA whereby a life estate can be registered against only a portion of the Property. Section 73 (1) of the LTA specifically prohibits the subdivision of land by way of a transfer or by leasing it for life, or for a term exceeding 3 years. Although a life estate agreement may contain descriptions that limit the application of the life estate to specific portions of the property, PTT is calculated on the land interest registered at the LTO.

The valuation of life estates is determined as per section 11 of the PTT Regulation. The FMV of the life estate registered against the property must be determined in accordance with the formula:

$VFS \times P$

where VFS = the FMV of the fee simple of the land determined, as though the life estate did not exist, as per the definition of FMV in section 1 of the PTTA, and by the percentage in Column 2 (that is opposite the period in Column 1) that corresponds to the term of the life estate. The Life Expectancy Table (Table 3 of the PTT Regulation) lists life expectancies by age and gender.

This ruling is issued for the purposes of this transaction only, and with the understanding that all of the facts provided by you or your clients are accurate and complete.

In the event the PTTA or PTT Regulation are amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advance tax ruling has been provided may be subject to review by the Administrator. Information provided for this ruling will be verified

Ministry of Finance

Property Taxation Branch
4th Floor - 1802 Douglas Street
Victoria, BC V8T 4K6
Telephone: 250 387-0604
Facsimile: 250 953-3094

against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the property transfer tax return submitted with the application for registration at the LTO, or if you submit the application for registration electronically, please include the reference number on the electronic tax return. Additional information may be obtained by accessing the Ministry of Finance website at www.gov.bc.ca/fin or by calling us in Victoria at **250-387-0604** or outside of Victoria by our toll-free Enquiry BC number at **1-800-663-7867** and requesting a transfer to **387-0604**, or email your questions to **PTTENQ@gov.bc.ca**.

Yours truly,



Hilary Harley
Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance

Ministry of Finance

Property Taxation Branch
4th Floor - 1802 Douglas Street
Victoria, BC V8T 4K6
Telephone: 250 387-0604
Facsimile: 250 953-3094

April 26, 2006

Dear

RE: - Property Transfer Tax Advance Tax Ruling

I am responding to your letter dated April 19, 2006, requesting an advance tax ruling. Receipt of your payment of \$96.30, reflecting the cost for the provision of this ruling, is acknowledged.

This request is made with respect to the property legally described as (the properties):

I understand the facts regarding this request to be as follows:

1. is the registered fee simple owner of an undivided
1/5 interest in the properties.
2. Is the wholly owned subsidiary of
3. subsidiaries include:

4. and it's Subsidiaries subsist under the provisions of the *Canada Business Corporations Act* (CBCA).
5. and it's Subsidiaries are proposing to amalgamate in accordance with the statutory arrangement provisions under section 192 of the CBCA and pursuant to an Order of the Ontario Superior Court of Justice dated (the Order).
6. The Plan of Arrangement and the unofficial typed version of the Order provide the following:
 - a. and its Subsidiaries will merge with the same effect as if they were amalgamating under sections 184 and 186 of the CBCA; and,

- b. Once the Plan of Arrangement is effected, the separate legal existence of the Subsidiaries will cease without any of the Subsidiaries being wound-up or liquidated.

7. Upon amalgamation, _____ and the Subsidiaries will continue as one corporation under the name _____

Your request is for a ruling that upon the amalgamation of _____ and its Subsidiaries, the transfer of interest in the properties from _____ to _____ will be exempt from property transfer tax pursuant to section 14(4)(u) of the *Property Transfer Tax Act* (the Act).

Property transfer tax is due at the time an application to register a taxable transaction is made at the Land Title Office. The tax is due on the fair market value of the land or interest in land transferred. However, the Act provides a number of exemptions from the tax.

Section 14(4)(u) of the Act provides an exemption for amalgamations effected under any corporate statute of Canada and its provinces where the corporation is able to demonstrate a continuance of the corporation(s) that held title or registered rights to use or occupy the property into the amalgamated company. The exemption is also available where the amalgamation occurs as part of a plan of arrangement carried out under Division 5 of the *Business Corporations Act* or section 192 of the CBCA, provided the continuation requirements have been met.

Accordingly, it is my ruling that upon the amalgamation of _____ and its Subsidiaries, the transfer of the properties from _____ to _____ will qualify for the exemption under section 14(4)(u) of the Act.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided in your letter dated April 19, 2006 are accurate and complete.

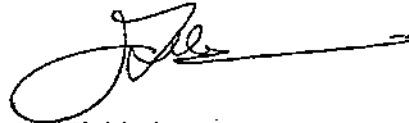
In the event the Act is amended with respect to such transactions and the proposed transfer is not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator, Property Transfer Tax, provided the transaction completes in the manner described in the advance tax ruling request.

After registration, the transaction(s) for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling. In this regard, you may be required to provide finalized copies of the certificate of amalgamation, the plan of arrangement and/or the court order.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

If you have any questions on the above, please contact me at (250) 387-1935.

Yours truly,

A handwritten signature in black ink, appearing to read 'J. Fairbairn', with a long horizontal stroke extending to the right.

Joel Fairbairn
A/Manager, Policy and Legislation

July 6, 2006

Dear

Property Transfer Tax Advance Tax Ruling

I am responding to your letter dated June 13, 2006, requesting an advance tax ruling. Receipt of your payment of \$144.45, reflecting the cost for the provision of this ruling, is acknowledged.

This request is made with respect to the property legally described as (the Property):

I understand the facts regarding this request to be as follows:

1. _____ is the registered owner of the Property.
2. The Property is _____ primary residence and consists of _____
classified as farm land.
3. The farm land is leased and farmed solely by _____ a
company owned by _____
4. No other part of the Property is leased to any other individuals.

Your request is for a ruling that if _____ is added to the
title of the Property as a joint tenant, the transfer of interest to _____ will qualify as an exempt
transaction under the *Property Transfer Tax Act* (the Act).

Property transfer tax is due at the time an application to register a taxable transaction is made at the Land Title Office. The tax is due on the fair market value of the land or interest in land transferred. However, the Act provides a number of exemptions from the tax.

Section 14(3)(a) of the Act provides an exemption for the transfer of the registered fee simple interest in land if two conditions are met. First, the land must be a family farm. Second, the

transfer of the fee simple interest in the land must be between related individuals who are all Canadian citizens or have the permanent status of Canada. Section 14(1) of the Act defines "related individual" to include a person's spouse, provided the spouse is either a Canadian Citizen or Permanent Resident as defined in the *Immigration and Refugee Protection Act* (Canada). Family farm is defined as farm land that is used, owned and farmed by one individual or by family members.

The Property has been assessed as farm land under the *Assessment Act*. is currently registered as the owner of the Property, which is being used and farmed by only. Therefore, the Property does qualify as a family farm for the purpose of the Act.

Accordingly, it is my ruling that the transfer of interest in the Property from to as joint tenants, will qualify for an exemption under section 14(3)(a) of the Act.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided in your letter of June 13, 2006, are accurate and complete.

In the event the Act is amended with respect to such transactions and the proposed transfer is not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator, Property Transfer Tax, provided the transaction completes in the manner described in the advance tax ruling request.

After registration, the transaction(s) for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

If you have any questions on the above, please contact me at (250) 356-5340.

Yours truly,



Kevin Gudgeon,
Manager, Policy and Legislation

Your request is for a ruling as to whether the transfer of interest in subdivided Lot 2 from _____ to their children will be a taxable transaction under the *Property Transfer Tax Act* (the Act).

Property transfer tax is due at the time an application to register a taxable transaction is made at the Land Title Office. The tax is due on the fair market value of the land or interest in land transferred. However, the Act provides a number of exemptions from the tax.

Section 14(3)(a) of the Act provides an exemption for the transfer of the registered fee simple interest in land if two conditions are met. First, the land must be a family farm. Second, the transfer of the fee simple interest in the land must be between related individuals who are all Canadian citizens or have permanent status in Canada. Section 14(1) of the Act defines "related individual" to include a person's children, provided the children are either Canadian Citizens or Permanent Residents as defined in the *Immigration and Refugee Protection Act* (Canada). Family farm is defined as farm land that is used, owned and farmed by one individual or by family members.

The Property has been assessed as farm land under the *Assessment Act*. _____ are the registered owners of the Property. Only _____ and their children are farming the Property. Therefore, the Property does qualify as a family farm for the purpose of the Act.

In your request, you have indicated that the Property will be subdivided and subdivided Lot 2 will be transferred to the children. In order to qualify for an exemption under section 14(3)(a) of the Act, subdivided Lot 2 must meet all of the identified requirements of a family farm.

Accordingly, it is my ruling that the transfer of interest in subdivided Lot 2 from _____ to their children will qualify for an exemption under section 14(3)(a) if subdivided Lot 2 qualifies as a family farm pursuant to section 14(1) of the Act.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided in your letters of June 16, 2006 and June 20, 2006, are accurate and complete. This ruling has been prepared with regard to the proposed transfer of subdivided Lot 2 and does not apply to any prior transactions surrounding the subdivision of the Property.

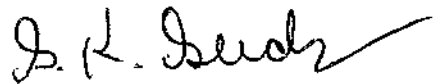
In the event the Act is amended with respect to such transactions and the proposed transfer is not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator, Property Transfer Tax, provided the transaction completes in the manner described in the advance tax ruling request.

After registration, the transaction(s) for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title and Survey Authority, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

If you have any questions on the above, please contact me at (250) 356-5340.

Yours truly,

A handwritten signature in black ink, appearing to read "K. Gudgeon", with a long, sweeping horizontal stroke extending to the right.

Kevin Gudgeon,
Manager, Policy and Legislation



August 16, 2006

Dear :

RE: Property Transfer Tax Advance Tax Ruling

I am responding to your letter dated July 7, 2006, requesting an advance tax ruling. Receipt of your payment of \$95.40, reflecting the cost for the provision of this ruling, is acknowledged.

This request is made with respect to the property identified as PID and legally described as (the Property):

•

I understand the facts regarding this request to be as follows:

1. The ownership of the property is divided in three 2/8 interests and two 1/8 interests.
2. The owners of the 1/8 interest will transfer their interests to each other to create an undivided 1/4 interest in the property.
3. Thereafter, the property owners will enter into a lease with an incorporated company.
4. The duration of the lease is
5. Thereafter, will enter into a sublease with each owner.
6. The terms of each of the four subleases are identical.
7. The duration of each sublease is
8. The fee simple interest will not be transferred.

Ministry of
Small Business and
Revenue

Policy and Legislation Branch
www.gov.bc.ca/rev/

Mailing Address:
7th Floor - 1802 Douglas Street
Victoria, BC V8T 4K6

Telephone: (250) 356-5340
Facsimile: (250) 387-3000

Your request is for a ruling of whether:

- (a) property transfer tax will be payable on the fair market value of the lease (head lease) upon registration; and
- (b) property transfer tax will be payable on the fair market value of each of the four subleases (subleases).

Property transfer tax is due at the time an application to register a taxable transaction is made at the Land Title Office. Registration of a lease agreement, including a sub-lease, is a taxable transaction for the purposes of the Act. The tax is due on the fair market value of the land or interest in land transferred.

In your request, you have indicated that the property owners will enter into a head lease with _____ for a term of _____ Rent in the amount of _____ will be paid by the lessee upon registration of the lease. The definition of taxable transaction under the *Property Transfer Tax Act* (PTTA) includes a lease agreement exceeding the period of 30 years.

The amount of tax payable in relation to a lease is determined in accordance with the Property Transfer Tax Regulation. Prepaid lease provisions under Regulation 12 apply where the lessor and lessee are dealing with each other at arm's length. Where Regulation 12 is deemed not to apply, fair market value is determined pursuant to Regulation 14.

Based on the information you have provided, it is my ruling that:

- (a) property transfer tax will be payable on the fair market value of the head lease upon registration, and
- (b) property transfer tax will be payable on the fair market value of each of the four subleases.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided in your letter of July 7, 2006, are accurate and complete.

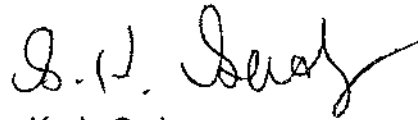
In the event the Act is amended with respect to such transactions and the proposed transfer is not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator, Property Transfer Tax, provided the transaction is completed in the manner described in the advance tax ruling request.

After registration, the transaction(s) for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

If you have any questions on the above, please contact me at (250) 356-5340.

Yours truly,

A handwritten signature in black ink, appearing to read "K. Gudgeon", with a stylized flourish at the end.

Kevin Gudgeon,
Manager, Policy and Legislation

land transferred must be the principal residence of either the transferor or the transferee for a continuous period of at least 6 months immediately prior to the date of the transfer; all of the improvements must be classified as residential by BC Assessment, and the land must not exceed 0.5 hectares (1.24 acres). Section 14(1) of the Act defines "related individual" to include a person's parents, provided the parent is either a Canadian Citizen or Permanent Resident as defined in the *Immigration and Refugee Protection Act* (Canada). Under the definition of "related individual", a person is not a related individual to themselves.

Accordingly it is my ruling that, if _____ registered fee simple interest in the property is transferred to _____ the transfer will qualify for the exemption provided in section 14(3)(b) of the Act. _____ eligibility for this exemption is the same whether the interest is transferred to his mother _____ in fee simple or in trust. If the interest is transferred to _____ in trust, the trust designation must be registered on the title and the trust documents filed at the Land Title and Survey Authority in support of the application to register the transfer.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided in your letter of July 13, 2006, are accurate and complete.

In the event the Act is amended with respect to such transactions and the proposed transfer is not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator, Property Transfer Tax, provided the transaction is completed in the manner described in the advance tax ruling request.

After registration, the transaction(s) for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

If you have any questions on the above, please contact me at (250) 356-5340.

Yours truly,



Kevin Gudgeon,
Manager, Policy and Legislation



May 7, 2007

Dear

RE: Property Transfer Tax Advance Tax Ruling

I am responding to your letter dated July 18, 2006, requesting an advance tax ruling. Receipt of your payment of \$95.40, reflecting the cost for the provision of this ruling, is acknowledged. Please accept my apologies for the delay in providing this ruling to you.

This request is made with respect to the property (the Property) identified as PID and legally described as:

•

I understand the facts regarding this request to be as follows:

**Ministry of
Small Business and
Revenue**

Policy and Legislation Branch
www.gov.bc.ca/rev/

Mailing Address:
7th Floor - 1802 Douglas Street
Victoria, BC V8T 4K6

Telephone: (250) 356-5340
Facsimile: (250) 387-3000

Your request is for a ruling on the following question:

Is _____ considered a "municipality" as set out in section 14(3)(s) of the *Property Transfer Tax Act* (PTTA) and therefore exempt from paying property transfer tax?

"Municipality" is not defined in the PTTA. The *Interpretation Act*, R.S.B.C. 1996, c. 238, provides as follows:

Expressions defined

29 In an enactment:

"municipality" means, as applicable,

- (a) the corporation into which the residents of an area are incorporated as a municipality under the *Local Government Act*, the *Vancouver Charter* or any other Act, or
- (b) the geographic area of the municipal corporation;

Definitions in *Community Charter* and *Local Government Act* apply to other enactments

40 (1) So far as the terms defined can be applied, the definitions established by or applicable under

- (a) the schedule to the *Community Charter*, and
- (b) section 5 of the *Local Government Act*

extend to all enactments relating to municipal and regional district matters.

(2) As an exception, subsection (1) does not apply in relation to the definition of "municipality" in the *Community Charter*.

The definition of "municipality" in s. 29 of the *Interpretation Act* applies to the PTTA. The definition of "municipality" in the *Community Charter* referenced in s. 40(2) does not apply to the PTTA because it does not apply to other enactments.

The above view is subject to s. 2 of the *Interpretation Act*, which is as follows:

Application

2 (1) Every provision of this Act applies to every enactment, whether enacted before or after the commencement of this Act, unless a contrary intention appears in this Act or in the enactment.

Neither the *Interpretation Act* nor the PTTA shows an intention that the definition of "municipality" in s. 29 of the *Interpretation Act* should not apply to the PTTA.

Accordingly, in order for the exemption under s. 14(3)(s) of the PTTA to apply, _____ must be a municipality as defined under s. 29 of the *Interpretation Act*.

Based on the information you have provided, it is my ruling that _____ is not a "municipality" as set out in section 14(3)(s) of the *Property Transfer Tax Act* and therefore is not exempt from paying property transfer tax.

Although _____ is not exempt from paying property transfer tax as a municipality, it is not clear at what point _____ will take ownership of the Property. Under the PTTA, a person is not liable to pay property transfer tax until such time an application to register a taxable transaction for that person to hold a registered interest in the land is made at the Land Title Office. If _____ does not hold a registered interest in the Property up to and including its addition to _____ no property transfer tax will be payable by _____. For example, if _____ takes ownership of the Property until its addition to _____ property transfer tax will be payable by _____.

This ruling is issued for the purposes of this transaction only and with the understanding that all of the facts provided in your letter of July 18, 2006, are accurate and complete.

In the event the Act is amended with respect to such transactions and the proposed transfer is not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator, Property Transfer Tax, provided the transaction is completed in the manner described in the advance tax ruling request.

After registration, the transaction for which this advance tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

If you have any questions on the above, please contact me at (250) 387-4009.

Yours truly,



Tara Richards,
Director, Policy and Legislation

September 18, 2006

Dear

RE: Property Transfer Tax Advance Tax Ruling

I am responding to your letter dated July 21, 2006, requesting an advance tax ruling. Receipt of your payment of \$96.30, reflecting the cost for the provision of this ruling, is acknowledged.

This request is made with respect to the property (the Property) identified as PID and legally described as:

I understand the facts regarding this request to be as follows:

1. The registered owners of the property are _____ and _____ in Trust.
2. _____ and _____ are married to each other.
3. The Property has been the _____ principal residence for more than six months.
4. The _____ (the Trust) is an *inter vivos* trust that was settled on _____
5. _____ are the registered Trustees and the beneficiaries of the Trust.
6. _____ would like to transfer one-half interest in the Property to _____
7. In a separate transaction, _____ would then like to transfer the remaining one-half interest in the Property to _____

Your request is for a ruling of whether the proposed transfers of interest in the Property will be exempt from property transfer tax under section 14(3)(d) of the *Property Transfer Tax Act* (the Act).

Property transfer tax is due at the time an application to register a taxable transaction is made at the Land Title Office. The tax is due on the fair market value of the land or interest in land transferred. However, the Act provides a number of exemptions from the tax.

Section 14(3)(d) of the Act provides an exemption from property transfer tax where a principal residence is transferred and the following conditions are met: the transfer is from a trustee of a trust that is settled during the lifetime of the settlor; the trustee is a registered trustee under the *Land Title Act*; interest in the property is transferred to a beneficiary of the trust who is a related individual of the settlor; and, the property has been the principal residence of the settlor or the beneficiary for a continuous period of at least six months immediately before the date of the transfer.

Section 14(1) of the Act defines "related individual" to include a person's spouse, provided the spouse is either a Canadian Citizen or Permanent Resident as defined in the *Immigration and Refugee Protection Act* (Canada). Under the definition of "related individual", a person is not a related individual to themselves.

Accordingly it is my ruling that the transfers of interest in the Property, in two separate transactions, to _____ and to _____ as beneficiaries of the Trust, will qualify for exemptions under section 14(3)(d) of the Act.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided in your letter of July 21, 2006, are accurate and complete.

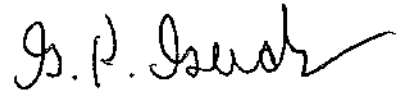
In the event the Act is amended with respect to such transactions and the proposed transfer is not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator, Property Transfer Tax, provided the transaction is completed in the manner described in the advance tax ruling request.

After registration, the transaction(s) for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

If you have any questions on the above, please contact me at (250) 356-5340.

Yours truly,

A handwritten signature in black ink, appearing to read "K. P. Gudgeon", with a long, sweeping horizontal stroke extending to the right.

Kevin Gudgeon,
Manager, Policy and Legislation

September 19, 2006

Dear

RE: - Property Transfer Tax Advance Tax Ruling

I am responding to your letter dated July 24, 2006, requesting an advance tax ruling. Receipt of your payment of \$96.30, reflecting the cost for the provision of this ruling, is acknowledged.

This request is made with respect to the following properties legally described and identified as:

I understand the facts regarding this request to be as follows:

1. and are the registered owners of
which is their principal residence.
2. and are married to each other.
3. is the registered fee simple owner of
4. consists of vacant land, located next to
5. Both the driveway and the water line required for run through
6. and also share common landscaping, including a garden, a pond and a masonry wall.

7. _____ would like to transfer one-half interest in _____ to _____

Your request is for a ruling of whether the proposed transfer of interest in _____ from _____ to her spouse, _____ will be eligible for an exemption under the *Property Transfer Tax Act* (the Act).

Property transfer tax is due at the time an application to register a taxable transaction is made at the Land Title Office. The tax is due on the fair market value of the land or interest in land transferred. However, the Act provides a number of exemptions from the tax.

Section 14(3)(b) of the Act provides an exemption from property transfer tax for the transfer of a principal residence, where the transferee is a related individual of the transferor and the land transferred was the principal residence of the transferor or the transferee for continuous period of at least 6 months immediately before the date of the transfer.

Pursuant to section 14(1.1) of the Act, where a dwelling is located on more than one parcel, the parcels are deemed to be one parcel.

"Related individual" is a defined term under the Act and includes a person's spouse, provided the spouse is either a Canadian Citizen or Permanent Resident as defined in the *Immigration and Refugee Protection Act* (Canada).

Accordingly it is my ruling that the transfer of an interest in _____ from _____ to _____ will qualify for an exemption under the *Property Transfer Tax Act*.

This ruling is issued for the purposes of this transaction only, and with the understanding that all of the facts provided in your letter of July 24, 2006, are accurate and complete.

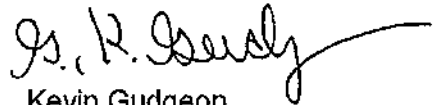
In the event the Act is amended with respect to such transactions and the proposed transfer is not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator, Property Transfer Tax, provided the transaction is completed in the manner described in the advance tax ruling request.

After registration, the transaction(s) for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

If you have any questions on the above, please contact me at (250) 356-5340.

Yours truly,


Kevin Gudgeon,
Manager, Policy and Legislation



The Best Place on Earth

October 12, 2006

Dear

RE: Property Transfer Tax Advance Tax Ruling s.21

I am responding to your letters dated August 25, 2006, and September 8, 2006, requesting an advance tax ruling. Receipt of your payment of \$192.60, reflecting the cost for the provision of this ruling, is acknowledged.

This request is made with respect to the property legally described as (the Properties):

I understand the facts regarding this request to be as follows:

1. _____ is the registered owner
of the properties.
2. The proposed transaction consists of three lease agreements, between _____ as the
transferor and _____ as the transferee.
_____ and _____ are dealing at arm's length.

.../2

**Ministry of
Small Business and
Revenue**

Policy and Legislation Branch
www.gov.bc.ca/rev/

Mailing Address:
7th Floor - 1802 Douglas Street
Victoria, BC V8T 4K6

Telephone: (250) 356-5340
Facsimile: (250) 387-3000

3. The leases will be structured as follows:

Lease 1:

- Demised Premises - the portion of the Land which will not have any improvements on it when leased. The demised premises will be created and defined by a leasehold subdivision with approving officer approval pursuant to sections 99(1)(k) and 99(2) of the *Land Title Act*.
- Term -
- Rent - Lump sum rent for the term payable within one year after the commencement date of the term, plus percentage rent based on a percentage of gross revenues, payable annually in arrears during the term.

Lease 2:

- Demised Premises – Part of a building
- Term –
- Rent - Lump sum rent for the term payable within one year after the commencement date of the term, plus percentage rent based on a percentage of gross revenues, payable annually in arrears during the term.

Lease 3:

- Demised Premises – Part of a building
- Term –
- Rent – instalments of rent payable annually during the term.

Property transfer tax is due at the time an application to register a taxable transaction is made at the Land Title Office. The tax is calculated on the fair market value of the land or the taxable transaction. Under the *Property Transfer Tax Act* (Act), the definition of a taxable transaction includes a lease agreement.

In your letter of August 25, 2006, you have asked four specific questions concerning the application of property transfer tax to the proposed transaction.

.../3

Questions:

1. *If Lease 1 is registered in the Land Title Office after the commencement date of the term so that all the lump sum rent will be paid within one year after the date of registration, will the fair market value of Lease 1 be determined pursuant to section 12 or section 14(1) of the Property Transfer Tax Regulation?*

Section 12 of the *Property Transfer Tax Act Regulations* (Regulations) provides that the fair market value of a prepaid lease is the amount of rent paid if all of the following conditions are met:

- o Rent under the lease agreement is not subject to renegotiation;
- o Rent is paid for the term of the lease agreement prior to the date of registration or within one year of that date; and,
- o The lessor and lessee deal with each other at arm's length.

Based on the information you have provided, it is my ruling that Lease 1 does not meet the conditions under section 12. In your request, you have indicated that a lump sum payment will be provided within the first year of the lease agreement; however, you have also indicated that the lessee will also be responsible for paying "percentage rent based on a percentage of gross revenues, payable annually in arrears during the term". Therefore section 12 of the Regulations does not apply to Lease 1. Accordingly, the fair market value of Lease 1 will be determined under section 14(1) of the Regulations.

2. *If the fair market value of Lease 1 is to be determined pursuant to section 14(1) of the Property Transfer Tax Regulation, will the 'demised premises' for the purposes of the definition of V.S.I. in section 14(1) be the demised premises under Lease 1 as defined by the plan creating the leasehold subdivision?*

Yes, the demised premises for the purposes of the definition of V.S.I. under section 14(1) of the Regulations will be the demised premises as identified in the plan creating the leasehold subdivision with respect to Lease 1.

3. *If Lease 2 is registered in the Land Title Office after the commencement date of the term so that all the lump sum rent will be paid within one year after the date of registration, will the fair market value of Lease 2 be determined pursuant to section 12 or section 14(2) of the Property Transfer Tax Regulation?*

As with Lease 1, it is my ruling that Lease 2 does not meet the conditions under section 12 of the Regulations because the lessee will also be responsible for paying "percentage rent based on a percentage of gross revenues, payable annually in arrears during the term". Accordingly, the fair market value of Lease 2 will be determined under section 14(2) of the Regulations.

.../4

4. *For the calculation of the fair market value of Lease 2 if section 14(2) applies to Lease 2 and of Lease 3 assuming that section 14(2) applies to the determination of the fair market value of Lease 3:*
- a. *For the purposes of the definition of V.S.I. in section 14(2), will the 'land, including improvements, within which the demised premises are situated' exclude the demised premises under Lease 1 in respect of which Property Transfer Tax will have already been paid on registration in the Land Title Office of Lease 1?*
 - b. *Will the A.R.A. for the purposes of the formula in section 14(2) include the portion of the improvements on the Land occupied by the landlord and not leased out to the tenants?*

Section 14(2) of the Regulations applies to the determination of the fair market value of Lease 2 and of Lease 3.

It is my ruling that the answer to both questions 4(a) and (b) is yes.

For the purposes of the definition of V.S.I. in section 14(2), the 'land, including improvements, within which the demised premises are situated' will exclude the demised premises under Lease 1 in respect of which property transfer tax will have already been paid on registration of Lease 1 in the Land Title Office.

The A.R.A for the purposes of the formula in section 14(2) will include the portion of the improvements on the land occupied by the landlord and not leased out to the tenants.

Please note that section 7(2) of the Regulations specifically excludes from the determination of the fair market value of a demised premise, the value of any improvements that are made by the lessee for which they will not be reimbursed by the lessor. In order to determine if section 7(2) is applicable to the current transaction, additional information would be required.

This ruling is issued for the purposes of this transaction only, and with the understanding that all of the facts provided in your letters dated August 25, 2006, and September 8, 2006, are accurate and complete.

In the event the Act or Regulations are amended with respect to such transactions and the proposed transfer is not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator, Property Transfer Tax, provided the transaction completes in the manner described in the advance tax ruling request.

After registration, the transaction(s) for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

.../5

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

If you have any questions on the above, or if you would like to provide any additional information about this transaction, please contact me at (250) 356-5340.

Yours truly,

Kevin Gudgeon
A/Director, Administrative Tax Policy and Legislation



The Best Place on Earth

November 21, 2006

Dear

RE: Subdivision – Property Transfer Tax Advance Tax Ruling

I am responding to your letter dated September 20, 2006, requesting an advance tax ruling. Receipt of your payment of \$143.10 reflecting the cost for the provision of this ruling, is acknowledged.

This request is made with respect to the properties legally described as:

I understand the facts regarding this request to be as follows:

1. is the registered owner of Property 1 (PID).
2. and are the registered owners of Property 2 (PID).
3. and and are not related individuals within the meaning of the *Property Transfer Tax Act* (Act).
4. Your clients intend to subdivide the two properties into the four lots shown as Lots 1 to 4 on the draft plan of subdivision by taking the following steps:
 - a. Transfer both of the properties to a trustee for the purposes of facilitating the transfers required for the subdivision. The trustee will be registered as the trustee of the properties at the Land Titles Office.

- b. Subsequently, the Trustee will transfer new Lot 1 to _____ ; new Lot 2 to _____ and _____ ; and new Lots 3 and 4 to _____ and _____ each with an undivided 1/3 interest.

Your request is for a ruling that the following transactions are exempt from property transfer tax:

- a) The transfer of both properties to the trustee.
- b) The subsequent transfers from the trustee of the new created Lots as listed above.

Property transfer tax is due at the time an application to register a taxable transaction is made at the Land Title Office. The tax is due on the fair market value of the land or interest in land transferred. However, the Act provides a number of exemptions from the tax.

Section 14(4)(k) of the Act provides an exemption from property tax where 2 or more adjacent parcels of land are transferred from the original owners to a trustee, registered under the *Land Title Act*, and two further conditions are met. First, the transfer to the trustee is to facilitate the subdivision of the original parcels and second, upon registration of the plan of subdivision, the trustee transfers the subdivided parcels to any or all of the original owners.

An exemption from property transfer tax is also provided under section 14(4)(k.1) of the Act. This exemption is available where the registered trustee, under section 14(4)(k) of the Act, transfers the property back to the original owners and the proportionate fair market value of the new parcels does not exceed the original owner's proportionate share of the fair market value of the original parcels, as calculated immediately before the subdivision. Accordingly, in order to be eligible for the exemption under s. 14(4)(k.1), upon completion of the subdivision, there can be no change in the proportionate share of the fair market value.

If an original owner receives a greater proportionate share of the fair market value of the parcels created under the subdivision than was held in the original parcel, that transfer will be subject to tax based on the increase in the proportion of fair market value that was received as a result of the subdivision in accordance with section 3(3.4) of the Act.

According to the estimation of the fair market value of the properties provided with your request, _____ proportionate share of the fair market values of the property prior to subdivision is 34% and his proportionate share after the subdivision will be 41%. Assuming this is correct, _____ will be required to pay property transfer tax on the increase in the proportion of the fair market value that he receives as a result of the subdivision in accordance with section 3(3.4) of the Act. As the estimates of the fair market value provide are hypothetical only, I make no comment on the accuracy or acceptability of the estimates themselves.

In the absence of any other credible evidence, such as an appraisal by a professional appraiser (AACI or RIBC) using accepted appraisal techniques and methodologies, the Administrator will rely on BC Assessment assessed values to determine the proportionate share of the total fair market value of the new parcels in comparison with the original parcels as were assessed immediately before subdivision.

The registration of the subdivision is considered part of the subdivision process and will not attract property transfer tax as a stand alone transaction.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided in your letter dated are accurate and complete.

Based on the information provided it is my ruling that:

1. The transfer of the properties to the trustee for the purpose of the subdivision will be exempt from property transfer tax if the conditions set out above are met.
2. Property transfer tax will be payable by _____ on the increase in the proportion of the fair market valued that he receives as a result of the subdivision, again assuming the information provided is accurate.

In the event the Act is amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator, Property Transfer Tax, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advance tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

If you have any questions on the above, please contact me at (250) 387-4009

Yours truly,



Tara Richards
Director
Policy and Legislation Branch



December 19, 2006

Dear

RE: Subdivision at – Property Transfer Tax Advance Tax Ruling

I am responding to your letter dated September 19, 2006, requesting an advance tax ruling. Receipt of your payment of \$190.80 reflecting the cost for the provision of this ruling, is acknowledged.

This request is made with respect to the properties legally described as:

(1)

(2)

(3)

(4)

Ministry of Policy and Legislation Branch
Small Business and Revenue www.rev.gov.bc.ca

Mailing Address:
7th Floor - 1802 Douglas Street
Victoria, BC V8T 4K6

Telephone: 250 387-4009

Facsimile: 250 387-3000

(5)

(6)

(7)

I understand the facts regarding this request to be as follows:

1. First, Lots and a portion of Lot 25 will be consolidated to form new Lot and Lot will be renamed as Lot
2. Second, new Lot will be consolidated with existing Strata Lot to form new Strata Lot and new Lot will be consolidated with existing Strata Lot to form new Strata Lot
3. Third, new Strata Lot will be subdivided to create new Strata Lots ; new Strata Lot will be subdivided to create new Strata Lots ; and existing Strata Lot will be subdivided to create new Strata Lots
4. Fourth, new strata lots will be added to the common property of Strata Plan
5. After the completion of the above:
 - a. and will be the registered owners of new Strata Lot
 - b. and will be the registered owners of new Strata Lot
 - c. and will be the registered owners of new Strata Lots
 - d. and will be the registered owners of new Strata Lot
 - e. will be the registered owner of new Strata Lot
 - f. will be the registered owner of new Strata Lot

Your request is for a ruling that the following transactions are exempt from property transfer tax:

1. The transfer of the properties to the trustee for the purposes of facilitating the transfers required for the subdivision. The trustee will be registered as the trustee of the properties at the Land Titles Office.
2. The subsequent transfers from the trustee of the newly created Lots as listed above.

The registration of the plans of subdivision or reference plans is considered part of the subdivision process and will not attract property transfer tax as a stand alone transaction.

Property transfer tax is due at the time an application to register a taxable transaction is made at the Land Title Office. The tax is due on the fair market value of the land or interest in land transferred. However, the Act provides a number of exemptions from the tax.

Section 14(4)(k) of the Act provides an exemption from property tax where 2 or more adjacent parcels of land are transferred from the original owners to a trustee, registered under the *Land Title Act*, and two further conditions are met. First, the transfer to the trustee is to facilitate the subdivision of the original parcels and second, upon registration of the plan of subdivision, the trustee transfers the subdivided parcels to any or all of the original owners.

An exemption from property transfer tax is also provided under section 14(4)(k.1) of the Act. This exemption is available where under section 14(4)(k) of the Act, the registered trustee transfers the property back to the original owners and the proportionate fair market value of the new parcels does not exceed the original owner's proportionate share of the fair market value of the original parcels, as calculated immediately before the subdivision. Accordingly, in order to be eligible for the exemption under s. 14(4)(k.1), upon completion of the subdivision, there can be no change in the proportionate share of the fair market value.

If an original owner receives a greater proportionate share of the fair market value of the parcels created under the subdivision than was held in the original parcel, that transfer will be subject to tax based on the increase in the proportion of fair market value that was received as a result of the subdivision in accordance with section 3(3.4) of the Act.

Eligibility for the exemption under s. 14(4)(k.1) of the Act is based on the proportionate share of the fair market value of the property and not on the proportionate share of the total land area. Even if there is no change in proportionate ownership of land area, there may still be a variation in proportionate ownership in terms of the fair market value immediately before and after the subdivision.

In the absence of any other credible evidence, such as an appraisal by a professional appraiser (AACI or RIBC) using accepted appraisal techniques and methodologies, the Administrator will rely on BC Assessment assessed values that are available at the date of registration of new

parcels to determine the proportionate share of the total fair market value in comparison with the original parcels as were assessed immediately before subdivision.

Based on the information provided, it is my ruling that the transfer of the properties to the trustee for the purpose of the subdivision will be exempt from property transfer tax if the conditions set out above are met.

A determination of whether the transfer of the properties from the trustee to the original owners is exempt from the tax under s. 14(4)(k.1) of the Act will be based on the proportionate fair market value of ownership as reflected immediately before the subdivision of the parcels in comparison with proportionate fair market value immediately preceding subdivision, at the time of registration. The fair market value as determined at the date of registration will be impacted by any changes to the size of the new parcels as well as the distribution of any of the existing improvements.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided in your letters dated September 19 and November 10 are accurate and complete.

In the event the Act is amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator, Property Transfer Tax, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advance tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

If you have any questions on the above, please contact me at (250) 387-4009

Yours truly,



Tara Richards
Director
Policy and Legislation Branch



The Best Place on Earth

April 23, 2007

Dear

RE: Subdivision at – Property Transfer Tax Advance Tax Ruling

This is in response to your letter dated March 23, 2007, submitted with respect to Property Transfer Tax Ruling

In your letter you have asked for confirmation of whether Lot , as described in your original request submitted on September 19, 2006, must be transferred to the Trustee in order for sections 14(4)(k) and 14(4)(k.1) of the *Property Transfer Tax Act* (the Act) to apply. Lot is being included in the proposed subdivision in order to

As indicated in the ruling issued on December 19, 2006, the exemptions under sections 14(4)(k) and (k.1) of the Act are available where all necessary conditions are met and where upon completion of the subdivision, there is no change in the proportionate share of the fair market value in the subdivided parcels. If an increase in the proportionate fair market value occurs, the effected transfers will be subject to tax in accordance with section 3(3.4) of the Act.

Based on the information you have provided, it is my ruling that section 14(4)(k) and (k.1) will apply to the proposed transfers of the properties to the trustee for the purpose of the subdivision if all necessary conditions are met. If however, following the completion of the subdivision, an original owner receives a greater proportionate share of the fair market value in one or more of the newly created parcels than was originally held, that transfer will be subject to tax based on the increase in the proportion of fair market value, in accordance with section 3(3.4) of the Act.

Eligibility for the exemption under s. 14(4)(k.1) of the Act is based on the proportionate share of the fair market value of the property and not on the proportionate share of the total land area. Even if there is no change in proportionate ownership of land area, there may still be a variation in proportionate ownership in terms of the fair market value immediately before and after the subdivision.

In the absence of any other credible evidence, such as an appraisal by a professional appraiser (AACI or RIBC) using accepted appraisal techniques and methodologies, the Administrator will rely on BC Assessment assessed values that are available at the date of registration of new parcels to determine the proportionate share of the total fair market value in comparison with the original parcels as were assessed immediately before subdivision.

A determination of whether the transfer of the properties from the trustee to the original owners is exempt from the tax under s. 14(4)(k.1) of the Act will be based on the proportionate fair market value of ownership as reflected immediately before the subdivision of the parcels in comparison with proportionate fair market value immediately proceeding subdivision, at the time of registration. The fair market value as determined at the date of registration will be impacted by any changes to the size of the new parcels as well as the distribution of any of the existing improvements.

This ruling along with the ruling issued on December 19, 2006 have been provided for the purposes of these transactions only, and with the understanding that all of the facts provided in your letters dated September 19, 2006, November 10, 2006 and March 23, 2007 are accurate and complete.

In the event the Act is amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator, Property Transfer Tax, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advance tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

As indicated in the original ruling, please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

If you have any questions on the above, please contact me at (250) 356-5340.

Yours truly,

Tara Richards
Director
Policy and Legislation Branch

August 28, 2007

Dear

RE: Subdivision at _____ – Property Transfer Tax Advance Tax Ruling

This is in response to your letter dated August 20, 2007, submitted with respect to Property Transfer Tax Ruling

In your letter you have advised that the Kamloops Land Title Office has instructed another step be added to the proposed _____. These new transfers are required in accordance with Section 262 of the *Strata Property Act*, and include the following:

Transfer 1: transfer of interest in New Lot _____ and New Lot _____ from the Trustee^{*} to the Owners, Strata Plan _____ (the Owners); and,

Transfer 2: transfer of interest in New Lot _____ and New Lot _____ from the Owners to the Trustee "In Trust".

You have asked for a confirmation of whether the new transfers will attract property transfer tax.

Based on the information you have submitted, it is my ruling that the new transfers will not attract property transfer tax provided that there is no changes in legal registered ownership during the time in which the transfers are effected. Accordingly, the transferee in Transfer 1 and the transferor in Transfer 2 must be the same legal person. Similarly, the transferor in Transfer 1 and the transferee in Transfer 2 must also be the same legal person.

^{*}The descriptions of New Lot _____ New Lot _____ and the Trustee are based on information provided in this request as well as previous requests dated September 19, 2006, November 10, 2006 and March 23, 2007.

This ruling along with the rulings issued on December 19, 2006 and April 26, 2007 have been provided for the purposes of these transactions only, and with the understanding that all of the facts provided in your letters dated September 19, 2006, November 10, 2006, March 23, 2007 and August 20, 2007 are accurate and complete.

In the event the Act is amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator, Property Transfer Tax, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advance tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

As indicated in the original ruling, please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

If you have any questions on the above, please contact me at (250) 356-5340.

Yours truly,

Tara Richards
Director
Policy and Legislation Branch

November 17, 2006

Dear

RE: Property Transfer Tax Advance Tax Ruling

I am responding to your letter of September 22, 2006, requesting an advance tax ruling. Receipt of your payment of \$95.40, reflecting the cost for the provision of this ruling, is acknowledged.

This request is made with respect to the property at
British Columbia, legally described as:

I understand the facts regarding this request to be as follows:

1. You and (your wife) are the registered fee simple owners of the property as joint tenants.
2. The property is occupied by you and your wife as your respective principal residence.
3. The property has been the principal residence of you and your wife for the past years.
4. The property is not, and is not expected to become, the principal residence of (your daughters).

Your request is for a ruling that no tax will be payable pursuant to the *Property Transfer Tax Act* on the following transfers of title to the property:

- (a) a transfer from you and your wife as joint tenants to you, your wife and your daughters as joint tenants; and
- (b) any subsequent transfer pursuant to the rights of survivorship arising from the initial transfer
 - (i) upon which you or your wife continue as one of the joint owners, or
 - (ii) that is in consequence of the death of the survivor of you and your wife.

Property transfer tax is due at the time an application to register a taxable transaction is made at the Land Title Office. The tax is due on the fair market value of the land or interest in land transferred. The Act provides a number of exemptions from the tax.

Section 14(3)(b) provides an exemption for a transfer, between related individuals, if the land transferred has been the principal residence of either the transferor or the transferee for a continuous period of at least 6 months immediately prior to the date of the transfer. Section 1(1) of the Act defines "related individual" to include a person's child, provided the child is either a Canadian citizen or permanent resident as defined in the *Immigration and Refugee Protection Act* (Canada). Section 14(1) of the Act defines "principal residence" as a parcel of land: (a) on which the person who is claiming the exemption usually resided and used as his or her home; (b) on which there are improvements that are designed to accommodate and do in fact accommodate three or fewer families; (c) on which all the improvements are classified as residential by BC Assessment; and (d) that is not larger than 0.5 hectares (1.24 acres) in area.

Accordingly it is my ruling that the transfer of interest in the property from you and your wife as joint tenants to you, your wife and your daughters as joint tenants will qualify for an exemption under section 14(3)(b) of the Act.

Section 14(3)(m) provides an exemption for 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.

Accordingly, it is my ruling that the subsequent transfer(s) of property resulting from the death of you, your wife or either daughter, as joint tenants of the property, to the surviving joint tenants of the property will qualify for an exemption under section 14(3)(m) of the Act.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided in your letter of September 22, 2006, are accurate and complete.

In the event the Act is amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator, Property Transfer Tax, provided the transaction is completed in the manner described in the advance tax ruling request.

After registration, the transaction(s) for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

If you have any questions on the above, please contact me at (250) 387-4009.

Yours truly,

A handwritten signature in cursive script that reads "Tara Richards".

Tara Richards
Director, Policy and Legislation



October 26, 2006

Dear

RE: Property Transfer Tax Advance Tax Ruling

I am responding to your letter dated October 17, 2006, requesting an advance tax ruling. Receipt of your payment of \$95.40, reflecting the cost for the provision of this ruling, is acknowledged.

This request is made with respect to the property legally described as (the Property):

I understand the facts regarding this request to be as follows:

1. _____ is the registered owner of the Property.
2. In _____ leased the Property to _____
The term of the original lease agreement was _____
3. _____ and _____ will reduce the original term of the lease to _____ years,
commencing on _____ and register this change at the Land Titles Office.
4. _____ leasehold interest in the Property will then be transferred to _____

Your request is for a ruling of whether the transfer of interest in the modified lease from _____ to _____ will be considered a taxable transaction under the *Property Transfer Tax Act* (the Act).

Ministry of
Small Business and
Revenue

Policy and Legislation Branch
www.gov.bc.ca/rev/

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7th Floor - 1802 Douglas Street
Victoria, BC V8T 4K6

Telephone: (250) 350-6340
Facsimile: (250) 387-3000

Property transfer tax is due at the time an application to register a taxable transaction is made at the Land Title Office. The tax is due on the fair market value of the land or interest in land transferred.

Registration of a lease agreement, including a sub-lease, is a taxable transaction for the purposes of the Act. However, the definition of taxable transaction under section 1(1) of the Act only includes lease agreements that exceed 30 years in total.

Accordingly it is my ruling that if the term of the original lease agreement is modified to years commencing on property transfer tax will not be payable upon the transfer of interest in the modified lease from to

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided in your letter October 17, 2006, are accurate and complete.

In the event the Act is amended with respect to such transactions and the proposed transfer is not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator, Property Transfer Tax, provided the transaction is completed in the manner described in the advance tax ruling request.

After registration, the transaction(s) for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

If you have any questions on the above, please contact me at (250) 356-5340.

Yours truly,



Kevin Gudgeon,
Director, Policy and Legislation



January 12, 2006

Dear

RE: Property Transfer Tax Advance Tax Ruling

I am responding to your letter dated November 9, 2006, requesting an advance tax ruling. Receipt of your payment of \$143.10 reflecting the cost for the provision of this ruling, is acknowledged.

This request is made with respect to the properties legally described as:

(1)

(2)

I understand the facts regarding this request to be as follows:

1. Your clients intend to subdivide Lot 1 and Lot 2.
2. To facilitate the subdivision, Lot 1 and Lot 2 will be transferred to _____ in trust, and later transferred back to the original owners upon completion of the subdivision.
3. As a result of the subdivision three new parcels of property will be created (Lots A, B and C).

4. After the completion of the subdivision, the following interests will be transferred:

a) will acquire the fee simple interest in Lot A and Lot C as well as interest in the proposed Lot B.

a. The remainder of Lot B will be transferred to and as to
a interest and to and as to a interest.

Your request is for a ruling that the above transactions will be exempt from property transfer tax by virtue of sections 14(4)(k) and 14(4)(k.1) of the *Property Transfer Tax Act* (the Act).

Property transfer tax is due at the time an application to register a taxable transaction is made at the Land Title Office. The tax is due on the fair market value of the land or interest in land transferred. However, the Act provides a number of exemptions from the tax.

Section 14(4)(k) of the Act provides an exemption from property tax where 2 or more adjacent parcels of land are transferred from the original owners to a trustee, registered under the *Land Title Act*, and two further conditions are met. First, the transfer to the trustee is to facilitate the subdivision of the original parcels and second, upon registration of the plan of subdivision, the trustee transfers the subdivided parcels to any or all of the original owners.

An exemption from property transfer tax is also provided under section 14(4)(k.1) of the Act. This exemption is available where under section 14(4)(k) of the Act, the registered trustee transfers the property back to the original owners and the proportionate fair market value of the new parcels does not exceed the original owner's proportionate share of the fair market value of the original parcels, as calculated immediately before the subdivision. Accordingly, in order to be eligible for the exemption under s. 14(4)(k.1), upon completion of the subdivision, there can be no change in the proportionate share of the fair market value.

If an original owner receives a greater proportionate share of the fair market value of the parcels created under the subdivision than was held in the original parcel, that transfer will be subject to tax based on the increase in the proportion of fair market value that was received as a result of the subdivision in accordance with section 3(3.4) of the Act.

Eligibility for the exemption under s. 14(4)(k.1) of the Act is based on the proportionate share of the fair market value of the property and not on the proportionate share of the total land area. Even if there is no change in proportionate ownership of land area, there may still be a variation in proportionate ownership in terms of the fair market value immediately before and after the subdivision.

In order to determine the assessed value of the property the Administrator will rely on credible evidence such as an appraisal by a professional appraiser (AACI or RIBC) using accepted appraisal techniques and methodologies as well as BC Assessment assessed values that are available at the date of registration of new parcels to determine the proportionate share of the total fair market value in comparison with the original parcels as were assessed immediately before subdivision.

Based on the information provided, it is my ruling that the transfer of Lot 1 and Lot 2 to the trustee for the purpose of the subdivision will be exempt from property transfer tax if the conditions set out above are met.

A determination of whether the transfer of the properties from the trustee to the original owners is exempt from the tax under s. 14(4)(k.1) of the Act will be based on the proportionate fair market value of ownership as reflected immediately before the subdivision of the parcels in comparison with proportionate fair market value immediately preceding subdivision, at the time of registration.

While appraisal reports are useful in providing projected values of the newly created parcels, fair market value is determined at the date of registration. This accounts for any changes in value that may occur as a result of the length of the subdivision process, changes to the size of the new parcels as well as the distribution of any of the existing improvements.

The registration of the plans of subdivision or reference plans is considered part of the subdivision process and will not attract property transfer tax as a stand alone transaction.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided in your letter dated November 9, 2006 are accurate and complete.

In the event the Act is amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator, Property Transfer Tax, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advance tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

If you have any questions on the above, please contact me at (250) 387-4009

Yours truly,

A handwritten signature in cursive script, reading "Tara Richards".

Tara Richards
Director
Policy and Legislation Branch



February 15, 2007

Dear

RE: - Property Transfer Tax Advance Tax Ruling

I am responding to your letters dated November 28, 2006 and December 18, 2006, requesting an advance tax ruling. Receipt of your payment of \$143.10, reflecting the cost for the provision of this ruling, is acknowledged.

This request is made with respect to the property legally described as (the Property):

•

I understand the facts regarding this request to be as follows:

1. is the registered owner of the Property.
2. The Property consists of approximately acres and is being used for farming and to operate a golf course.
3. No portion of the property is being used or farmed by a non-family member.
4. would like to transfer an interest in the property to her husband,

Your request is for a ruling that if is added to the title of the Property as a joint tenant, this transfer of interest will qualify as an exempt transaction under the *Property Transfer Tax Act* (the Act).

Property transfer tax is due at the time an application to register a taxable transaction is made at the Land Title Office. The tax is due on the fair market value of the land or interest in land transferred. However, the Act provides a number of exemptions from the tax.

Section 14(3)(a) of the Act provides an exemption for the transfer of the registered fee simple interest in land if two conditions are met. First, the land must be a family farm. Second, the fee simple interest in the land must be transferred to a related individual who is a Canadian citizen or permanent resident (there is no requirement that the transferor must be a citizen or permanent resident). Section 14(1) of the Act defines "related individual" to include a person's spouse, provided the spouse is either a Canadian Citizen or permanent resident as defined in the *Immigration and Refugee Protection Act* (Canada). Family farm is defined as farm land that is used, owned and farmed by one individual or by family members.

The Property has been assessed as farm land under the *Assessment Act*. _____ is currently registered as the owner of the Property, which is being used and farmed by herself and her husband _____ only. Therefore, the Property does qualify as a family farm for the purpose of the Act.

Accordingly, it is my ruling that the proposed transfer of interest in the Property from _____ to _____ and _____ as joint tenants, will qualify for an exemption under section 14(3)(a) of the Act.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided in your letters of November 28, 2006 and December 18, 2006, are accurate and complete.

In the event the Act is amended with respect to such transactions and the proposed transfer is not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator, Property Transfer Tax, provided the transaction is completed in the manner described in the advance tax ruling request.

After registration, the transaction(s) for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

If you have any questions on the above, please contact me at (250) 387-4009

Yours truly,

A handwritten signature in cursive script that reads "Tara Richards".

Tara Richards
Director
Policy and Legislation Branch



March 15, 2007

Dear

RE: Creation of Fractional Interests in Strata Lots – Property Transfer Tax
Advance Tax Ruling

I am responding to your letter dated December 6, 2006, requesting an advance tax ruling. Receipt of your payment of \$190.80 reflecting the cost for the provision of this ruling, is acknowledged.

This request is made with respect to the properties described in the attached Appendix A (the Property).

I understand the facts regarding this request to be as follows:

1. is the registered owner of the property, comprised of strata lots.
2. The property consists of a two-building and a third building has now been constructed on common property within the strata.
3. Construction financing was arranged while the third building was constructed. Now that the building has been completed, the lender would like to replace the construction financing with a term mortgage.
4. In order to charge the term mortgage to the third building alone and not the entire property, is proposing to create a title for the third building by converting the common property of the strata corporation into a new Strata Lot

5. To create the new strata lot two concurrent transfers will take place:
- a. A transfer of interest in the common property from to the Strata Corporation; and,
 - b. A transfer of interest in the common property, including the new Strata Lot from the Strata Corporation to

Your request is for a ruling of whether the transfers of interest in the property described above will be exempt transactions under the *Property Transfer Tax Act*.

Property transfer tax is due at the time an application to register a taxable transaction is made at the Land Title Office. The tax is due on the fair market value of the land or interest in land transferred.

Based on the information provided in your letter of December 6, 2006, it is my ruling that the proposed transfers of interest in the property from to the Strata Corporation and from the Strata Corporation to back to do not qualify for any of the exemptions available under the Act.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided in your letter dated December 6, 2006 are accurate and complete. This ruling is binding on the Administrator, Property Transfer Tax, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advance tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Please note that one of the options available to your client is to submit a request for remission of property transfer tax payable for these transactions. Such a request may be considered under section 19 of the *Financial Administration Act*. Cabinet may provide a remission of any tax imposed by an enactment where great public inconvenience, great injustice or great hardship has occurred or is likely to occur, and it considers that it is in the public interest to do so.

If you have any questions on the above, please contact me at (250) 387-4009

Yours truly,



Tara Richards
Director
Policy and Legislation Branch

cc: Andy Robinson
Assistant Deputy Minister
Ministry of Finance



February 15, 2007

Dear

RE: Property Transfer Tax Advance Tax Ruling

I am responding to your letter dated December 18, 2006, requesting an advance tax ruling. Receipt of your payment of \$143.10 reflecting the cost for the provision of this ruling, is acknowledged.

This request is made with respect to the properties legally described as (the properties):

(1)

(2)

(3)

I understand the facts regarding this request to be as follows:

1. Your clients, _____ and the late _____ were the registered, fee simple owners of the properties as joint tenants.
2. As a result of _____ death in _____ It is anticipated that _____ will acquire the fee simple interest in the properties as the surviving joint tenant.

3. currently resides on and at the date of the proposed transfer the property will be her principal residence for a period of at least six months.
4. is proposing to transfer her interest in the properties to the Alter Ego Trust No. 1. The trustees of the trust will be and her children (the children).
5. For the purposes of this transfer and based on the following information, it is contended that both and form part of principal residence:
 - a. Both and are treated as one parcel for the purposes of property tax.
 - b. residence is located on and is adjoining bare land, or a rock bluff that is described as integral to the enjoyment of

Your request is for a ruling is based on the following:

- I. A determination of whether and will be treated as a single parcel for the purposes of the *Property Transfer Tax Act* (the Act); and,
- II. A determination of whether the transfer of interest in the properties from to the trustees of the Alter Ego Trust No.1 will be an exempt transaction under section 14(3)(b) of the Act.

Property transfer tax is due at the time an application to register a taxable transaction is made at the Land Title Office. The tax is due on the fair market value of the land or interest in land transferred. However, the Act provides a number of exemptions from the tax.

Pursuant to section 14(1.1) of the Act, where a dwelling is located on more than one parcel, the parcels are deemed to be one parcel for the purposes of property transfer tax. This includes situations where a dwelling straddles two or more parcels or where other improvements or structures such as water lines and sewer lines similarly cut across two or more parcels.

Based on the information provided in your request and in response to your first question, it is my ruling that and would not be treated as a single parcel for the purposes of property transfer tax. contains principal residence while is described as bare land. Accordingly, in order to be treated as a single parcel, evidence of common improvements or structures, shared between the two parcels would be required.

Section 14(3)(b) provides an exemption for transfers between related individuals. To qualify for the full exemption, the transferor must not be a trustee referred to in sections 14(3)(c),(d), or (e); the land transferred must be the principal residence of either the transferor or the transferee for a continuous period of at least 6 months immediately prior to the date of the transfer; all of the improvements must be classified as residential by BC Assessment, and the land must not exceed 0.5 hectares (1.24 acres).

Section 14(1) of the Act defines "related individual" to include a person's children, provided that the children are either Canadian Citizens or Permanent Residents as defined in the *Immigration and Refugee Protection Act* (Canada). Under the definition of "related individual", a person is not a related individual to themselves.

Accordingly it is my ruling that, if _____ transfers interest in the properties to herself, her son _____ and her daughter _____ as the trustees of the Alter Ego Trust No.1, property transfer tax will be assessed as follows:

- The proposed transfer of interest in _____ from _____ to the children will qualify for the exemption provided in section 14(3)(b) of the Act. Eligibility for this exemption is the same whether the interests are transferred to the children in fee simple or in trust. If however, the interests are transferred in trust, the trust designation must be registered on the title and the trust documents filed at the Land Title Office in support of the application to register the transfer.
- The proposed transfer of interest in _____ from _____ to the children will not be considered an exempt transaction under section 14(3)(b) as _____ does not qualify as a principal residence.
- The proposed transfer of interest in _____ from _____ to _____ will not be considered an exempt transaction under section 14(3)(b) of the Act. The transfer of interest from a person to themselves is not a transfer to a related individual.
- The proposed transfer of interest in _____ from _____ to _____ in trust, will not be considered an exempt transaction under section 14(3)(b) as _____ does not qualify as a principal residence.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided in your letter December 18, 2006, are accurate and complete. As per your request, this ruling is provided with respect to the proposed transfers of _____ and _____. This ruling is not applicable to _____. Should you have any concerns about _____ please contact me at (250) 387-4009.

In the event the Act is amended with respect to such transactions and the proposed transfer is not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator, Property Transfer Tax, provided the transaction is completed in the manner described in the advance tax ruling request.

After registration, the transaction(s) for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

If you have any questions on the above, please contact me at (250) 387-4009.

Yours truly,

A handwritten signature in cursive script that reads "Tara Richards".

Tara Richards
Director
Policy and Legislation Branch



March 22, 2007

Dear

RE: - Property Transfer Tax Advance Tax Ruling

I am responding to your letter dated December 29, 2006, requesting an advance tax ruling. Receipt of your payment of \$143.10, reflecting the cost for the provision of this ruling, is acknowledged.

This request is made with respect to the property legally described as (the Property):

I understand the facts regarding this request to be as follows:

1. The registered fee simple interest in the Property is held by _____ in trust.
2. _____ are the trustees of a trust established by order of the Supreme Court of British Columbia in (the Trust). The beneficiary of the trust was _____
3. The Trust was established with respect to damages awarded to _____ the child of _____
4. The Trust document included a provision that authorized the trustees of the Trust to advance up to _____ towards the purchase of a property for the trust beneficiary and her parents _____

5. The amount was advanced in at which time the Property was purchased and registered in the name of the trustees.
6. In a mortgage was secured against the Property by and who assumed personal responsibility for the financing. The mortgage payments are and personal contribution to the equity of the Property.
7. On or about and the beneficiary of the Trust and daughter of died.
8. The Trust equity in the Property, in the amount of will now be distributed to and as the intestate heirs of their daughter, (The trust equity represents a interest in the assessed value of the Property).

Your request is for a ruling on the following:

- a. Whether the transfer of interest in the Property from the Trust to and as the intestate heirs of their daughter's estate will be an exempt transaction pursuant to section 14(3)(d) of the *Property Transfer Tax Act* (the Act) or another provision of the Act.
- b. Whether the transfer of the existing beneficial interest in the Property of and in the amount of will be considered exempt from tax.

Property transfer tax is due at the time an application to register a taxable transaction is made at the Land Title Office. The tax is due on the fair market value of the land or interest in land transferred. However, a number of exemptions are available under the Act.

Based on the information provided in your letter of December 29, 2006, it is my ruling that the proposed transfer of interest in the Property will not qualify for an exemption under the Act.

With regard to your second question, concerning the beneficial interest held in the Property by and it is my ruling that the assessment of property transfer tax on the proposed transfer will be based on the entire fair market value of the Property and not the amount indicated in your request. Property transfer tax is a registration tax and is not concerned with beneficial ownership.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided in your letter of December 29, 2006, are accurate and complete.

In the event the Act is amended with respect to such transactions and the proposed transfer is not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator, Property Transfer Tax, provided the transaction is completed in the manner described in the advance tax ruling request.

After registration, the transaction(s) for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

If you have any questions on the above, please contact me at (250) 387-4009

Yours truly,

Tara Richards
Director
Policy and Legislation Branch



February , 2007

Dear

RE: Property Transfer Tax Advance Tax Ruling

I am responding to your letter dated January 3, 2007, requesting an advance tax ruling. Receipt of your payment of \$90.00 reflecting the cost for the provision of this ruling, is acknowledged.

This request is made with respect to the properties legally described as:

(1) s.22

(2)

(3)

I understand the facts regarding this request to be as follows:

1. Your clients intend to combine Lot 1, Lot 2 and Lot 3 and as a result of the subdivision create two new parcels, Lot A and Lot B.
2. To facilitate the subdivision, Lot 1, Lot 2 and Lot 3 will be transferred to
in trust, and later transferred back to the original

owners upon completion of the subdivision.

3. As a result of the subdivision two new parcels of property will be created (Lots A and B).

4. After the completion of the subdivision, the following interests will be transferred:

- a) will acquire the entire fee simple interest in Lot A.
- a. Fee simple interest in Lot B will be transferred to as to a
interest and to as to a interest each.

Your request is for a ruling that the above transactions will be exempt from property transfer tax by virtue of sections 14(4) (k) and 14(4) (k.1) of the *Property Transfer Tax Act* (the Act).

Property transfer tax is due at the time an application to register a taxable transaction is made at the Land Title Office. The tax is due on the fair market value of the land or interest in land transferred. However, the Act provides a number of exemptions from the tax.

Section 14(4)(k) of the Act provides an exemption from property tax where 2 or more adjacent parcels of land are transferred from the original owners to a trustee, registered under the *Land Title Act*, and two further conditions are met. First, the transfer to the trustee is to facilitate the subdivision of the original parcels and second, upon registration of the plan of subdivision, the trustee transfers the subdivided parcels to any or all of the original owners.

An exemption from property transfer tax is also provided under section 14(4)(k.1) of the Act. This exemption is available where under section 14(4)(k) of the Act, the registered trustee transfers the property back to the original owners and the proportionate fair market value of the new parcels does not exceed the original owner's proportionate share of the fair market value of the original parcels, as calculated immediately before the subdivision. Accordingly, in order to be eligible for the exemption under s. 14(4)(k.1), upon completion of the subdivision, there can be no change in the proportionate share of the fair market value.

If an original owner receives a greater proportionate share of the fair market value of the parcels created under the subdivision than was held in the original parcel, that transfer will be subject to tax based on the increase in the proportion of fair market value that was received as a result of the subdivision in accordance with section 3(3.4) of the Act.

Eligibility for the exemption under s. 14(4) (k.1) of the Act is based on the proportionate share of the fair market value of the property and not on the proportionate share of the total land area. Even if there is no change in proportionate ownership of land area, there may still be a variation in proportionate ownership in terms of the fair market value immediately before and after the subdivision.

In order to determine the assessed value of the property the Administrator will rely on credible evidence such as an appraisal by a professional appraiser (AACI or RIBC) using accepted appraisal techniques and methodologies. In addition, the Administrator will review the BC Assessment assessed values that are available at the date of registration of new parcels to determine the proportionate share of the total fair market value in comparison with the original parcels as were assessed immediately before subdivision.

Based on the information provided, it is my ruling that the transfer of Lot 1, Lot 2 and Lot 3 to the trustee for the purpose of the subdivision will be exempt from property transfer tax if the conditions set out above are met.

A determination of whether the transfer of the properties from the trustee to the original owners is exempt from the tax under s. 14(4)(k.1) of the Act will be based on the proportionate fair market value of ownership as reflected immediately before the subdivision of the parcels in comparison with proportionate fair market value immediately preceding subdivision, at the time of registration.

While appraisal reports are useful in providing projected values of the newly created parcels, fair market value is determined at the date of registration. This accounts for any changes in value that may occur as a result of the length of the subdivision process, changes to the size of the new parcels as well as the distribution of any of the existing improvements.

The registration of the plans of subdivision or reference plans is considered part of the subdivision process and will not attract property transfer tax as a stand alone transaction.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided in your letter dated January 3, 2007 are accurate and complete.

In the event the Act is amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator, Property Transfer Tax, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advance tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

If you have any questions on the above, please contact me at (250) 387-4009

Yours truly,

Tara Richards
Director
Policy and Legislation Branch

March 12, 2007

Subject: **Request for Advance Tax Ruling – Leasehold Strata Plan**

Dear

Thank you for your advance tax ruling request dated January 26, 2007 in which you requested a ruling concerning the application of property transfer tax (PTT) to

FACTS

I have based this ruling on the following facts:

1. On (the “City”) and (the “Company”) entered into a ground lease (the “Ground Lease”).
2. Under the terms of the Ground Lease, the Company leased from the City lands in the City in the Province of British Columbia legally described (the “Lands”).
3. The term of the Ground Lease was

4. The Company then subdivided the Lands into strata lots by the deposit of a Leasehold Strata Plan in the Land Title Office. The Registrar of Land Titles then issued, new certificates of title for each of the strata lots shown on the Leasehold Strata Plan.
5. On and in conjunction with the deposit of the Leasehold Strata Plan in the Land Title Office, the City and Company amended the Ground Lease such that upon registration of a Leasehold Strata Plan in the Land Title Office, the Model Strata Lot Lease (the "Lease") would apply to each of the new strata lots.
6. The Company then either subleased or assigned the leases to individuals (the "Owners") for the remainder of the unexpired term of the Lease.
7. The Term of the Lease commenced on and expires on
8. Each Owner leasing a strata lot prepaid for the entire term of the Lease.
9. The Lease contains two rights of renewal for each.
10. The strata corporation for Strata Plan on behalf of certain Owners, approached the City expressing their desire to exercise their rights of renewal under their respective leases.
11. The City has agreed to allow these Owners to exercise their rights of renewal for an additional prepaid rent of
12. The Owners have requested that a modification of the Lease (the "Modification Agreements") be registered against the title of each participating Owner.
13. A registered modification of the Ground Lease will also be registered in the Land Title Office to ensure that the renewal rights are exercised in respect of the lease of the common property of the strata corporation for Strata Plan
14. The Modification Agreements do not modify the Ground Lease and the Lease.
15. The Modification Agreements do not extend either the Ground Lease or the Lease, including the rights of renewal.
16. The purpose of the Modification Agreements is to provide notice to third parties that the rights of renewal in the Ground Lease and the Lease have been exercised.

ISSUE

Are the Modification Agreements subject to PTT?

SHORT ANSWER

The Modification Agreements are not subject to PTT because they are not “taxable transactions.”

ANALYSIS

The *Property Transfer Act* (the “*Act*”) imposes property transfer tax on taxable transactions. Section 1 of the *Act* defines “taxable transaction.” Under s.1(c), extending the term of a lease agreement by a lease modification agreement is a taxable transaction.

In this case, the Modification Agreements do not extend the term of either the Ground Lease or the Lease. Clause of the Ground Lease provides that the term of the lease is from to Clause provide for a first and second renewal options for each. The total possible lease term, accordingly, is to Clauses of the Lease similarly provide for the lease term is from to with two renewal options. The Modification Agreements do not extend the total lease term of either the Ground Lease or the Lease. Therefore, given the Modification Agreements are not extending the terms of the either the Ground Lease or the Lease, the Modification Agreements do not fall into the definition of “taxable transaction” as outlined in section 1 of the *Act*.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided in your letter dated January 26, 2006, are accurate and complete.

In the event the *Act* is amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator, Property Transfer Tax, provided the transaction is completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Please attach a copy of this ruling to the property transfer tax return submitted with the application or registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

If you have any questions on the above, please contact me at (250) 387 0891.

Yours truly,

Bob Scott, B.A., LL.B.
Senior Legislative and Rulings Analyst
Policy and Legislation Branch
Ministry of Small Business and Revenue

March 9, 2007

Dear

RE: Property Transfer Tax Advance Tax Ruling

Thank you for your letter dated January 31, 2007 requesting an advance tax ruling. We have received your payment of \$190.80.

Facts

I understand the facts regarding your request as follows:

1. The property is located at _____ British Columbia. The property is legally described _____
2. Your client _____ is the registered owner of three quarter interests in _____ (the Property).
3. _____ developed and owns the strata development in which the _____ units are located.
4. _____ generally sells quarter interests in individual strata lots and, concurrently with the transfer of title to quarter interest to the buyer, registers a sub-lease from the owners' association in favour of the buyer.
5. _____ has sold most units in the development but still holds ownership of three quarter interests in _____. The Owners' Association has requested that _____ take registered ownership of the subleases in respect of these _____ units.

You are requesting a ruling on whether the transfer of the subleases qualifies for exemption from property transfer tax under Exemption Code 31. You believe that if the transfer of the subleases were occurring at the same time as the transfer of the land, _____ would qualify for the exemption. However, in this case, _____ already owns the land so the transfer of the subleases is not occurring at the same time.

Issue

Section 14 (4)(v) of the *Property Transfer Tax Act* (PTTA) provides for an exemption from property transfer tax where the transfer is of a lease, sublease or right to occupy premises and the fee simple estate in the same land is transferred concurrently. Section 14(4)(v) reads as follows:

(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:

(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;

To be eligible for the exemption, the transfer of an interest in property identified in section 14(4)(v) of the PTTA must be registered concurrently with the transfer of the fee simple estate in the same land.

The question to be answered in this ruling is: does _____ qualify for the “concurrent transfer” exemption even though the transfers do not occur at the same time?

Analysis

The word “concurrent” is used but not defined in our provincial legislation. However, the ministry has adopted the following administrative policy:

For transactions to be concurrent under section 14(4)(v) of the *Property Transfer Tax Act*, the registration of the applicable interest in property and the fee simple interest at the Land Title Office must occur on, and be date-stamped as, the same day.

The only exceptions to this policy are where an applicant can demonstrate that there was a clear intention to register on the same day that was frustrated by (1) clerical error, or (2) electronic or technological impairment.

The rationale for this policy is as follows:

The property transfer tax is a registration tax, payable at the point in time when an interest in a property is acquired.

The point in time when the interests in property are registered is defined by the registration process. Interests are registered upon receipt of (i) the request(s) to transfer the interests, and (ii) payment of tax or appropriate claim for exemption. Multiple transfers requested at the same time are filed by the Land Title Office consequentially on the same day and date-stamped that day. The date-stamp provides proof of registration and when that registration occurred.

“Concurrent” in section 14(4)(v) of the PTTA cannot be interpreted as “simultaneous” because the registration system does not provide for the simultaneous filing of multiple transfers. However, the interpretation of “concurrent” must reflect the clear policy intent that the required transfers are each so intrinsically linked to the other that they are considered to be two sides of a single transaction. To help ensure that the transfers are linked in such a way, the ministry requires that the transfers occur, and are date-stamped, on the same day as each other.

Ruling

Based on the information you have provided, it is my ruling that _____ transfers do not meet the test for the exemption in section 14(4)(v). The transfer of the subleases does not happen concurrently with the transfer of the interest in land because these transfers do not occur on the same day. _____ does not qualify for exemption under Exemption Code 31 and so property transfer tax does apply to this transaction.

This advice is based on the facts as stated in your letter of January 31, 2007, and on the current tax law. If the facts are incorrect or incomplete, or if the tax law changes, the advice may not be appropriate. The branch is not responsible for updating this advice if there are changes to the law after the date of this letter.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Small Business and Revenue Web site at **www.gov.bc.ca/sbr** or by calling us in Victoria at **250 387-0604** or outside of Victoria by our toll free Enquiry BC number at **1 800 663 7867** and requesting a transfer to **387-0604** or email your questions to **PTTENQ@gov.bc.ca**.

Yours truly,

Jeff Lindsay
Senior Rulings Analyst

February 28, 2007

Dear

RE: Registered Charities Exemption
Property Transfer Tax Advance Tax Ruling

Thank you for your letter dated January 26, 2007, requesting an advance tax ruling. We have received your payment of \$95.40

I understand the facts of your request are as follow:

1. The property is located at _____ British Columbia. The property is legally described as PID _____
2. _____ donated the property to _____.
On the date of the transfer, the *Property Transfer Tax Act* (the Act) did not provide for an exemption from the property transfer tax (PTT) on a transfer of real property to a registered charity. As such, legal title to the property remained with _____ under a bare trust agreement and only beneficial interest was transferred to _____
3. Subsequent to this transfer an exemption for transfers to a registered charity was enacted. _____ transferred, exempt of PTT, fee simple ownership of the property to _____ on March 7, 2002.
4. _____ is a registered charity under the *Income Tax Act*.
5. _____ would like to transfer fee simple ownership of the property back to _____

You are requesting a ruling that the transfer of property from _____ to _____ will be eligible for an exemption from PTT. You suggest the application of PTT based on the current value of the property seems to be an unintended result as there was no transfer of interest to begin with and the reason that these circumstances exist is outside of _____ control.

.../2

The proposed transfer of property from _____ to _____ will not qualify for an exemption under the Act as there are no exemptions available for a transfer of land from a registered charity to a corporation. As such, PTT is due on the fair market value of the land or interest at the time an application to register is made at the Land Title Office. The fair market value is defined under the Act as 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.

This advice is based on the facts as stated in your letter of January 26, 2007, and on the current tax law. If the facts are incorrect or incomplete, or if the tax law changes, the advice may not be appropriate. The branch is not responsible for updating this advice if there are changes to the law after the date of this letter.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Small Business and Revenue Web site at **www.gov.bc.ca/sbr** or by calling us in Victoria at **250 387-0604** or outside of Victoria by our toll free Enquiry BC number at **1 800 663 7867** and requesting a transfer to **387-0604** or email your questions to **PTTENQ@gov.bc.ca**.

Yours truly,

Heather Laing
Senior Rulings Analyst

April 19, 2007

Subject: **Property Transfer Tax Advance Ruling**

Dear

Thank you for your letter dated March 12, 2007, sent via facsimile, requesting an advance tax ruling. We have received your payment of \$180.00.

I understand the facts of your request are as follow:

1. The property is located at _____
British Columbia. The property is legally described as P.I.D. _____
2. The property is owned by _____
3. _____ has granted to _____ a lease of the
property for the period ending _____
4. It is proposed that the property will be subdivided into two parcels, Lot A,
and the remainder of _____
5. _____ then proposes to grant to the _____
a sub-lease of Lot A for the period ending _____ This transaction
will be subject to Property Transfer Tax (PTT).
6. After registration of the sub-lease it is proposed that Lot A be subdivided into Strata Lots
and the remainder of Lot A.

.../2

7. It is then proposed that the existing sub-lease will be discharged and replaced with individual sub-leases in favour of The only proposed change on the leases is to update the legal description in the sub-lease document.

You are requesting a ruling as to whether the transaction in 7. above (the "Proposed Transaction") will be subject to PTT.

It is your understanding, as set out in your March 12, 2007 letter that the Proposed Transaction is exempt from PTT and qualifies under Exemption Code 34. Exemption Code 34 applies to the subdivision of land. It does not apply to the registration of sub-leases.

The granting of a right to occupy land under a lease agreement is a taxable transaction. There is no exemption available for the Proposed Transaction.

This advice is based on the facts as stated in your letter of March 12, 2007, and on the current tax law. If the facts are incorrect or incomplete, or if the tax law changes, the advice may not be appropriate. The branch is not responsible for updating this advice if there are changes to the law after the date of this letter.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Small Business and Revenue Web site at **www.gov.bc.ca/sbr** or by calling us in Victoria at **250 387-0604** or outside of Victoria by our toll free Enquiry BC number at **1 800 663 7867** and requesting a transfer to **387-0604** or email your questions to **PTTENQ@gov.bc.ca**.

Yours truly,

Samantha Cameron
Senior Rulings Analyst

June 5, 2007

Subject: **Property Transfer Tax Advance Ruling**

Dear

Thank you for your letter dated March 8, 2007, sent via facsimile, requesting an advance tax ruling. We have received your payment of \$180.00.

I understand the facts of your request are as follow:

1. The property is located at _____ British Columbia.
The property is legally described as P.I.D. _____
2. The property is held by _____ in trust for _____ (the
Owner).
3. _____ proposes to transfer the property to _____ to
hold in trust for the Owner.
4. The Declaration of Trust has been amended to appoint _____ as trustee in place of _____

You are requesting a ruling as to whether the transaction in 3. above (the "Proposed Transaction") will be subject to property transfer tax (PTT).

Section 14(4)(q) of the *Property Transfer Tax Act* exempts certain transfers of property held in trust. Transfers of property from a transferor to a transferee who are both registered under the *Land Title Act* as a trustee of the land, if 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 a change in the terms of the trust, are exempt from PTT. In order to claim this exemption, the transferor and transferee must make a declaration to that effect and file it in the Land Title Office.

.../2

The Proposed Transaction will be exempt from PTT under section 14(4)(q) (exemption code 26) if the amended Declaration of Trust provided by you with your letter of March 8, 2007, is signed and subsequently filed in the Land Title Office.

This advice is based on the facts as stated in your letter of March 8, 2007, and on the current tax law. If the facts are incorrect or incomplete, or if the tax law changes, the advice may not be appropriate. The branch is not responsible for updating this advice if there are changes to the law after the date of this letter.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Small Business and Revenue Web site at **www.gov.bc.ca/sbr** or by calling us in Victoria at **250 387-0604** or outside of Victoria by our toll free Enquiry BC number at **1 800 663 7867** and requesting a transfer to **387-0604** or email your questions to **PTTENQ@gov.bc.ca**.

Yours truly,

Samantha Cameron
Senior Rulings Analyst
356-7585

June 27, 2007

Subject: Amendment of Property Transfer Tax Advance Ruling

Dear

Thank you for your letter dated May 14, 2007, requesting an amendment to your advance tax ruling. We have received your payment of \$90.00.

In addition to the facts set out in my original ruling, issued April 19, 2007, I understand the facts of your request are as follow:

1. Your clients and have acquired additional property to be included in the proposed subdivision.
2. The parcels were roads which have or will be closed by the in order to facilitate the subdivision.
3. The additional property is located in British Columbia. The additional property is legally described as:
4. acquired a interest in the additional property.
5. acquired a interest in the additional property.
6. The original property (that listed in the original ruling) and the additional property (together the Property) will be transferred to a trustee who will, upon subdivision, transfer the resulting lots back to and in shares that do not exceed the proportionate shares owned by and immediately before the subdivision.

.../2

7. The proportion of the value of the Property registered to _____ is _____
8. The proportion of the value of the Property registered to _____ is _____

You are requesting a ruling as to whether the proposed transaction is subject to Property Transfer Tax (PTT). As long as the proportionate shares of the fair market value of the Property are the same immediately before the land is transferred to the trustee as they are immediately after the land is transferred by the trustee, the transaction will be exempt.

The only amendment to the original ruling is to include the additional property. I make no comment on the accuracy or acceptability of the estimated property values or proportion of the value of the Property held by either party.

Based on the information provided, it is my ruling that the transfers of interests from _____ and _____ to the trustee and then back from the trustee to _____ and _____ will be exempt from PTT if the conditions set out above are met.

This advice is based on the facts as stated in your letter of May 14, 2007, and on the current tax law. If the facts are incorrect or incomplete, or if the tax law changes, the advice may not be appropriate. The branch is not responsible for updating this advice if there are changes to the law after the date of this letter. This ruling is not binding if the proposed transaction has already taken place.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Small Business and Revenue Web site at **www.gov.bc.ca/sbr** or by calling us in Victoria at **250 387-0604** or outside of Victoria by our toll free Enquiry BC number at **1 800 663 7867** and requesting a transfer to **387-0604** or email your questions to **PTTENQ@gov.bc.ca**.

Yours truly,

Samantha Cameron
Senior Rulings Analyst



July 22, 2008

Subject: Property Transfer Tax Advance Ruling

Dear

Thank you for your letter dated June 4, 2008, requesting an advance tax ruling. We have received your payment on June 30, 2008.

I. BACKGROUND

I understand the facts of your request are as follows:

1. The property is located in _____ British Columbia. The property is legally described as: _____
2. The registered owner of the family farm is _____
3. The subject property is currently a _____ acres family farm. Approximately one acre is for the house and the rest is in production. There is also a manufactured home on the property that is not inhabited since it has been vandalized and the owners plan to remove it from the property. and his family declared that they live on the property.



4. The family farm has been leased from _____ to _____
The lease ended on _____ and presently the farm is farmed by
family members and seasonal help. _____ declared that the seasonal
help are strictly employees and do not share any business risk.
5. The proposed transaction is to put _____ parents and wife on title as
joint tenants with _____

I have assumed that _____ is not transferring the property as a trustee for a trust.

II. RULING REQUEST

You are requesting a ruling as to whether the proposed transaction is exempt from property transfer tax (PTT).

III. RULING

The proposed transaction is exempt from PTT.

IV. LEGISLATION AND ANALYSIS

A. Legislation

To be exempt from paying PTT under section 14(3)(a)(i) of the *Property Transfer Tax Act* (the *Act*), the transfer must meet all of the following eligibility criteria:

- The land transferred has to be a family farm as defined in the *Act*. It has to be farm land, classified under the *Assessment Act* as farm land and is used, owned and farmed by one individual or by family members.
- The transferor is not transferring the property as a trustee of a deceased person's estate or of a trust established under a deceased person's will.
- The transferees are related individuals or a sibling or spouse of a sibling of the transferor. If the transferees are related individuals, the transferees must also be Canadian citizens or permanent residents of Canada.

Section 1(1) of the *Act* defines the term "related individual" as a persons' spouse, child, grandchild, great-grandchild, parent, grandparent or great-grandparent, the spouse of a person's child, grandchild or great-grandchild, or the child, parent, grandparent or great-grandparent of a person's spouse.

Certain transfers of property are exempt from PTT under section 14 of the *Act*. For the purposes of section 14, subsection 14(1) adds that related individuals must be Canadian citizens or permanent residents as defined in the *Immigration and Refugee Protection Act* (Canada).

Section 14 also defines a "family farm" as farm land that is used, owned and farmed by one individual or by family members.

B. Analysis

As per your letter, the proposed transaction consists of a transfer of a family farm that is used, owned and farmed by _____ and his family. The farm will be transferred from _____ to _____ his wife, _____ and to his parents, _____ as joint tenants. For this reason, the transfer meets the first criteria of section 14(3)(a)(i).

I have assumed that _____ is not transferring the property as a trustee of a trust. If this assumption is accurate, he will have met the second criteria of section 14(3)(a)(i).

From the documents provided, the transferees also meet the third criteria of section 14(3)(a)(i).

As all of the above criteria are met, pursuant to section 14(3)(a)(i) of the *Act*, the transfer will be exempt from PTT.

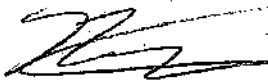
This correspondence describes how the Ministry interprets the relevant tax provisions for information purposes only. This ruling and interpretation may be impacted by variations in circumstance, subsequent changes to legislation or subsequent court decisions. This ruling and interpretation is not intended to replace the legislation. The Ministry is not responsible for updating this ruling and interpretation if there are any subsequent changes to the law.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

After registration, the transactions for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Additional information may be obtained by accessing the Ministry of Small Business and Revenue Web site at www.gov.bc.ca/sbr or by calling us in Victoria at **250-387-0604** or outside of Victoria by our toll free Enquiry BC number at **1 800 663 7867** and requesting a transfer to **387-0604** or email your questions to PTTENQ@gov.bc.ca.

Yours truly,



Bob Scott
Senior Advisor
Rulings and Interpretations
Policy and Legislation Branch



September 8, 2008

Subject: Property Transfer Tax Advance Ruling

Dear

Thank you for your letter dated July 17, 2008, requesting an advanced tax ruling. We received your payment on July 28, 2008.

I. BACKGROUND

I understand the facts as being the following:

1. On a Bare Land Strata Plan was filed and registered with the Land Title Office, with the number The bare land is located in bare land strata lots were created and the legal description of the Strata Plan at the time of registration was:
2. Upon registration of the Bare Land Strata Plan, different Rights to Purchase (the "RP's") were registered on title. Property transfer tax (the "PTT") was paid at the time of registration.



Ministry of Small Business
and Revenue

Mailing Address:
7th Floor - 1802 Douglas Street
Victoria, BC V8T 4K6

Telephone: 250 387-0100
Facsimile: 250 387-3000

These properties are legally described as:

3. Later in the year _____ determined that the amount of land between the building sites and the common property roadway should be increased by for each strata lot to allow for proper building envelopes.
4. The proposed transactions are to
 - a) De-register the RP's to allow for the adjustments to be made to the Strata Plan; and
 - b) Subsequently, re-register the RP's on title once the adjustment to the Strata Plan occurs.

II. RULING REQUEST

You are requesting a ruling as to whether the re-registration of the RPs is exempt from PTT under section 14(4)(t) of the *Property Transfer Tax Act* (the PTTA).

III. RULING

The transaction to de-register the RP's to allow for the adjustments to be made to the Strata Plan is not subject to PTT.

The transaction to subsequently re-register the RP's on title once the adjustment to the Strata Plan occurs is subject to PTT.

IV. LEGISLATION AND ANALYSIS

A. Legislation

Under the PTTA, PTT is assessable on the fair market value of the land (land and improvements) at the time of registration at the Land Title Office.

Section 1(1) in the PTTA defines the term "taxable transaction" as any transaction purporting to transfer or grant, by any means, the right to occupy or use land.

Section 14(4)(n) of the PTTA provides an exemption for a transfer arising from the cancellation of an agreement for sale where the transferee is the original vendor under the agreement for sale.

Section 14(4)(t) of the PTTA provides an exemption from PTT on a transfer for the purpose of reconveying property provided that the following eligibility criteria are fully met; specifically, the proposed transfer is intended to correct:

- A transfer when the property was conveyed in error.
- An error that was made in the description or survey under which the title to the property was registered.

Upon review of documentation submitted to the Property Taxation Branch of the Ministry of Small Business and Revenue, the Administrator can determine whether a conveyance in error occurred and a transfer is necessary to correct the error. If the Administrator is satisfied that the transfer is intended for this purpose, then she will issue a Certificate to that effect to be filed and registered at the Land Title Office.

B. Analysis

As per your letter, the proposed transaction consists of two steps. The first transaction is the de-registration of the RP's to allow for the correction of the Strata Plan. Upon de-registration of the RP's, a transfer of the properties occurs in which the transferees are the original vendor under the RP's. This transfer will therefore be exempt under section 14(4)(n) of the PTTA.

After the amendment to the Strata Plan is complete, the second proposed transaction is to re-register the RP's. The amendments to the Strata Plan consist of modifications within the boundaries of the Strata Plan with no changes to the boundaries of the Strata Plan, or to its description. The amendment consists of an increase of for each lot area. The owners of the original parcels before the amendment to the Strata Plan will be the owners of bigger parcels after the amendment of the Strata Plan. The parcels may have an increased fair market value after the Strata Plan amendment.

The re-registration is a registration of new RP's. The property description has been modified by increasing each lot with an additional Therefore, the re-registration qualifies as a taxable transaction as defined in the PTTA. This taxable transaction is subject to PTT on the fair market value of the land and improvements at the time of registration.

The change to the size of these lots was only found to be necessary after the construction began. That is why the proposed transaction does not qualify as an

"error" for the purpose of section 14(4)(t) of the PTTA. For this reason, the second transaction does not qualify for the exemption under section 14(4)(t) of the PTTA and is subject to PTT as described above.

This correspondence describes how the Ministry interprets the relevant tax provisions for information purposes only. This ruling and interpretation may be impacted by variations in circumstance, subsequent changes to legislation or subsequent court decisions. This ruling and interpretation is not intended to replace the legislation. The Ministry is not responsible for updating this ruling and interpretation if there are any subsequent changes to the law.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

After registration, the transactions for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Additional information may be obtained by accessing the Ministry of Small Business and Revenue Web site at www.gov.bc.ca/sbr or by calling us in Victoria at 250-387-0604 or outside of Victoria by our toll free Enquiry BC number at 1 800 663 7867 and requesting a transfer to 387-0604 or email your questions to PTTENQ@gov.bc.ca.

Yours truly,



Tara Richards
Director (Property Taxes)
Policy and Legislation Branch



November 13, 2008

Dear

Re: Property Transfer Tax Advance Tax Ruling

I am responding to your letter dated July 30, 2008, requesting a ruling with respect to the property transfer tax payable on the registration of a proposed lease, dated between and We received payment for this ruling on September 16, 2008.

I. BACKGROUND

The request is made with respect to a parcel of land as described in the lease. The parcel of land does not exist but will be created by subdivision of lands described as follows:

I understand the facts as being the following:

1. _____ (the "Landlord") and _____ (the "Tenant") entered into an Offer to Lease dated _____ in respect of a certain parcel of _____ land situated at _____ (the "Lands").
2. The Landlord and the Tenant propose to enter into a ground lease dated _____ whereby the Landlord will agree to lease to the Tenant the Lands for a term of _____ (the "Lease"), which is proposed to commence on the earlier of a number of specified events occurring.
3. The parcel of land as described in the Lease does not yet exist but the intention is for the parcel to be created by subdivision.
4. The Lease provides that the Landlord will permit the Tenant to register a Short Form of Lease against the Lands including the Right of First Refusal to Lease (which first requires approval of the lease and leasehold subdivision plan by _____).
5. The Lease will also provide at paragraph 37 a "Right of First Refusal to Lease" on the terms and conditions contained in Schedule G attached thereto. Schedule G will state:

Provided:

- The Tenant complies with its obligations under the Lease;
- The Tenant continually operates the business on the Lands as provided in the Lease,

Then upon expiry of the Term _____ of the Lease the Tenant has the right of first refusal to lease the Lands when the Lands or any part of the Lands become available for lease upon the following terms:

II. RULING REQUEST

You are requesting a ruling on the property transfer tax payable on the registration of:

- a. the Lease including the Right of First Refusal; and,
- b. the Lease not including the Right of First Refusal.

III. LEGISLATION AND ANALYSIS

A. Legislation

Under section 2 of the *Property Transfer Tax Act* (the "Act"), tax is due at the time an application to register a taxable transaction is made at a land title office. Taxable transactions include the right to occupy land under a lease agreement.

Section 14(4)(o) of the Act provides an exemption from property transfer tax for a transfer of a lease agreement with a term of 30 years or less remaining as at the date of registration of that lease agreement. Section 9 of the Property Transfer Tax Regulation (the "Regulation") provides that the term of a lease agreement is the sum of the number of years for which a lessee has the right to occupy the demised premises under the lease agreement and the maximum number of years that, by the exercise of right or options to renew or extend the agreement, the lessee may occupy the demised premises. The term of a lease agreement is the unexpired portion of the term on the date application is made to register the lease agreement at a land title office.

B. Analysis

The general purpose of the Act is to tax transfers of interests in land which reflect a current right to long term security of tenure, which includes the right to occupy the land by operation of an option to renew or extend the lease.

The Right of First Refusal provides that the Tenant has the right of first refusal to lease the Lands when the Lands or any part of the Lands become available under the terms listed in Schedule G. The terms found in Schedule G do not give to the Tenant any present right to require a leasehold interest in the Lands in the future. The Right of First Refusal is not an option or right to renew a lease under the Act and does not contribute to the term of the lease as calculated under section 9 of the Regulation. Consequently, the term of the ground lease is which is unchanged regardless of whether or not the Right of First Refusal is included in the Lease.

IV. RULING

It is my ruling that the registration of the Lease with or without the Right of First Refusal set out in Schedule G will have a term of 30 years or less, and will be exempt from property transfer tax under section 14(4)(o) of the Act.

This correspondence describes how the Ministry interprets the relevant tax provisions. This ruling and interpretation may be impacted by variations in circumstance, subsequent changes to legislation or subsequent court decisions. This ruling and interpretation is not intended to replace the legislation. The Ministry is not responsible for updating this ruling and interpretation if there are any subsequent changes to the law.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at a land title office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

After registration, the transactions for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of

this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Additional information may be obtained by accessing the Ministry of Small Business and Revenue Web site at www.gov.bc.ca/sbr or by calling us in Victoria at 250-387-0604 or outside of Victoria by our toll free Enquiry BC number at 1 800 663 7867 and requesting a transfer to 387-0604 or email your questions to PTTENQ@gov.bc.ca.

Yours truly,



Hilary Vance
A/Director Property Taxes
Policy and Legislation Branch



October 1, 2008

Dear

RE: Subdivision – Property Transfer Tax Advance Tax Ruling

I am responding to your letter dated August 15, 2008, requesting an advance tax ruling. Receipt of your payment on September 12, 2008 for this ruling is acknowledged.

I. Ruling Requested

You have asked whether property transfer tax (PTT) is payable on transactions by as well as by any subsequent buyer, given that any newly created lots may not to be transferred back to the original owners of the original parcels.

II. Ruling

Tax is payable and no tax exemptions apply under subdivision exemption sections 14(3)(j) or 14(4)(k) and (k.1) of the *Property Transfer Tax Act* (PTTA).

III. Property and Facts

A. Property

Your ruling request is made with respect to property now owned by and legally described as:

B. Facts & Assumptions

My understanding of the facts is as follows:

1. Your clients transferred original parcels to on at a Land Title Office.
2. did not register title of the lots as a trustee under the *Land Title Act*.
3. combined the original parcels by depositing a plan of subdivision under section 98 of the *Land Title Act* in a Land Title Office on The Plan was registered as I will call this "the first subdivision".
4. The title number of the newly consolidated lot A is
5. Your clients contemplate act as the Developer in accordance with a Joint Venture Agreement. The Joint Venture agreement was submitted subsequent to the ruling request.
6. Your clients now contemplate subdividing the consolidated Lot A. I will call this "the second subdivision".
7. Your clients contemplate not transferring any lots that will be newly created by "the second subdivision" back to the original owners of the lots, but instead transfer them to subsequent purchaser(s).

IV. Legislation and Application

A. Legislation

PTT is due at the time an application to register a taxable transaction is made at the Land Title Office and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax. The registration of the plan of subdivision itself as a stand alone transaction is affected under Part 7 of the *Land Title Act* and as part of the subdivision process is not considered a taxable transaction under current provisions.

The *PTTA* provides exemptions from paying PTT for transfers taking place in the course of a subdivision as follows:

1. Multi-Parcel Subdivisions

Section 14(4)(k) of the *PTTA* provides an exemption from PTT where two or more adjacent parcels of land owned by two or more parties are transferred from the original owners to a trustee, registered under the *Land Title Act*, and two further conditions are met. First, the transfer to the trustee is required to facilitate the subdivision of the original parcels and second, upon registration of the plan of subdivision, the trustee is required to transfer the subdivided

parcels to any or all of the original owners. If the trustee either retains or transfers one or more of the newly created parcels, tax is payable by the trustee in accordance with section 3(3.3) of the *PTTA*.

An exemption from PTT is also provided under section 14(4)(k.1) of the *PTTA*. This exemption is available where under section 14(4)(k) of the *PTTA*, the registered trustee transfers the property back to the original owners and the proportionate fair market value of the new parcels, as calculated immediately after the subdivision, does not exceed the original owner's proportionate share of the fair market value of the original parcels, as calculated immediately before the subdivision. Accordingly, in order to be eligible for the exemption under s. 14(4)(k.1), upon completion of the subdivision, there can be no increase in the owners proportionate share of the fair market value.

If an original owner receives a greater proportionate share of the total fair market value of the parcels created under the subdivision than was held in the original parcel(s), that transfer will be subject to tax based on the increase in the proportion of fair market value that was received as a result of the subdivision in accordance with section 3(3.4) of the *PTTA*.

Eligibility for the exemption under s. 14(4)(k.1) of the *PTTA* is based on the proportionate share of the fair market value of the property and not on the proportionate share of the total land area. Even if there is no change in proportionate ownership of land area, there may still be a variation in proportionate ownership in terms of the fair market value immediately before and after the subdivision.

2. *Single Parcel Subdivisions*

Section 14(3)(j) of the *PTTA* provides an exemption from PTT where one parcel of land owned by more than one party is subdivided into smaller parcels. There are two requirements that should be met to be eligible for the exemption:

- When the original parcel is subdivided into smaller parcels, the transferees of those smaller parcels must be the registered owners of the original parcel, and
- each transferee must acquire a registered interest in one or more of the parcels created by the subdivision with a share of the total fair market value of all the new parcels that is no greater than the share in the fair market value of the original parcel which he or she had immediately before the subdivision.

3. *Valuation*

In order to determine the appropriate proportionate share of the fair market value, in the absence of any other credible evidence, such as an appraisal by a professional appraiser (AACI or RIBC) using accepted appraisal techniques and methodologies, the Administrator will rely on BC Assessment assessed values that are available at the date of registration of the new parcels in comparison with the original parcels as were assessed immediately before subdivision.

B. Application of the legislation to the facts

Exemptions from PTT are special exceptions to the general application of the *PTTA* and are therefore strictly applied.

1. The *PTTA* requires that in order to benefit from a PTT exemption with respect to a subdivision, a trustee must be used when there is more than one original parcel from which the newly subdivided lot(s) originate and the parcels are owned by more than one party (the "original owners"). The trustee must be registered as the trustee at the Land Title Office as outlined in section 180 of the *Land Title Act*, holding the properties on behalf of the original owners. There is no special requirement as to who can act as a trustee.

It is my ruling, based on the information provided and my understanding of the facts, that the conditions of the legislation set out under sections 14(4)(k) and (k1) have not been met and the transfers of the original properties to are not exempt for the purpose of the subdivision. In addition, any further transfers from either to the original owners of the lots or subsequent purchasers are also not exempt and are subject to PTT. To be clear, transferring the consolidated parcel back to the original owners of the lots will trigger the tax as will transferring any further newly created lots to them.

2. Given that the newly consolidated parcel A - as described in Plan ("the first subdivision") - can now be considered the "original parcel" and is owned by one party only, a different set of circumstances has arisen. is now a single owner of a single parcel and contemplates filing a new plan of subdivision or strata plan ("the second subdivision"). Section 14(3)(j) of the Act provides an exemption for a single parcel subdivision where the original parcel is owned by more than one party. This is not the case here. Therefore the section does not apply for the purposes of a subdivision exemption.

It is my ruling, based on the information provided and my understanding of the facts, that any subsequent transferees to the second subdivision, whether original owners of the lots or not, are subject to PTT.

V. Use of this Ruling

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided in your letter are accurate and complete.

This correspondence describes how the Ministry interprets the relevant tax provisions for information purposes only. This ruling and interpretation may be impacted by variations in circumstance, subsequent changes to legislation or subsequent court decisions. This ruling and interpretation is not intended to replace the legislation. The Ministry is not responsible for updating this ruling and interpretation if there are any subsequent changes to the law.



September 22, 2008

Subject: Property Transfer Tax Advance Ruling

Dear

Thank you for your letter dated August 5, 2008, requesting an advanced tax ruling. We received your payment on September 15, 2008.

I. BACKGROUND

I understand the facts as follows:

1. The property consists of two parcels of land owned by a husband and wife ("the Parents"). The parcels are described as LOT 1 and LOT 2. The registered owners of LOT 1 and LOT 2 are "the Parents".
2. LOT 1 is a parcel, assessed as farm land by the BC Assessment Authority. The parcel is used as farm land for the purposes of producing
3. In "the Parents" entered into a transaction with a corporation ("the Company") whose directors and shareholders are the Parents' son and daughter-in-law (the "Son and the Daughter-in-Law"). At that time, the Company acquired the beneficial interest in



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LOT 1, while the Parents remained the registered owners on title. All the farming operations on LOT 1 have been carried on by the Company.

4. LOT 2 is a parcel. Approximately are used for producing The farming business and operations for LOT 2 have been carried on by the Company since All the income derived from farming on the LOT 1 and LOT 2 has gone to the Company since
5. LOT 2 consists also of a residence. The residence is occupied by the "Son and the Daughter-in-law".
6. The proposed transactions are to
 - a) Transfer LOT 1 from "the Parents" to "the Company"; and
 - b) Transfer LOT 2 from "the Parents" to "the Son".

II. RULING REQUEST

You are requesting a ruling as to whether

- A) The transfer of LOT 1 is exempt from property transfer tax (PTT) under section 14(3)(f) of the *Property Transfer Tax Act* (the PTТА), as a transfer of a family farm to a family farm corporation; and
- B) The transfer of LOT 2 is exempt from PTT under section 14(3)(a)(i), as a transfer of a family farm to a related individual.

III. RULING

Both of the proposed transactions would be taxable transactions as defined in section 1(1) of PTТА. Transferring LOT 1 as family farm from "the Parents" to "the Company" and LOT 2 as family farm from "the Parents" to "the Son" are not exempt from PTT under section 14(3)(f) and 14(3)(a)(i).



IV. LEGISLATION AND ANALYSIS

A. Legislation

Under the PTTA ("the Act"), all transfers of property or interests in property, registered at the Land Title Office are subject to PTT, unless specifically exempt under the sections of the PTTA.

Two such exemptions are for the transfer of a family farm to a family farm corporation (section 14(3)(f)) and a transfer of a family farm to a related individual of the transferor (section 14(3)(a)(i)).

To be exempt from paying PTT under sections 14(3)(a)(i) and 14(3)(f) of the PTTA, the following common eligibility criteria should be met:

- The land transferred has to be a family farm as defined in the Act. It has to be farm land, classified under the *Assessment Act* as farm land and is used, owned and farmed by one individual or by family members.
- The transferor is not transferring the property as a trustee of a deceased person's estate or of a trust established during the lifetime of the settlor.
- The transferees are related individuals or a sibling or spouse of a sibling of the transferor and must be Canadian citizens or permanent residents of Canada.
- If the transferee is a family farm corporation (s.14 (3)(f)), the shareholders should be one or all of the following: the transferor, a related individual of the transferor, a sibling or a spouse of a sibling of the transferor.

Section 1(1) of the Act defines the term "related individual" as a persons' spouse, child, grandchild, great-grandchild, parent, grandparent or great-grandparent, the spouse of a person's child, grandchild or great-grandchild, or the child, parent, grandparent or great-grandparent of a person's spouse.

For the purposes of section 14, subsection 14(1) adds that related individuals must be Canadian citizens or permanent residents as defined in the *Immigration and Refugee Protection Act* (Canada).

Section 14 defines also the concepts of "family farm" and "family farm corporation". A "family farm" is defined as farm land that is used, owned and farmed by one individual or by family members OR used, owned and farmed by a family farm corporation. Section 14 defines "family farm corporation" as a corporation of which the principal activity is farming the farm land; however no shareholder is a corporation.



B. Analysis

As per your letter, the first proposed transaction consists in the transfer of LOT 1, which is owned by the Parents and is used, and farmed by the Company, to the transferee who is "the Company". The proposed transaction does not qualify for the exemption because, the criterion of "used, owned and farmed" is not met as intended in the legislation.

While LOT 1 is assessed as farm land and is owned by the transferors ("the Parents"), it does not meet the requirements of "used and farmed" as outlined in the criterion "used, owned and farmed". The way the legislation currently applies is that the owner of the farm land is concurrently using and farming the farm land in order for the farm to qualify as a family farm. From the documents provided, the "used and farmed" criteria are not met because, since the Company has been using and farming the land while under the ownership of "the Parents". For the purposes of applying property transfer tax the Company is not a related individual or a family member. Therefore the farm does not meet all the requirements to qualify as "family farm" as defined in the Act. The proposed transaction does not qualify for the exemption under section 14(3)(f).

The second transaction is to transfer LOT 2 which is owned by the Parents and is used and farmed by the Company, to the transferee who is the Son. You intend to transfer LOT 2 as family farm to a related individual. This second transaction does not qualify for the exemption under section 14(3)(a)(i) because the criterion "used, owned and farmed" in the definition of family farm is not met.

LOT 2 is assessed and used as farm land. While it is owned by the Parents, the land is used and farmed by "the Company". Subsection 14(1) stipulates that in order to qualify as a "family farm", the land should be "used, owned and farmed" by an individual, the family corporation or family members. LOT 2 does not qualify under the definition of "family farm" because it does not meet all three requirements of the criterion "used, owned and farmed" by the same corporation, family member or individual. The legislation requires that all of the three requirements be exclusively met by a farm, for it to qualify as "family farm". Therefore, the proposed transaction is not exempt from PTT under section 14(3)(a)(i).

Please note that I have assumed that the Parents are not transferring the property as a trustee of a trust for neither of the proposed transfers mentioned above.

It is worth mentioning that the transfer of the residence located on LOT 2 from "the Parents" to "the Son" might qualify for a full or partial exemption, under section



14(3)(b) of PTTA, transfer of a principal residence among related individuals. In order to be exempt under section 14(3)(b), a certain set of eligibility criteria should be met.

- The transferee and the transferor are related individuals as defined in the Act and are Canadian citizens or permanent residents of Canada.
- The transferor is not transferring the property as a trustee of a deceased person's estate or of a trust established during the lifetime of the settlor.
- The land transferred has been the principal residence of either the transferor or the transferee for a period of at least 6 months prior to the transfer. Subsection 14(1) of the Act defines the term "principal residence" as being a parcel of land on which the person claiming the exemption has established their home and on which the improvements are designed to accommodate three (3) or fewer families; furthermore, the improvements should be classified as residential under section 19 of the *Assessment Act* and the parcel of land is not larger than 0.5 hectares in area.

From the documents provided, we can not conclude that the transferees ("the Son and the Daughter-in-law" or "the Son") would meet all the criteria mentioned above and qualify for the exemption under section 14(3)(b).

This correspondence describes how the Ministry interprets the relevant tax provisions for information purposes only. This ruling and interpretation may be impacted by variations in circumstance, subsequent changes to legislation or subsequent court decisions. This ruling and interpretation is not intended to replace the legislation. The Ministry is not responsible for updating this ruling and interpretation if there are any subsequent changes to the law.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

After registration, the transactions for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.



Additional information may be obtained by accessing the Ministry of Small Business and Revenue Web site at www.gov.bc.ca/sbr or by calling us in Victoria at 250-387-0604 or outside of Victoria by our toll free Enquiry BC number at 1 800 663 7867 and requesting a transfer to 387-0604 or email your questions to PTTENQ@gov.bc.ca.

Yours truly,



Tara Richards
Director (Property Taxes)
Policy and Legislation Branch
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October 10, 2008

Dear

RE: Property Transfer Tax Advance Tax Ruling

I am responding to your letter dated August 19, 2008, requesting a ruling with respect to exemption from property transfer tax for a proposed subdivision. We received payment for this ruling on September 19, 2008.

I. BACKGROUND

The request is made with respect to the properties legally described as:

.../2



I understand the facts as being the following:

1. Your clients, _____ and _____ intend to exchange two identically-sized pieces of land from Lots 1 and 2.
2. _____ will transfer a portion of Lot 1 directly to _____ and she will acquire the entire fee simple interest in Lot A.
3. _____ will transfer a portion of Lot 2 directly to _____ and they will acquire the entire fee simple interest in Lot B as joint tenants.
4. The transfers will be filed concurrently and without the use of a trustee.

II. RULING REQUEST

You are requesting a ruling whether property transfer tax will apply to the transfer of equal shares of the newly subdivided property over to the owners of the adjacent property.

III. LEGISLATION AND ANALYSIS

A. Legislation

Under section 2 of the *Property Transfer Tax Act* (the Act), tax is due at the time an application to register a taxable transaction is made at the Land Title Office. Taxable transactions include the registration of a transfer of legal title.

Section 14(4)(k) of the Act provides an exemption from property transfer tax where two or more adjacent parcels of land are transferred from the original owners to a trustee registered under the *Land Title Act*, and two further conditions are met. First, the transfer to the trustee is to facilitate the subdivision of the original parcels and second, upon registration of the plan of subdivision, the trustee transfers the newly subdivided parcels to any or all of the original owners.

When the registered trustee transfers the property back to the original owners under section 14(4)(k) of the Act and the owner's proportionate share of the fair market value of the new parcels does not exceed the owner's proportionate share of the fair market value of the original parcels, an exemption from property transfer tax is provided under section 14(4)(k.1) of the Act.

.../3

If an original owner receives a greater proportionate share of the fair market value of the parcels created under the subdivision than was held in the original parcels, that transfer will be subject to property transfer tax in accordance with section 3(3.4) of the Act based on the increase in the proportion of fair market value that was received as a result of the subdivision.

B. Analysis

The Registrar of the Land Title Office may allow for land to be subdivided following a process not contemplated by the Act. However, for the exemption related to subdivisions to apply, a trustee must be used when there is more than one original parcel from which the newly subdivided lots originate.

Since a trustee will not be used, tax will be due on the fair market value of the land transferred. In order to determine the fair market value of that property, the Administrator will rely on credible evidence such as an appraisal by a professional appraiser (AACI or RIBC) using accepted appraisal techniques and methodologies. In addition, the Administrator will review the BC Assessment assessed values that are available at the date of registration of new parcels to determine the proportionate share of the total fair market value in comparison with the original parcels as were assessed immediately before subdivision.

While appraisal reports are useful in providing projected values of the newly created parcels, fair market value is determined at the date of registration. This accounts for any changes in value that may occur as a result of the length of the subdivision process, changes to the size of the new parcels as well as the distribution of any of the existing improvements.

IV. RULING

It is my ruling that the proposed transfers will not be exempt from property transfer tax under sections 14(4)(k) or (k.1) of the Act. The transfers are a taxable transaction under the Act and tax will be due at the time an application to register the transfers is made at the Land Title Office. The tax is due on the fair market value of the land or interest in land transferred.

This correspondence describes how the Ministry interprets the relevant tax provisions. This ruling and interpretation may be impacted by variations in circumstance, subsequent changes to legislation or subsequent court decisions. This ruling and interpretation is not intended to replace the legislation. The Ministry is not responsible for updating this ruling and interpretation if there are any subsequent changes to the law.

.../4

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

After registration, the transactions for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Additional information may be obtained by accessing the Ministry of Small Business and Revenue Web site at www.gov.bc.ca/sbr or by calling us in Victoria at 250-387-0604 or outside of Victoria by our toll free Enquiry BC number at 1 800 663 7867 and requesting a transfer to 387-0604 or email your questions to PTTENQ@gov.bc.ca.

Yours truly,



Tara Richards
Director Property Taxes
Policy and Legislation Branch

4. 14(3)(a)(f)
14(4)(o)

December 5, 2008

Subject: Property Transfer Tax Advance ^{s.22}

Dear

Thank you for your letter dated September 12, 2008, requesting an advance tax ruling. We have received your payment on November 25, 2008.

I. BACKGROUND

I understand the facts of your request are as follows:

1. The proposed transactions involve two properties located in

The first property is legally described as:

The second property is legally described as:

2. The subject properties are within the Agricultural Land Reserve and have been used and will continue to be used for agricultural purposes. The first

property is currently a acre family farm, while the second property is a acre lot used partially for farming vegetables.

3. The first proposed transaction is to transfer the two properties from the current owners to a Corporate Trustee who will act solely as a bare trustee. The trust agreement will be registered on title to the Properties. The proposed shareholders and beneficiaries of the Corporate Trustee at the time of the transfer are the following:

- i. the daughter of
 (the Parents), as shareholder of 20% of the issued shares.
- ii. the daughter of the Parents, as shareholder of
 20% of the issued shares.
- iii. The Parents as shareholders of 60% of the issued shares.

4. The second proposed transaction contemplates that the Properties will be leased to a family farm corporation for the purpose of operating the lands as a . The shareholders of the family farm corporation leasing the Properties from the Corporate Trustee are the following:

- i. together with her spouse, and
- ii. together with her spouse.

II. RULING REQUEST

You are requesting a ruling as to whether the proposed transactions are exempt from property transfer tax (PTT).

III. RULING

The first proposed transaction is **not exempt** from PTT. The second proposed transaction **may be exempt** under the lease provisions.

IV. LEGISLATION AND ANALYSIS

A. Legislation

Under the *Property Transfer Tax Act* (the Act), every registration of title at the Land Title Office is a taxable transaction, unless specifically exempt. PTT is assessed on the fair market value of the property as at the date of registration. Fair market value is specifically defined under the Act.

To be exempt from paying PTT for the transfer of a family farm, under section 14(3)(a) of the Act, the transfer must meet all of the eligibility criteria:

- The land transferred has to be a family farm as defined in the Act. It has to be farm land, classified under the *Assessment Act* as farm land and must be **used, owned and farmed** by one individual and or by family members.
- The transferor is not transferring the property as a trustee as described in section 14(3)(c) or (d) of the Act.
- The transferees are related individuals or a sibling or spouse of a sibling of the transferor. If the transferees are related individuals, the transferees must also be Canadian citizens or permanent residents of Canada.

Where a transfer of a family farm corporation is concerned, section 14(3)(f) of the Act provides additional requirements to allow the transfer be exempt from PTT:

- The transferee is a family farm corporation whose shareholders are the transferor, a related individual of the transferor, a sibling of the transferor or spouse of a sibling of the transferor. The shareholders must also be Canadian citizens or permanent residents of Canada.

Section 1(1) of the Act defines the term "related individual" as a person's spouse, child, grandchild, great-grandchild, parent, grandparent or great-grandparent, the spouse of a person's child, grandchild or great-grandchild, or the child, parent, grandparent or great-grandparent of a person's spouse.

Certain transfers of property are exempt from PTT under section 14 of the Act. For the purposes of section 14, subsection 14(1) adds that related individuals must be Canadian citizens or permanent residents as defined in the *Immigration and Refugee Protection Act* (Canada).

Section 14 defines a "family farm" as farm land that is used, owned and farmed by one individual or by family members, or is used, owned and farmed by a family farm corporation. A "family farm corporation" is defined in section 14 as a corporation of which the principal activity is farming and no shareholder is a corporation.

Where leases are concerned, different provisions in the Act and the *Property Transfer Tax Act Regulation* ("the Regulation") set out characteristics and criteria a lease agreement must meet that in turn trigger different methods for the calculation of fair market value for each type of lease.

Under the definition of "taxable transaction", section 1(1) of the Act, a right to occupy land under a lease agreement is a taxable transaction. However, if the term of the lease is 30 years or less remaining as at the date of registration of that lease agreement, the lease might qualify for an exemption from PTT as per criteria set out in section 14(4)(o) in the Act.

B. Analysis

First Proposed Transaction

As per your letter, the first proposed transaction contemplates a transfer of a family farm from _____ respectively to a Corporate Trustee. The transfer of a family farm from the transferor/s to a Corporate Trustee is not exempt under the Act as the corporate transferee does not meet the requirements of a family farm corporation; it simply owns the land as a bare trustee.

Second Proposed Transaction

The second proposed transaction consists of a lease granted by the Corporate Trustee to a family farm corporation. No family farm exemption is available for the transfers between corporations, as corporations cannot be related to each other.

Lease

Under section 14(4)(o) of the Act a lease with a term of 30 years or less at the date of registration is exempt from PTT, regardless of the relationship between the lessor and the lessee/s. Therefore, the registration of the lease agreement might be exempt from PTT, provided the lease is for a term, including any and all renewals or options to renew, 30 years or less.

Fair Market Value

Please note that fair market value must be declared at the date of registration whether a transaction is exempt from PTT or not.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you or your clients are accurate and complete.

In the event the Act is amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the Property Transfer Tax, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Small Business and Revenue Web site at www.gov.bc.ca/sbr or by calling us in Victoria at 250-387-0604 or outside of Victoria by our toll free Enquiry BC number at 1 800 663 7867 and requesting a transfer to 387-0604 or email your questions to PTTENQ@gov.bc.ca.

Yours truly,



Hilary Vance

A/Director

Policy and Legislation Branch



November 5, 2008

Subject: Property Transfer Tax Advance Ruling

Dear

Thank you for your letter, dated September 19, 2008, requesting an advance tax ruling. We received your payment on October 8, 2008.

I. BACKGROUND

I understand the facts of your request are as follows:

1. The property is located in _____ The development is known as ("the Development") and the Developer is _____
2. Many units in "the development" were sold on the basis of a registrable long term lease (99 years), with the Developer retaining the ownership of the fee simple.
3. The Purchaser will register a lease. At the time of registration of the lease, the Purchaser will also be able to register an "option to purchase", either as a separate registration or as part of the lease agreement.

If an option to purchase is registered on title at the same time with the lease, ~~Term or Monthly Rent is payable by the~~ Purchaser in monthly instalments.



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4. Section 1.01, Article One in the Lease Agreement attached to the request for the advanced tax ruling, stipulates that the term of the Lease is 99 years.
5. Section 2.01, subsection (d), Article Two of the Lease Agreement defines the term "Rent" as: *Rent means the Prepaid Rent, the Monthly Rent and the Additional Rent payable hereunder.*
6. The term "Additional Rent" is defined in Article Three of the Lease Agreement as including utilities, property taxes and other charges that are payable by the tenant.
7. You are asking the following:
 1. Is property transfer tax (PTT) payable on the amount of prepaid rent or on the full fair market value (FMV) of the strata lot when the lease agreement is registered on title?
 2. Is PTT payable when a Purchaser, subsequent to the registration of the lease agreement, including the option to purchase, will exercise the option to purchase?
 3. If PTT is payable on the exercise of the option to purchase, is the amount of PTT payable for the value of _____ (the consideration paid for exercising the option) or is PTT payable on the FMV of the strata lot at the time the option is exercised?
 4. What is the result of not registering the option to purchase as a separate charge on title?
 5. Does section 14(4)(v) of the *Property Transfer Tax Act* ("the Act") apply to any of the proposed transactions?

I have assumed that the transactions will occur as described in your letter and the Lease Agreement you attached to the ATR request.

II. RULING REQUEST

You are requesting a ruling as to how FMV is calculated for the registration of a lease. In addition, you are asking how PTT is calculated and if PTT is payable when the fee simple interest is transferred from the Developer to the leaseholder upon the exercise of an existing option to purchase (either registered or unregistered).

III. RULING

SHORT ANSWER

1. The proposed transaction does not qualify as a pre-paid lease. Therefore the amount of PTT payable is calculated on the full FMV of the property's fee simple at the time of registration.
2. The registration of the transfer of fee simple from the Developer to the previous leaseholder is a taxable transaction. PTT is payable on the FMV of the fee simple at the date of registration of title. PTT might be calculated on the residual FMV of the fee simple provided that certain strict criteria are met.
- 3—4. An option to purchase is not a taxable transaction. The registration of the fee simple interest is a taxable transaction and PTT is calculated according to the property's FMV at the date of registration of title.
5. Section 14(4)(v) of the Act provides an exemption from PTT for the transfer consisting of a lease agreement, sublease or right to occupy premises that is coupled with a concurrent transfer of a fee simple to the same land. To qualify for this exemption the lessee and the transferee of the fee simple estate have to be the same person and tax must have been paid on the FMV of either the fee simple or the registration of the right to purchase under an agreement for sale.

Please be advised that the calculation of PTT owed by the transferees can not be provided because the FMV of the properties are unknown, and will be determined at the time of registration. Furthermore, the purpose of an ATR is to offer advice on how certain provisions apply to a unique set of circumstances and not to calculate tax.

IV. LEGISLATION AND ANALYSIS

A. Legislation

Under the *Property Transfer Tax Act*, every registration of title at the Land Title Office is a taxable transaction, unless specifically exempt. PTT is assessed on the FMV of the property as at the date of registration.

Several provisions in the Act and the *Property Transfer Tax Act Regulation* ("the Regulation") set out different methods for determining the FMV, including the calculation of FMV for different types of leases.

Section 1 and 1.2 of the Act describe the criteria and considerations accounted for when determining how FMV of a property (land and improvements) is calculated for PTT liability. Section 1.2 stipulates that when the interest in a property is not registered at the Land Title Office and the previous holder is the same person or a related person of the new holder, FMV is calculated as if the interest was not encumbered by any charges on title, such as a lease.

Section 7(1) of the Regulation lists amounts that are not considered "rent" for the purposes of applying the Act. Two amounts excluded from the list are *taxes or expenses relating to the operation of multi-tenant premises of which the demised premises form a part*. Both of these amounts are payable by the tenant to the landlord, but are not defined as "rent" under the Regulation.

Section 12 of the Regulation addresses the case of a pre-paid lease. For a lease to qualify as a pre-paid lease certain criteria should be met.

- First, the pre-paid rent has to be determinable for the entire period of the lease.
- Second, the rent under the lease agreement has to be paid in full at the time of registration or before the first anniversary from the date of registration.
- Third, evidence should show that the lessor and the lessee have acted at arm's length.

If one or more of the above-mentioned criteria are not met, the fair market value of the pre-paid lease is not the amount of the pre-paid rent. The lease is not considered a pre-paid lease and PTT is calculated according to the methods stipulated in sections 13 or 14 of the Regulation.

Section 13 of the Regulation stipulates how FMV is calculated when a lease has a term of less than 30 years; section 14 of the Regulation provides that when section 12 of the Regulation does not apply, the FMV of the lease is calculated in accordance with a set formula. FMV is calculated using the FMV of the fee simple interest, as defined in section 1 of the Act, multiplied by the percentage identified in Column 2 of Table 1 that corresponds to the term of the lease agreement.

B. Analysis

As stated in your letter, the proposed transaction consists of a registration of lease on the property to which the Developer will retain the fee simple ownership. The term of the lease is for 99 years. The provisions of the lease agreement show that the rent payable by the tenant to the landlord includes different amounts payable at different dates. Although there is a pre-paid rent of _____ the tenant is responsible for paying the landlord a monthly rent in addition to the pre-paid amount. The monthly rent is adjustable according to certain set criteria described in the lease agreement. Because the monthly rent payment is adjustable every third year, all the rent under the lease can not be pre-paid. The proposed lease does not qualify as a pre-paid lease. Section 12 of the Regulation does not apply when determining the methods of calculating FMV and the amount of PTT payable at the time of registration of the lease.

At the date of registration of the lease, PTT will be calculated according to section 14 of the Regulation. The lease has a term of 99 years and according to the formula in section 14 of the Regulation, PTT is payable on 100% of the property's fee simple FMV at the date of registration as if the interest was unencumbered by a lease at the date of registration.

The registration of the option to purchase is not a taxable transaction under the current provisions in the Act. The transfer of the fee simple is a taxable transaction, and upon registration of title, PTT is payable on the FMV and calculated according to either section 1 or section 1.2 of the Act.

The application of each of these sections is determined by the previous registrations on title. When the option to purchase is exercised, and the taxpayer registers title to fee simple interest in the property, a taxable transaction for which PTT is payable is created. However, if certain criteria are met, PTT may be payable on a residual FMV

at the time of registration of fee simple. Among the criteria that have to be met before determining what section of the Act applies are the following:

- First the previous and the new holder are the same person or related individuals, as defined under the Act.
- Second, the lease has been registered at the Land Title Office and at the date of registration the correct amount of PTT was paid for the FMV of the property.

If these two criteria are met, section 1:2 does not apply in calculating FMV. Section 1 of the Act may apply and PTT is payable for the residual fair market value of the fee simple transferred from the Developer to the transferee.

As stated in your letter, there is no indication that the registration of the lease will be filed concurrently with the transfer of the fee simple. In that case, the exemption granted under section 14(4)(v) of the Act does not apply.

This correspondence describes how the Ministry interprets the relevant tax provisions for information purposes only. This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you or your clients are accurate and complete.

In the event the Act is amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the Property Transfer Tax, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Small Business and Revenue Web site at www.gov.bc.ca/sbr or by calling us in Victoria at 250-387-0604 or outside of Victoria by our toll free Enquiry BC number at 1 800 663 7867 and requesting a transfer to 387-0604 or email your questions to PTTENQ@gov.bc.ca.

Yours truly,



Hilary Vance
A/Dirèctor Property Taxes
Policy and Legislation Branch



November 6, 2008

Dear

RE: Property Transfer Tax Advance Tax Ruling

I am responding to your letter of October 6, 2008, requesting a ruling with respect to the application of property transfer tax on the proposed transfer by

We received payment for this ruling on November 4, 2008.

I. BACKGROUND

The request is made with respect to property (the "Property") legally described as:

I understand the facts as being the following:

1. late husband, has died. Prior to his death, he was registered as a joint title holder to the property.
2. has not remarried after the death of her husband.
3. is now the only registered fee simple owner of the Property.
4. The Property is currently used by as her principal residence and at the date of the proposed transfer the Property will be her principal residence for a period of at least six months.



Ministry of Small Business
and Revenue

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5. proposes to transfer the legal title to the Property into the name of herself and her late husband's grandson, as joint tenants.
6. and are both Canadian citizens.

II. RULING REQUEST

You are requesting a ruling as to whether the transfer of legal title from into the name of herself and as joint tenants is exempt from property transfer tax under section 14(3)(b) of the *Property Transfer Tax Act* (the Act).

III. ANSWER

It is my ruling that the proposed transfer will not be exempt from property transfer tax. The transfer is a taxable transaction under the Act and tax will be due at the time an application to register the transfer is made at the land title office. The tax is due on the fair market value of the land or interest in land transferred.

IV. LEGISLATION AND ANALYSIS

A. Legislation

Property transfer tax is due at the time an application to register a taxable transaction is made at a land title office. Taxable transactions include the registration of a transfer of legal title. Under the Act, property transfer tax is assessable on the fair market value of the land (land and improvements) at the time of registration at a land title office.

Section 14(3)(b) provides an exemption for transfers between related individuals. To be exempt from paying property transfer tax under section 14(3)(b), the following eligibility criteria must be met:

- the transferor must not be a trustee referred to in sections 14(3)(c), (d) or (e);
- the land transferred must be the principal residence of either the transferor or the transferee for a continuous period of at least 6 months immediately prior to the date of the transfer;
- all the improvements must be classified as residential by BC Assessment; and
- the land must not exceed 0.5 hectares (1.24 acres).

Section 1(1) of the Act provides a definition of "related individual". Part (c) of the definition includes the child, parent, grandparent or great-grandparent of a person's spouse.

For the purposes of section 14, subsection 14(1) adds that a related individual must be a Canadian citizen or a permanent resident as defined in the *Immigration and Refugee Protection Act* (Canada).

B. Analysis

Under the Act, _____ and _____ are not considered related individuals. Pursuant to part (c) of the definition, only the child, parent, grandparent or great-grandparent of a person's spouse would be considered a "related individual". In this circumstance, _____ was the grandchild of _____ spouse. For the purpose of section 14(3)(b), a step-grandchild is not a related individual within the definition of the Act.

Accordingly, the transfer of legal title from _____ into the name of herself and _____ as joint tenants, will not qualify for an exemption under section 14(3)(b) of the Act.

This ruling is issued for the purposes of this transaction only, and with the understanding that all of the facts provided by you or your client are accurate and complete.

In the event the Act is amended with respect to such transactions and the proposed transfer is not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the Property Transfer Tax, provided the transaction is completed in the manner described in the advance tax ruling request.

After registration, the transaction for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Please attach a copy of this ruling to the property transfer tax return submitted with the application for registration at a land title office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Small Business and Revenue Web site at www.gov.bc.ca/sbr or by calling us in Victoria at 250-387-0604 or outside of Victoria by our toll free Enquiry BC number at 1 800 663 7867 and requesting a transfer to 387-0604 or email your questions to PTTENQ@gov.bc.ca.

Yours truly,



Hilary Vance

A/Director Property Taxes
Policy and Legislation Branch



February 9, 2009

Dear

RE: Property Transfer Tax Advance Tax Ruling

I am responding to your letter dated November 12, 2008, requesting a ruling with respect to an exemption from property transfer tax for a proposed subdivision in order to create fee simple "non-strata" lots. We received payment for this ruling in December 2008.

I. BACKGROUND

I understand the facts are as follows:

1. The request is made on behalf of _____ has been a registered charity pursuant to the *Income Tax Act* (Canada) since _____ provides housing
2. In _____ started to develop certain lands and premises located in _____ BC. _____ developed these lands as part of a three-phased strata development plan under the *Condominium Act* as following.

PHASE 1: In _____ a Strata Corporation was created pursuant to the registration of the Strata Plan _____ Strata LOT 1 and LOT 2 were created. Strata LOT 1 was and is _____ rental complex.



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Prior to the registration of the Strata Plan,
rental complex to

On strata LOT 2 was transferred by
to operate the
complex. The

leased the
a related non-profit society.¹
to
, a rental
is a related non-profit society to

PHASE 2: On strata LOT 3 up to LOT 29 were created by way of the
construction and subdivision of a residential complex, known as
Currently, all of the strata lots (LOT 3 to LOT 29), **except three (3)** of them, are
owned by the individual owners of the units The other three
(3) lots are owned by and rented

PHASE 3: On strata LOT 30, on which a building already existed,
was created. The building was a vacant building scheduled to be demolished, which
however never happened. Currently, the building is derelict; intends to demolish
it and build in its place

Following the completion of Phase 3 of the entire development scheme, the Strata Plan
consists of 30 strata lots, three (3) of which are large rental apartment buildings
(Strata LOT 1, LOT 2 and LOT 30) and 27 of which are conventional
strata-condominium units located in the single structure known as The
grounds surrounding all of the buildings are common property and are part of the
Strata Plan

II. PROPOSED TRANSACTIONS

and related entities propose to de-stratify strata LOT 1, LOT 2 and LOT 30 and the
surrounding common property for the purpose of creating new fee simple lots. At the end of
the process, Strata Plan is intended to remain a conventional strata development
consisting of LOT 3 up to LOT 29 (the building) and the immediate land
surrounding the

To achieve the above-mentioned result you are proposing the following.

STEP 1:

Add strata LOT 1, LOT 2 and LOT 30 to the common property of the Strata Plan

¹ As of this date there is no evidence that applied and will obtain the status of a registered charity
pursuant to section 248 of the *Income Tax Act* (Canada).

² As of this date there is no evidence that the applied and will obtain the status of a registered charity
pursuant to section 248 of the *Income Tax Act* (Canada).

STEP 2:

File a Subdivision Plan to subdivide the newly enlarged common property and create land (fee simple) held by the Strata Corporation but not shown on the Strata Plan (you are calling this the **NEW LOT 1**).

STEP 3:

Transfer legal title of the NEW LOT 1 from the Strata Corporation to

STEP 4:

will file a Subdivision Plan of the NEW LOT 1 to create three new fee simple parcels: **LOT A, LOT B** and **LOT C**.

STEP 5:

The newly created fee simple lots are transferred as follows.

LOT A—title is transferred from _____ to _____

LOT B—title remains in the name of _____

LOT C—title remains in the name of _____ and a lease is registered to _____

III. RULING REQUEST

You are requesting a ruling with respect to the applicability of the *Property Transfer Tax Act* (PTTA) to the transactions mentioned above.

IV. LEGISLATION AND ANALYSIS

A. Legislation and Analysis

Property transfer tax (PTT) is due at the time an application to register a taxable transaction is made at the Land Title Office and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax. Under the PTТА provisions all transfers are taxable transactions unless specifically exempt.

The sections of the PTТА that might apply to some of the transactions you are proposing are section 14—transfers taking place in the course of a subdivision and transfers of land to a registered charity for charitable purposes—and sections 9 and 14 of the Property Transfer Tax Regulation (PTT Regulation).

1. Single-Parcel Subdivisions

Section 14(3)(j) of the PTTA provides an exemption from PTT for a subdivision of a parcel (the original parcel) into smaller parcels provided that two strict eligibility criteria are met:

- First, the transferee of all or one or more of those smaller parcels, created after the subdivision, was one of the registered owners of the original parcel before its subdivision.
- Second, upon registration of title, the transferee's proportionate share of the fair market value in the smaller parcels does not exceed the transferee's proportionate share of the fair market value of the original parcel.

If an original owner (the transferee) receives a greater proportionate share of the total fair market value in the parcel/s created after the subdivision than was held in the original parcel, that transfer will be subject to tax based on the increase in the proportion of fair market value that was received as a result of the subdivision in accordance with section 3(3.2) of the PTTA

2. Multi-Parcel Subdivisions

Section 14(4)(k) of the PTTA provides an exemption from PTT where two or more adjacent parcels of land owned by two or more parties are transferred from the original owners to a trustee, registered under the *Land Title Act*, and two further conditions are met.

- First, the transfer to the trustee is required to facilitate the subdivision of the original parcels and
- Second, upon registration of the plan of subdivision, the trustee is required to transfer the subdivided parcels to any or all of the original owners.

If the trustee either retains or transfers one or more of the newly created parcels, tax is payable by the trustee in accordance with section 3(3.3) of the PTTA.

An exemption from PTT is also provided under section 14(4)(k.1) of the PTTA. This exemption is available where under section 14(4)(k) of the PTTA, the registered trustee transfers the property back to the original owners and the proportionate fair market value of the new parcels, as calculated immediately after the subdivision, does not exceed the original owner's proportionate share of the fair market value of the original parcels, as calculated immediately before the subdivision. Accordingly, in order to be eligible for the exemption under section 14(4)(k.1), upon completion of the subdivision, there can be no increase in the owners proportionate share of the fair market value.

If an original owner receives a greater proportionate share of the total fair market value of the parcels created under the subdivision than was held in the original parcel, that transfer will be subject to tax based on the increase in the proportion of fair market value

that was received as a result of the subdivision in accordance with section 3(3.4) of the PTТА.

Eligibility for the exemption under section 14(3)(j) and 14(4)(k.1) of the PTТА is based on the proportionate share of the fair market value of the property and not on the proportionate share of the total land area. Even if there is no change in proportionate ownership of land area, there may still be a variation in proportionate ownership in terms of the fair market value immediately before and after the subdivision.

3. *Valuation*

In order to determine the appropriate proportionate share of the fair market value, in the absence of any other credible evidence, such as an appraisal by a professional appraiser (AACI or RIBC) using accepted appraisal techniques and methodologies, the Administrator will rely on BC Assessment assessed values that are available at the date of registration of the new parcels in comparison with the original parcels as were assessed immediately before subdivision.

4. *Transfer to Registered Charities*

Under section 14(4)(b) of the PTТА a transfer of land to a registered charity as defined by section 248(1) of the *Income Tax Act* (Canada) is exempt from PTT provided that the land is used for charitable purposes.

5. *Registration of a lease vs. re-registration of a lease*

Section 1(1) of the PTТА defines "lease agreement" as an agreement by which a leasehold estate is granted or assigned OR an agreement by which an option to renew or extend the term of a lease is granted including a lease modification agreement. The calculation of fair market value of a lease agreement is done in relation with the determination of the term of the lease, which is defined in section 9 of the PTT Regulation as being the number of years for which the lessee has the right to occupy the demised premises including the years the lessee may occupy the premises by exercising the options to extend or renew the lease agreement.

Section 9(2) of the PTT Regulation determines that the commencement date of a lease agreement is the date of registration of the lease at the Land Title Office pursuant to the LTA provisions. In addition, section 9(4) of the Regulation stipulates that the term of a lease agreement is rounded up to the next whole number if the term is expressed as a fraction of a year or a number of years plus a fraction of a year.

The registration of a lease agreement that has a term of 30 years or less from the registration date is a taxable transaction, exempt from PTT. The registration of a lease agreement with a term of 30 years or more is a taxable transaction not exempt from

PTT; PTT is payable in accordance with the formula set in section 14 and Table 1 of the PTT Regulation.

B. Analysis and application of legislation to facts

As per your letters a number of transactions are required by the combined application of the *Strata Property Act* (SPA) and *Land Title Act* (LTA) to obtain an amended strata plan. We will contemplate the exemptions described in sections 14(3)(j), 14(4)(k)-(k.1) and 14(4)(b) of the PTTA accordingly.

STEP 1:

Add LOT 1, LOT 2 and LOT 30 to the Common Property of the Strata Plan

Under section 263(1) of the SPA, any strata land that is added to the common property has to be *free of mortgages or any other charges that may result in a transfer of an estate or interest in the strata lot*. Therefore, before adding LOT 1 to the common property, the lease on title to LOT 1 ("the Lease"), registered on _____ by _____ for a term of _____ has to be de-registered.

The de-registration of an encumbrance on title such as a lease is currently not a taxable transaction under the PTTA. Thus, the de-registration of the Lease **is not a taxable transaction** for the purposes of PTT.

Subsequent to the lease de-registration, the following transfers are filed at the Land Title Office to allow the strata lots LOT 1, LOT 2 and LOT 30 to be added to common property:

Transfer legal ownership of strata LOT 1 from _____ to the individual owners of LOT 3 to LOT 29, Strata Plan _____ in proportion to their unit entitlement.

Transfer legal ownership of strata LOT 2 from _____ to the individual owners of LOT 3 to LOT 29, Strata Plan _____ in proportion of their unit entitlement.

Transfer legal ownership of strata LOT 30 from _____ to the individual owners of LOT 3 to LOT 29, Strata Plan _____ in proportion to their unit entitlement.

The transfers of legal ownership of LOT 1, LOT 2 and LOT 30, into the names of the owners of strata LOT 3 to LOT 29, Strata Plan _____ **are taxable transactions, not exempt from PTT.**

STEP 2:

File a Subdivision Plan to subdivide the newly enlarged common property and create land (NEW LOT 1) held by the Strata Corporation but not shown on the Strata Plan

6

After the common property has been enlarged, a Subdivision Plan is filed with the Land Title Office to obtain a new fee simple parcel. Sections 253 and 265 of the SPA provide for disposition and subdivision of common property. A Subdivision Plan is filed pursuant to Part 7 of the LTA to create a new fee simple parcel. At the same time, the SPA stipulates that upon subdivision, the newly created parcel (NEW LOT 1) becomes land held in the name of or on behalf of the Strata Corporation.

The subdivision of the common property is **not a taxable transaction** for the purposes of the PTT. However, once the NEW LOT 1 is created, the legal ownership of the new parcel is transferred from the owners of LOT 3 to LOT 29 into the name of the Strata Corporation. If this is the case, the transfer of legal ownership of NEW LOT 1 into the name of the Strata Corporation is a **taxable transaction, not exempt from PTT**.

STEP 3:

Transfer of legal ownership of the newly created fee simple parcel (NEW LOT 1) from the Strata Corporation to

After the new fee simple parcel (NEW LOT 1) is created by way of subdivision, the Strata Corporation transfers legal ownership of the lot into the name of

Under section 14(4)(b) of the PTTA, a transfer of land to a registered charity as defined by section 248(1) of the *Income Tax Act* (Canada) for charitable purposes and use is exempt from PTT. is a registered charity under section 248(1) of the *Income Tax Act* (Canada). Therefore, section 14(4)(b) applies and the transfer of legal ownership of NEW LOT 1 from the Strata Corporation to **is exempt from PTT**.

STEP 4:

Subdivision of the NEW LOT 1 into fee simple parcels LOT A, LOT B, LOT C.

Filing a Subdivision Plan to create the new fee simple LOT A, LOT B and LOT C **is not a taxable transaction** for the purposes of PTT.

STEP 5:

A. Transfer legal ownership of LOT A from to
The transfer of legal ownership **is a taxable transaction, not exempt from PTT**.

B. retains title to the newly created fee simple LOT B, which for the purposes of PTT is **not a taxable transaction**.

C. retains title to the newly created fee simple LOT C and registers the Lease on title.

Under the current PTTA provisions, the registration of a lease agreement as defined in section 1(1) is a taxable transaction, not exempt from PTT when the term of the lease is 30 years or more.³ As described in section 9(2) of the PTT Regulation the re-registration of the Lease between the and will have as the commencement date, the date of registration at the Land Title Office. If the term of the lease at the time the application to register the Lease is made at the Land Title Office is 30 years or greater, the registration of the Lease **will be a taxable transaction not exempt from PTT**. In such case, the fair market value for which PTT is payable is calculated using the formula provided in the section 14 and Table 1 of the PTT Regulation.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you or your clients are accurate and complete.

In the event the PTTA is amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the Property Transfer Tax, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

³ As per your January 28, 2009 letter and documents attached (tab 8 of the binder) the term of the lease agreement between and at the time of registration in was of The initial lease between the two parties had a term of Assuming that the lease will be registered in the current year the term of the lease is greater than 30 years, therefore tax is payable according to the scheme described in Table 1 of the PTT Regulation.

Additional information may be obtained by accessing the Ministry of Finance, Revenue Division web site at www.gov.bc.ca/sbr or by calling us in Victoria at 250-387-0604 or outside of Victoria by our toll free Enquiry BC number at 1 800 663 7867 and requesting a transfer to 387-0604 or email your questions to PTTENQ@gov.bc.ca.

Yours truly,



Hilary Vance
A/Director Property Taxes
Policy and Legislation Branch



February 9, 2009

Dear

RE: Property Transfer Tax Advance Tax Ruling

I am responding to your letters dated November 25, 2008, and January 5, 2009, requesting an advance tax ruling. Receipt of your payment on November 26, 2008, for this ruling is acknowledged.

I. BACKGROUND

The advance tax ruling request is in regards to the Strata Plan and the condominium development located in BC.

I understand the facts of your request are as follows:

1. On the original Strata Plan was filed at the Land Title Office. The Strata Plan contained two separate buildings; there were strata lots in each of the two buildings, for a total of strata lots.
2. In building #1 was subsequently rebuilt. The new building #1 footprint is not in the exact place as the original building #1 a fact which requires a new Strata Plan to be registered at the Land Title Office to reflect the changes.
3. Because the registration of the new Strata Plan requires that building #2 be upgraded to the new building code and bylaw standards, which is of prohibitive cost, you propose the following:

Ministry of
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2. Valuation

In order to determine the appropriate proportionate share of the fair market value, in the absence of any other credible evidence, such as an appraisal by a professional appraiser (AACI or RIBC) using accepted appraisal techniques and methodologies, the Administrator will rely on BC Assessment assessed values that are available at the date of registration of the new parcels in comparison with the original parcels as were assessed immediately before subdivision.

B. Analysis and application of legislation to facts

As per your letters a number of transactions are required by the combined application of the *Strata Property Act* (SPA) and *Land Title Act* (LTA) to affect an amended strata plan. We will contemplate the exemptions described in sections 14(4)(k) and (k.1) of the PTTA accordingly.

1. The transfer of legal ownership of strata lots in building #1 into the name of all strata lot owners are **taxable transactions, not exempt from PTT** (Taxable transaction #1).
2. The strata lots are consolidated and added to the common property by virtue of section 263 of the SPA as an amendment of the existing Strata Plan creating an enlarged common property. This **is not a taxable transaction**. No PTT is payable.
3. Sections 253 and 265 of the SPA provide for disposition and subdivision of the common property. A Subdivision Plan is filed pursuant to Part 7 of the LTA to create a new fee simple parcel. At the same time, the SPA stipulates that upon subdivision the newly created parcel becomes land held in the name of or on behalf of the Strata Corporation making it necessary to transfer the new parcel from the owners into the name of the Strata Corporation. If this is the case, this is a **taxable transaction, not exempt from PTT**.
4. The deposit of the plan of subdivision itself, to create the strata lots in the newly built building#1 **is not a taxable transaction**.
5. Once the above steps are complete, the Owners of the Strata Corporation will transfer legal ownership of the strata lots back into the names of the original strata lot owners in building #1. The transfers of strata lots of new

building #1 back to the original owners are taxable transactions, not exempt from PTT. (Your transaction #2)

The PTTA requires that in order to benefit from a PTT exemption with respect to a subdivision, a trustee must be used when there is more than one original parcel from which the newly subdivided lot(s) originate and the parcels are owned by more than one party (the "original owners"). The trustee must be registered as the trustee at the Land Title Office as outlined in section 180 of the LTA, holding the properties on behalf of the original owners. There is no special requirement as to who can act as a trustee.

In your additional letter of January 5, 2009, you ask whether the use of a trustee or the transfer of the strata lots "in trust" would change the nature of the transactions and make them fall under the PTTA relevant sections, thus being exempt from PTT. The use of a trustee or the transfer in trust would only make the transaction tax exempt if, once the Trustee has legal title to the properties in question, no further fee simple transfers occur until the newly created strata lots are transferred to the original owners. This is not the case here.

It is my ruling, based on the information provided and my understanding of the facts, that the conditions of the legislation set out under sections 14(4)(k) and (k.1) have not been met and the taxable transactions are not tax exempt.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided in your letter are accurate and complete. This correspondence describes how the Ministry interprets the relevant tax provisions. This ruling and interpretation may be impacted by variations in circumstance, subsequent changes to legislation or subsequent court decisions. This ruling and interpretation is not intended to replace the legislation. The Ministry is not responsible for updating this ruling and interpretation if there are any subsequent changes to the law.

After registration, the transactions for which this advance tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Ministry of
Finance

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Yours truly,



Hilary Vance
A/Director
Policy and Legislation Branch



January 8, 2009

Subject: Property Transfer Tax Advance Ruling

Dear

Thank you for your letter dated December 1, 2008, requesting an advanced tax ruling. We received your payment on December 18, 2008.

I. BACKGROUND

The request is made with respect to property (the "Farm Property") located on British Columbia, legally described as:

I understand the facts regarding this request to be as follows:

1. The Farm Property is classified as farm land by British Columbia Assessment.
2. _____ owns an undivided _____ interest in the property.

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3. The remaining interest in the property is held by _____ and _____ as to an undivided interest each.
4. _____ holds all of the issued and outstanding shares in the capital of _____
5. _____ holds all of the issued and outstanding shares in the capital of _____
6. The principal activity of both _____ and _____ is farming;
7. The property is actively used and farmed by _____ and _____ in joint venture with one another.
8. The proposed transactions are to:
 - a) Firstly, transfer _____ interest in the Farm Property from _____ to _____ and _____
 - b) Subsequently transfer such interest in the Farm Property from _____ to _____

II. RULING REQUEST

You are requesting a ruling as to whether

- A) The transfer of the interest in the Farm Property to _____ is exempt from property transfer tax under section 14(3)(g) of the *Property Transfer Tax Act* (the Act), as a transfer of a family farm to the sole shareholder of a family farm corporation; and
- B) The transfer of the interest in the Farm Property to _____ is exempt from property transfer tax under section 14(3)(f), as a transfer of a family farm to a family farm corporation.

III. RULING

Both of the proposed transactions would be taxable transactions as defined in section 1(1) of the Act. Transferring _____ interest in the Farm Property from _____ to _____ and the

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subsequent transfer from _____ to _____ are not exempt from property transfer tax under sections 14(3)(g) and 14(3)(f).

IV. LEGISLATION AND ANALYSIS

A. Legislation

Property transfer tax is due at the time an application to register a taxable transaction is made at the Land Title Office. The tax is due on the fair market value of the land or interest in the land transferred. However, the Act provides a number of exemptions from the tax. While there are exemptions for transfers of family farms, these transactions do not meet the criteria of these exemptions.

Section 14(3)(g) of the Act provides an exemption from property transfer tax when a family farm is transferred from a family farm corporation, provided that:

1. the person receiving the interest in the family farm is the sole shareholder of the family farm corporation; or
2. the person receiving the interest in the family farm is a related individual, sibling, sibling of a spouse or spouse of a sibling of each of the shareholders of the family farm corporation.

Furthermore, section 14(3)(f) of the Act provides an exemption when a family farm is transferred to a family farm corporation provided that:

1. the transferor of the family farm is also the sole shareholder of the family farm corporation; or
2. each of the shareholders of the family farm corporation is a related individual, sibling or spouse of a sibling of the transferor.

Section 14(1) defines a "family farm" as follows:

"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; or
- (c) for the purpose of an exemption claimed under subsection 3 (c) , (c.1), (d), (d.1) or (d.2) or subsection 4 (p.22) (ii) (B), was used, owned and farmed by the settlor or the deceased;

A "family farm corporation" is defined in section 14(1) as a corporation of which the principal activity is farming and no shareholder is a corporation.

B. Analysis

To benefit from the exemptions granted under sections 14(3)(g) and (f), the Farm Property must initially qualify as a "family farm" under section 14(1). Where a family farm corporation is involved, under part (b) of the "family farm" definition, all three requirements of "used, owned and farmed" must exclusively be met by that family farm corporation. The Act does not provide exemptions for transfers of family farms that are used, owned and farmed by one family farm corporation, but are also used and farmed by another corporation, even if the shareholder of both corporations is the same individual.

As per your letter, the first proposed transaction consists of the transfer of interest in the Farm Property to _____ as the sole shareholder. The Farm Property is owned by _____ however, it is used and farmed by both _____ and a second corporation, _____. The Farm Property does not qualify under the definition of "family farm" because it does not meet all three requirements of the criterion "used, owned and farmed". The legislation requires that all of the three requirements must be exclusively met by _____. As the Farm Property does not qualify as a "family farm" the proposed transaction does not qualify for the exemption under section 14(3)(g).

Similarly, under the second proposed transaction, the interest in the Farm Property is being transferred from _____ to _____ however, the Farm Property continues to also be used and farmed by the company _____. As previously stated, the requirements of "used, owned and farmed" are not exclusively met for the Farm Property to qualify as a "family farm". Consequently, this transaction does not qualify for the exemption under section 14(3)(f).

It is my ruling, based on the information provided and my understanding of the facts, that the transfers of _____ interest in the Farm Property to _____ and then to _____ do not qualify for the exemption from property transfer tax under sections 14(3)(g) and (f) of the Act. Tax will be payable based on the fair market value of the interest in the land and improvements as at the date of registration of the transfer at the Land Title Office.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided in your letter are accurate and complete. This correspondence describes how the Ministry interprets the relevant tax provisions. This ruling and interpretation may be impacted by variations in circumstance,

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subsequent changes to legislation or subsequent court decisions. This ruling and interpretation is not intended to replace the legislation. The Ministry is not responsible for updating this ruling and interpretation if there are any subsequent changes to the law.

After registration, the transactions for which this advance tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Small Business and Revenue website at www.gov.bc.ca/sbr or by calling us in Victoria at 250-387-0604 or outside of Victoria by our toll free Enquiry BC number at 1 800 663 7867 and requesting a transfer to 387-0604 or email your questions to PTTENQ@gov.bc.ca.

Yours truly,



Hilary Vance
A/Director
Policy and Legislation Branch
Ministry of Small Business and Revenue



January 12, 2009

Dear

RE: Property Transfer Tax Advance Tax

I am responding to your letter dated December 4, 2008 requesting an advance tax ruling. Receipt of your payment of \$189.00 is acknowledged.

I. BACKGROUND

The advance tax ruling request is in regards to the amalgamation of
and pursuant to section 273 of the
Business Corporations Act (BC).

I understand the facts of your request are as follows:

1. and are registered companies under the BC legislation. is
a wholly-controlled subsidiary of and is the sole holder of
outstanding shares.
2. registered title to the Property on and has been the
registered owner ever since. The Property is legally described as:

3. You are proposing the following:

- i. Amalgamate and under the vertical short form amalgamation pursuant to section 273 of the *Business Corporations Act* without seeking a court approval.
- ii. Once the amalgamation process is complete, the amalgamated company of will continue under the articles and notices of articles of the will become the new registered owner of the Property.

II. RULING REQUEST

You are requesting a ruling as to whether the transfer of legal ownership from to the new company, after the amalgamation, is exempt from property transfer tax (PTT) under the *Property Transfer Tax Act* (PTTA).

III. RULING

The proposed transaction is **exempt from PTT**.

IV. LEGISLATION AND ANALYSIS

A. Legislation

PTT is due at the time an application to register a taxable transaction is made at the Land Title Office and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax. Under the current provisions of the PT TA all transfers are taxable transactions unless specifically exempt.

The section of PT TA that might apply to the transaction you are proposing is section 14(4)(u) regarding the transfers taking place in the course of an amalgamation provided that strict eligibility criteria are met.

"Taxable transaction" is defined under section 1 of the PT TA to include any transaction 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 the Act.

Section 14(4)(u) of the PTTA provides an exemption from PTT where an amalgamation was effected under Division 3 of Part 9 of the *Business Corporations Act* or sections 181 to 186 of the *Canada Business Corporations Act* (Canada) or any other provisions of an enactment of Canada or of a province. Certain criteria should be met for the exemption to apply:

- There is a legal continuance of the amalgamating companies and
- Upon request, the continuing corporation files a certificate of amalgamation with the administrator within the time period specified by the administrator.

B. Analysis and application of legislation to facts

As per your letter and attached documentation, the amalgamation will be effected under Division 3 of Part 9 of the *Business Corporations Act*. registered rights to use and occupy the Property as well as interests, liabilities, rights, debts will become those of the amalgamated corporation. will not be wound up or dissolved and it will continue under the articles and notices of the newly formed amalgamated company.

It is my ruling, based on the information provided and my understanding of the facts, that the conditions of the legislation set out under sections 14(4)(u) have been met. Accordingly, it is my ruling that upon the amalgamation of and its subsidiary, the transfer of the properties from to will qualify for the exemption under section 14(4)(u) of the Act.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided in your letter are accurate and complete. This correspondence describes how the Ministry interprets the relevant tax provisions. This ruling and interpretation may be impacted by variations in circumstance, subsequent changes to legislation or subsequent court decisions. This ruling and interpretation is not intended to replace the legislation. The Ministry is not responsible for updating this ruling and interpretation if there are any subsequent changes to the law.

After registration, the transactions for which this advance tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

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Yours truly,



Hilary Vance
A/Director
Policy and Legislation Branch

leanne PTT copy



February 19, 2009

Dear I

Re: Property Transfer Tax Act—Tax Ruling

I am responding to your letters dated December 22, 2008, and February 11, 2009 requesting a ruling with respect to exemption from property transfer tax for proposed and subsequently registered transfers of interest in a property to a surviving joint tenant and subsequently to an Executrix of an estate. We received payment for this ruling in January 2009.

I. BACKGROUND

The request is made with respect to the property (the Property) legally described as:

I understand the facts as being the following:

1. (the Deceased) was the registered owner on title to his principal residence and lived on the Property until his passing away on The Deceased's wife holds a life interest in the Property.



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2. On _____, the Deceased registered a Form A transferring the Property to himself and his brother, _____ as joint tenants. Property transfer tax was paid at the time the transferred was registered.
3. On _____ executed a Declaration of Trust, declaring that his interest in the Property was that of a bare trustee. Furthermore, _____ agreed to transfer the Property back to the Deceased upon demand.
4. After the Deceased's passed away, the Property was disclosed as an Estate asset in the Executor's application for a grant to probate. _____ the Deceased's niece, was appointed as sole Executrix and Trustee of the Estate.
5. In your letter of _____ you confirmed that the following transfers were filed with the Land Title Office on _____
 - Transfer of the Deceased's half interest to _____ as surviving joint tenant. Form 17 was filed and exemption code 08 pursuant to the section 14(3)(m) of the *Property Transfer Tax Act* (PTTA) was claimed on the return.
 - Transfer of the property from _____ to _____ the Executrix of the Deceased's Estate. Form A was filed and the exemption code 09 pursuant to section 14(3)(q) of the PTTA was claimed on the return.

II. RULING

It is my ruling that **the registered transfers** described above **are exempt from property transfer tax (PTT)**.

The transfer of interest in property from the Deceased to the surviving joint tenant, _____ **is a taxable transaction exempt from PTT** pursuant to section 14(3)(m) of the PTTA (Exemption Code 08).

The transfer of property from _____ to the Executrix **is a taxable transaction exempt from PTT** pursuant to section 14(3)(q) (Exemption code 09).



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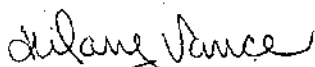
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This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you or your clients are accurate and complete. Since the transactions have been already registered at the Land Title Office, this letter will be attached to the returns you have already filed and will be subject to review by the Administrator.

If you require additional information please do not hesitate to access the Ministry of Finance Web site at <http://www.sbr.gov.bc.ca/> or by calling us in Victoria at 250-387-0604 or outside of Victoria by our toll free Enquiry BC number at 1 800 663 7867 and requesting a transfer to 387-0604 or email your questions to PTTENQ@gov.bc.ca.

Yours truly,



Hilary Vance
A/Director Property Taxes
Policy and Legislation Branch



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March 27, 2009

Dear

Re: Property Transfer Tax Updated Advance Tax Ruling-

In response to your correspondence dated March 23, 2009, the following is an updated advanced tax ruling for the proposed transfer of lands to the

I. BACKGROUND

I understand the facts are as follows.

- The request is made in regards to the property that is legally described as:
- The Property consists of lands and premises
British Columbia, the
portion of the Property includes
with the remainder of the Property being vacant land.

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and Minister Responsible
for the Olympics



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- The proposed transaction consists of the transfer of the Property from to the
- is a registered charity under the *Income Tax Act* (Canada), under the charitable registration no.
- You state in your letter dated March 23, 2009, that the Property will be used for charitable purposes, as emphasized in the Society's Constitution which you provided us with a copy of the relevant sections

II. RULING REQUEST

You are requesting a ruling as to whether the transfer of title from the Foundation to the Society is exempt from property transfer tax (PTT) under section 14(4)(b) of the *Property Transfer Tax Act* (PTTA).

III. RULING

The proposed transaction is **exempt from PTT**.

III. LEGISLATION AND ANALYSIS

A. Legislation

PTT is due at the time an application to register a taxable transaction is made at the Land Title Office and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax. Under the PTTA, all transfers are taxable transactions unless specifically exempt.

Section 14 of the PTTA provides exemptions for certain transfers, provided that all the criteria, as described in each section and subsection, are strictly met.

Section 14(4) (b) stipulates that a transfer of property for charitable purposes to a registered charity as defined by section 248(1) of the *Income Tax Act* (Canada) is exempt from PTT.

B. Analysis

The transfer of the Property to the Society is exempt from PTT. The Society meets the two main eligibility criteria of the exemption:

- It is a registered charity under the *Income Tax Act* (Canada);
- The Property will be used for charitable purposes.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you or your clients are accurate and complete.

In the event the PTTA is amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the Property Transfer Tax; provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance and Revenue Web site at www.gov.bc.ca/fin/ or by calling us in Victoria at **250-387-0604** or outside of Victoria by our toll free Enquiry BC number at **1 800 663 7867** and requesting a transfer to **387-0604** or email your questions to **PTTENQ@gov.bc.ca**.

Yours truly,



Hilary Vance
A/Director Property Taxes
Policy and Legislation Branch



July 2, 2009

Subject: Property Transfer Tax Advance Ruling

Dear

Thank you for your letter dated April 22, 2009, requesting an advanced tax ruling with respect to exemption from property transfer tax for the proposed transfers of family farm properties. We received payment for this ruling on June 9, 2009.

I. BACKGROUND

The request is made with respect to the following properties (the "Farm Properties"):

1. A property located at _____ B.C., ("Property 1"),
legally described as:

2. A second property located at _____ B.C., ("Property
2"), legally described as:



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4.1.1.1. **Domestication** – has been classified as farm land by British

1. The Farm Properties are all classified as farm land by British Columbia Assessment.

2. _____ owns an undivided interest in Property 1 and Property 2, and a _____ interest in Property 3. _____ owns a nominal interest in Property 1. _____ owns a nominal interest in Property 2. _____ owns a nominal interest in Property 3.

3. and are sons.

4. is currently the sole shareholder of and the principal activity of is stated to be farming.

5. There are no other types of activities, other than farming, performed on any of the Farm Properties.

6. Properties. _____ are the persons who actively use and farm the Farm

7. The proposed transactions are to:

- 1) Transfer interest in each of the Farm Properties from _____ to _____ and _____
- 2) Subsequently:
- (i) transfer previous interest in Property 1 from _____ to a new company,

- (ii) transfer company, previous interest in Property 2 from to a new
and
(iii) transfer company, previous interest in Property 3 from to a new

8. The principal activity of and will be farming.
9. The shareholders of will be and The shareholders of
will be and will be the sole shareholder of
10. In consideration for each interest in land transferred to and
will receive Class D preferred shares in each of these respective
companies, equal to the fair market value of the Farm Properties. These shares will be
registered effective the date of registration of the above transfers.

II. RULING REQUEST

You are requesting a ruling as to whether

- A) the transfer of the interests in the Farm Properties from to
is exempt from property transfer tax (PTT) under section 14(3)(g)
of the *Property Transfer Tax Act* (the PTТА); and
- B) the transfers of the interests in the Farm Properties from to
are exempt from PTT under section
14(3)(f) of the PTТА.

III. RULING

All of the proposed transactions would be taxable transactions as defined in section 1(1) of the Act. The transfers of interests in the Farm Properties to and the subsequent transfers from to and are exempt from PTT under sections 14(3)(g) and 14(3)(f).

IV. LEGISLATION AND ANALYSIS

A. Legislation

PTT is due at the time an application to register a taxable transaction is made at the Land Title Office. The tax is due on the fair market value of the land or interest in the land transferred. However, the Act provides a number of exemptions from the tax.

Section 14(3)(g) of the Act provides an exemption from PTT when a family farm is transferred from a family farm corporation, provided that:

1. the person receiving the interest in the family farm is the sole shareholder of the family farm corporation; or
2. the person receiving the interest in the family farm is a related individual, sibling, sibling of a spouse or spouse of a sibling of each of the shareholders of the family farm corporation.

Furthermore, section 14(3)(f) of the Act provides an exemption when a family farm is transferred to a family farm corporation provided that:

1. the transferor of the family farm is also the sole shareholder of the family farm corporation; or
2. each of the shareholders of the family farm corporation is a related individual, sibling or spouse of a sibling of the transferor.

Section 14(1) defines a "family farm" as follows:

"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; or
- (c) for the purpose of an exemption claimed under subsection 3 (c) , (c.1), (d), (d.1) or (d.2) or subsection 4 (p.22) (ii) (B), was used, owned and farmed by the settlor or the deceased;

A "family farm corporation" is defined in section 14(1) as a corporation of which the principal activity is farming and no shareholder is a corporation.

B. Analysis

To benefit from the exemptions granted under sections 14(3) (g) and (f), each of the properties must be classified as farm land by BC Assessment and additionally qualify as a "family farm" under section 14(1). The farm property must therefore be used, owned and farmed by either one individual or by family members and/or a family farm corporation.

The Farm Properties are all classified as farm land by BC Assessment and are currently owned by _____ as well as _____ and _____ who are all family members. Additionally, the Farm Properties are also used and farmed by _____ and _____. Provided that no other parties use or farm the Farm Properties, they will qualify as "family farms" as they meet the three requirements of the criterion "used, owned and farmed".

Transfer #1 – Transfer of the Farm Properties from _____ to _____

Section 14(3)(g) of the PTTA, requires the transferor to be a "family farm corporation". As per your letter and email correspondence dated April 23, 2009, you advise that the principal activity of _____ is farming and that there are no corporate shareholders. If this is correct, _____ will qualify as a family farm corporation (FFC).

Additionally, under section 14(3)(g), the transferee must be the sole shareholder of the transferor FFC, or, a related individual, sibling, sibling of a spouse or spouse of a sibling of each of the shareholders of the FFC. The transferee in each of the proposed initial transfers is _____ the sole shareholder of _____. Consequently, the transfers of the Farm Properties from _____ to _____ will qualify for exemptions under section 14(3)(g).

Transfer #2 – Transfer of the Farm Properties from _____ to _____ and _____

To qualify for the exemption under section 14(3)(f), the transferee must be a FFC. You have advised that the principal activity of the three transferee corporations will be farming. In addition, your email dated April 23, 2009 states that _____ will not be registered as a shareholder of any of the transferee corporations until after the registration of the proposed transfers. If this is correct, _____ and _____ will each qualify as a FFC.

Section 14(3)(f) further requires that each of the shareholders of the transferee FFC must be either the transferor, a related individual of the transferor, a sibling of the transferor, or the spouse of a sibling of the transferor. The sole shareholder of _____ is the transferor _____. The shareholders of _____ are the transferor _____ and _____ a related individual of the transferor. Finally, the shareholders of _____ are the transferor _____ a related individual of the transferor. As such, the transfer of the Farm Properties from _____ to _____ and _____ will qualify for the exemption under section 14(3)(f).

It is my ruling, based on the information provided, that the proposed transfers of the Farm Properties will qualify for exemptions from PTT under sections 14(3)(g) and (f).

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided in your letter are accurate and complete. This correspondence describes how the Ministry interprets the relevant tax provisions. This ruling and interpretation may be impacted by variations in circumstance, subsequent changes to legislation or subsequent court decisions. This ruling and interpretation is not intended to replace the legislation. The Ministry is not responsible for updating this ruling and interpretation if there are any subsequent changes to the law.

After registration, the transactions for which this advance tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance and Revenue Web site at www.gov.bc.ca/fin/ or by calling us in Victoria at **250-387-0604** or outside of Victoria by our toll free Enquiry BC number at **1 800 663 7867** and requesting a transfer to **387-0604** or email your questions to **PTTENQ@gov.bc.ca**.

Yours truly,



Tara Richards
Director, Property Taxes
Policy and Legislation Branch
Ministry of Finance



June 8, 2009

Subject: Property Transfer Tax Advance Ruling

Dear

I am responding to your letter dated April 28, 2009, requesting a ruling with respect to exemption from property transfer tax for the proposed transfer of a principal residence. We received payment for this ruling on June 4, 2009.

I. BACKGROUND

I understand the facts of your request are as follows:

1. The property is located at British Columbia
(the Property). The Property is legally described as:

2. The current registered owner of the Property is

3. On purchased
the Property as joint tenants.



4. On _____ transferred her one-half interest in the Property to _____ who registered the transfer and claimed a property transfer tax exemption under section 14(3)(h) of the *Property Transfer Tax Act* (PTTA).
5. _____ currently resides in the Property as his principal residence and has done so without interruption since _____
6. _____ and _____ are both Canadian citizens or permanent residents and have been at all relevant times.
7. The Property has an area smaller than 0.5 hectares, is classified entirely as residential pursuant to the *Assessment Act*, and contains improvements that are designed to accommodate, and do accommodate, three or fewer families.
8. _____ and _____ are married.
9. The proposed transaction is to put _____ on title as a joint tenant with _____

II. RULING REQUEST

You are requesting a ruling as to whether the proposed transaction is exempt from property transfer tax.

III. RULING

It is my ruling that the proposed transfer described above is **exempt from property transfer tax (PTT)**.

The transfer of interest in property from _____ to _____ and _____ as joint tenants is a **taxable transaction exempt from PTT** pursuant to section 14(3)(b) of the PT TA (Exemption Code 05).

IV. LEGISLATION AND ANALYSIS

A. Legislation

PTT is due at the time an application to register a taxable transaction is made at the Land Title Office and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax. Under the PTTA, all transfers are taxable transactions unless specifically exempt.

Section 14 of the PTTA provides exemptions for certain transfers, provided that all the criteria, as described in each section and subsection, are strictly met

An exemption under section 14(3)(b) of the Act may be available where the following conditions are met:

1. the transfer of an interest in property is between related individuals;
2. the transferor must not be a trustee referred to in sections 14(3)(c),(d), or (e) of the Act;
3. the land transferred must be the principal residence of either the transferor or the transferee for a continuous period of at least 6 months immediately prior to the date of the transfer;
4. The improvements contained on the land must be designed and used to only accommodate 3 or fewer families;
5. all of the improvements must be classified as residential by BC Assessment, and the land must not exceed 0.5 hectares (1.24 acres).

Sections 1(1) and 14(1) of the Act define "related individual" to include a person's spouse, provided the spouse is either a Canadian Citizen or Permanent Resident as defined in the *Immigration and Refugee Protection Act* (Canada).

B. Analysis

As per your letter, _____ and _____ are married and are either Canadian citizens or permanent residents. They therefore qualify as related individuals under the PTTA. I have assumed that _____ is not transferring the property as a trustee of a trust. If this assumption is accurate, the second criteria of section 14(3)(b) will be satisfied.

The Property has been _____ principal residence since _____ it has been classed entirely as residential under the Assessment Act, and it has an area smaller

than 0.5 hectares. The Property contains improvements that are designed to accommodate, and do accommodate, three or fewer families. Accordingly the proposed transfer will be exempt from PTT.

This ruling is issued for the purposes of this transaction only, and with the understanding that all of the facts provided by you or your clients are accurate and complete.

In the event the Act is amended with respect to such transactions and the proposed transfer is not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the Property Transfer Tax, provided the transaction is completed in the manner described in the advance tax ruling request.

After registration, the transaction for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Please attach a copy of this ruling to the property transfer tax return submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance and Revenue Web site at www.gov.bc.ca/fin/ or by calling us in Victoria at **250-387-0604** or outside of Victoria by our toll free Enquiry BC number at **1 800 663 7867** and requesting a transfer to **387-0604** or email your questions to **PTTENQ@gov.bc.ca**.

Yours truly,



Tara Richards
Director, Property Taxes
Policy and Legislation Branch



June 1, 2009

Subject: Property Transfer Tax Advance Ruling

Dear

Thank you for your letter dated May 14, 2009, requesting an advanced tax ruling with respect to exemption from property transfer tax on the proposed cancellation of an Agreement for Sale. We received payment for this ruling on May 28, 2009.

I. BACKGROUND

I understand the facts of the request are as follows:

1. The property is located at British Columbia (the Property).
The Property is legally described as:

2. On the registered owners of the Property, and
(the Vendors), entered into an Agreement for Sale with
(the Purchaser). The Agreement for Sale was filed at the Land Title Office
on and the Purchaser's Right to Purchase was registered on title.
The Purchaser claimed exemption code 05 and paid partial property transfer tax in the
amount of



3. Subsequent to the registration of the Agreement for Sale, the Vendors transferred ownership of the Property on _____ to _____ and _____ (the Current Owners). Exemption code 05 was claimed and partial property transfer tax was paid in the amount of _____.
4. The Vendors are the parents of the Purchaser and of the Current Owners.
5. The Property is classified as residential by BC Assessment. The Property is the Vendors' principal residence and has been for _____.
6. The proposed transactions consist of:
 - a) A transfer of the fee simple from the Current Owners to the Vendors; and subsequently _____
 - b) Deregistration of the Purchaser's Right to Purchase.

II. RULING REQUEST

You are requesting a ruling as to whether the deregistration of the Right to Purchase, to effect the cancellation of the Agreement for Sale, is exempt from PTT under section 14(4)(n) of the *Property Transfer Tax Act* (the PTTA).

III. RULING

The transaction to effect the cancellation of the Agreement for Sale is exempt from property transfer tax.

IV. LEGISLATION AND ANALYSIS

A. Legislation

Property transfer tax is due at the time an application to register a taxable transaction is made at the Land Title Office and is based on the fair market value of the land, or interest in land transferred. The transferee is subject to the tax. Under the PTTA, tax is payable on all taxable transactions unless specifically exempt.

Section 14 of the PTTA provides exemptions for certain transfers, provided that all the criteria, as described in each section and subsection, are strictly met.

Section 14(4)(n) (Exemption Code 30) of the PTTA, provides an exemption for a transfer arising from the cancellation of an agreement for sale where the transferee is the original vendor under the agreement for sale.

B. Analysis

As per your letter, prior to de-registration of the Right to Purchase, an initial transaction will occur in which the Current Owners will transfer the fee simple to the Vendors as joint tenants. You have not requested a ruling on this part of the proposed transactions.

The second transaction will then be filed to de-register the Right to Purchase, to effect the cancellation of the Agreement for Sale. Upon de-registration of the Right to Purchase, a transfer occurs in which the transferees are the original vendors under the Agreement for Sale. This transfer will therefore be exempt under section 14(4)(n) (Exemption Code 30) of the PTTA.

This ruling is issued for the purposes of this transaction only, and with the understanding that all of the facts provided by you or your clients are accurate and complete.

In the event the Act is amended with respect to such transactions and the proposed transfer is not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the Property Transfer Tax, provided the transaction is completed in the manner described in the advance tax ruling request.

After registration, the transaction for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Please attach a copy of this ruling to the property transfer tax return submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance and Revenue Web site at www.gov.bc.ca/fin/ or by calling us in Victoria at **250-387-0604** or outside of Victoria by our toll free Enquiry BC number at **1 800 663 7867** and requesting a transfer to **387-0604** or email your questions to **PTTENQ@gov.bc.ca**.

Yours truly,



Tara Richards
Director, Property Taxes
Policy and Legislation Branch



June 30, 2009

Subject: Property Transfer Tax Advance

Dear

Thank you for your letter dated June 2, 2009, requesting an advanced tax ruling with respect to exemption from property transfer tax for the proposed transfer between trustees. We received payment for this ruling on June 19, 2009.

I. BACKGROUND

This request is made with respect to property legally described as:

I understand the facts regarding this request to be as follows:

1. (the Deceased) became the registered holder and beneficial owner of in
2. At all times since has been held by the Deceased as the trustee for the beneficiaries of a trust (the Trust).
3. The Trust was unregistered and title to remained in the Deceased's name.
4. Letters dated and executed by the Deceased, set out the terms of the Trust in addition to statutory law and the common law.



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4. Letters dated _____ and _____ executed by the Deceased, set out the terms of the _____ Trust in addition to statutory law and the common law.
5. On _____ the Deceased died leaving a Will that confirmed he held legal title to _____ in trust as a trustee. The Deceased's wife, his son, _____ and _____ (collectively, the "Executors") were appointed in the Deceased's Will as the executors and trustees of his estate.
6. _____ was transmitted to the Executors and a copy of the Grant of Probate was filed in the _____ Land Title Office on _____ under No. _____.
7. On _____ died.
8. _____ was transmitted from the Executors to _____ and _____ (together, the "Surviving Executors") on _____.
9. The Surviving Executors are currently registered on the _____ title as the "Executors of the Will of _____ Deceased".
10. The Executors assumed that on the death of the Deceased the Executors automatically became the trustees of the _____ Trust in the place of the Deceased. As a matter of trust law this is not correct and needs to be corrected. The Surviving Executors therefore wish to appoint a new trustee of the _____ Trust in the place of the Deceased.
11. The Surviving Executors intend to transfer the property to _____ the Deceased's daughter, as the newly appointed trustee of the _____ Trust.

II. RULING REQUEST

Your request is for a ruling as to whether the transfer of title from the Surviving Executors of the Deceased's estate to _____ as the newly appointed trustee of the _____ Trust, will be exempt from property transfer tax under section 14(4)(q) of the *Property Transfer Tax Act* (PTTA) (exemption code 26).

III. RULING

The transfer from the Surviving Executors to _____ as trustee is not exempt from property transfer tax.

_____ as trustee is not exempt from

IV. LEGISLATION AND ANALYSIS

A. Legislation

Property transfer tax (PTT) is due at the time an application to register a taxable transaction is made at the Land Title Office and is based on the fair market value of the land, or interest in land transferred. The transferee is subject to the tax. Under the PTTA, tax is payable on all taxable transactions unless specifically exempt.

Section 14 of the PTTA provides exemptions for certain transfers, provided that all the criteria, as described in each section and subsection, are strictly met.

Section 14(4)(q) provides an exemption for 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 the change in trustees is for reasons that do not relate, directly or indirectly, to a change in beneficiaries or class of beneficiaries, or to a change in the terms of the trust. The trustees must make a declaration that there are no changes in the beneficiaries, class of beneficiaries or in the terms of the trust in the PTT return submitted with the application for registration at the Land Title Office.

B. Analysis

Your request is for a ruling as to whether the transfer of title from the Surviving Executors of the Deceased's estate to _____ as trustee of the _____ Trust will be exempt from PTT under section 14(4)(q) of the PTTA (exemption code 26).

For the exemption under section 14(4)(q) to apply, the transferor and the transferee must be registered under the *Land Title Act* as the trustee of the same trust.

The transferors, the Surviving Executors, are currently registered under the *Land Title Act* as the Executors of the Deceased's estate. In contrast, the transferee, _____ will be registered on title as the trustee of the _____ Trust. Therefore, the transferors and the transferee will not be registered under the *Land Title Act* as the trustee(s) of the same trust and the exemption under section 14(4)(q) does not apply.

This ruling is issued for the purposes of this transaction only, and with the understanding that all of the facts provided by you or your clients are accurate and complete.

In the event the Act is amended with respect to such transactions and the proposed transfer is not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the Property Transfer Tax, provided the transaction is completed in the manner described in the advance tax ruling request.

After registration, the transaction for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Please attach a copy of this ruling to the property transfer tax return submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance and Revenue Web site at www.gov.bc.ca/fin/ or by calling us in Victoria at **250-387-0604** or outside of Victoria by our toll free Enquiry BC number at **1 800 663 7867** and requesting a transfer to **387-0604** or email your questions to **PTTENQ@gov.bc.ca**.

Yours truly,



Tara Richards
Director, Property Taxes
Policy and Legislation Branch



July 10, 2009

Subject: Property Transfer Tax Advance

Dear

I am responding to your letter dated June 9, 2009, requesting a ruling with respect to exemption from property transfer tax for the proposed cancellation of a strata plan and subsequent subdivision of the parcel. We received payment for this ruling on July 8, 2009.

I. BACKGROUND

I understand the facts of your request are as follows:

1. The properties are located in British Columbia. The properties are legally described as:



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2. The subject property is currently a strata development consisting of five strata lots.
3. The first proposed transaction is to apply to the Registrar of Land Titles to cancel the strata plan in accordance with sections 272, 273, 274 and 275 of the *Strata Property Act*.
4. Upon cancellation of the strata plan, creation of a new parcel will occur and title to that parcel will be held by the previous owners of the strata lots as tenants-in-common, each having an undivided interest in accordance with the amended Schedule of Interest on Destruction in the following manner:
 - a. Owners of Strata Lot
 - b. Owners of Strata Lot
 - c. Owners of Strata Lot
 - d. Owners of Strata Lot
 - e. Owners of Strata Lot
5. The second transaction consists of a subdivision of the parcel resulting in 5 new parcels of land.
6. Upon subdivision, each of the tenants-in-common would acquire title to a single parcel created by the subdivision with the same lot lines as they previously held within the strata plan.

II. RULING REQUEST

You are requesting a ruling as to whether the proposed transactions are exempt from property transfer tax (PTT).

III. RULING

The proposed cancellation of the strata plan and subsequent transfer of title into the names of the strata lot owners as tenants in common is exempt from property transfer tax. The second proposed transaction, occurring upon completion of the subdivision,

will be exempt from property transfer tax, provided that the registered owners maintain the same proportionate share in the fair market value of the subdivided parcels as they did prior to the subdivision as tenants-in-common.

IV. LEGISLATION AND ANALYSIS

A. Legislation

Property transfer tax (PTT) is due at the time an application to register a taxable transaction is made at the Land Title Office and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax. Under the *Property Transfer Tax Act* (PTTA), all transfers are taxable transactions unless specifically exempt.

Section 14 of the PTТА provides exemptions for certain transfers, provided that all of the criteria, as described in each section and subsection, are strictly met.

Section 14(3)(p.2) of the PTТА provides an exemption for a transfer under section 275 of the *Strata Property Act*, of land that was shown on a strata plan and cancelled under that provision.

Section 14(3)(j) of the PTТА provides an exemption for a transfer where a parcel is subdivided. The transfer is exempt if:

s. 14(3)(j)

(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;

B. Analysis

FIRST TRANSACTION

Section 272 of the *Strata Property Act* establishes what is required to apply to cancel a strata plan. In general, it requires a resolution passed by unanimous vote to cancel the plan. In order to proceed with the cancellation of the strata plan, an application must be made to the Registrar in accordance with section 274. If the Registrar is satisfied that the requirements under section 274 are met, the Registrar can order the cancellation of the strata plan under section 275 and transfer the land to the strata lot owners as tenants in common, in accordance to a conversion schedule approved in the resolution.

As the first proposed transaction consists of an application to the Registrar pursuant to section 274, any resulting cancellation of the strata plan and transfer of the land will occur under section 275 of the *Strata Property Act*. This transfer will therefore qualify for an exemption within section 14(3)(p.2) of the PTTA.

SECOND TRANSACTION

The second proposed transaction is the subdivision of the new parcel created through the cancellation of the strata plan. The owners of the original parcel prior to subdivision will be the owners of the subdivided parcels after the subdivision. The first criteria under section 14(4)(j) is therefore satisfied.

Section 14(4)(j) further requires the owners to have the same proportionate share in the fair market value of the smaller parcels as they did prior to subdivision as tenants-in-common.

According to the documents submitted, the parcel will be owned in the following proportions prior to the subdivision of the land:

- a. Owners of Strata Lot
- b. Owners of Strata Lot
- c. Owners of Strata Lot
- d. Owners of Strata Lot
- e. Owners of Strata Lot

Provided these owners have the same proportionate share in the fair market value of the subdivided parcels as they did prior to the subdivision as tenants-in-common, this second transaction will be exempt under section 14(3)(j) of the PTTA.

If an original owner receives a greater proportionate share of the fair market value of the parcels created under the subdivision than was held in the original parcel, the transfer will be subject to tax based on the increase in the proportion of fair market value that was received in accordance with section 3(3.2) of the PTTA.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you or your clients are accurate and complete.

In the event the Act is amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the Property Transfer Tax, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance Web site at www.gov.bc.ca/fin/ or by calling us in Victoria at 250-387-0604 or outside of Victoria by our toll free Enquiry BC number at 1 800 663 7867 and requesting a transfer to 387-0604 or email your questions to PTTENQ@gov.bc.ca.

Yours truly,



Tara Richards
Director, Property Taxes
Policy and Legislation Branch



July 16, 2009

Dear

RE: Property Transfer Tax Advance Tax Ruling

I am responding to your letter dated June 17, 2009, requesting a ruling with respect to exemption from property transfer tax (PTT) for the transaction proposed by
We received payment for this ruling on July 14, 2009.

I. BACKGROUND

The request is made with respect to the property legally described as:

I understand the facts as being the following:

1. On _____ passed away. He left a Will,
dated _____ in which he appointed his son, _____ as his
Executor. On _____ the Supreme Court of British Columbia granted probate
of the Will to _____ who registered title as Executor to hold the property in trust for
his mother, _____ for the rest of her life.
2. On _____ died and, on her death, the Property was supposed to be
either sold and the net sale proceeds distributed to all the children OR title should



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have been transferred from _____ as Executor to all the children as equal tenants-in-common. None of these actions were taken and _____ continued to remain registered on title as Executor.

3. _____ children passed away and their interests in the Nagib's Estate passed to the beneficiaries under their wills or their intestate heirs. All of these beneficiaries have been identified and located. They have consented to the Property being transferred from _____ as Executor to _____ in Trust.
4. The Property qualified as _____ principal residence at the time of his death. The Property has been continuously used by _____ as his principal residence from the date of _____ death.
5. _____ was a related individual (the Son) of the _____ at the time of _____ death.

II. RULING REQUEST

You are requesting a ruling as to whether the transfer of title to Property from _____ as Executor to _____ in Trust as one of the beneficiaries under the Will, will be tax exempt for property transfer tax purposes.

III. ANSWER

It is my ruling that the proposed transfer is a taxable transaction **exempt from PTT** under section 14(3)(c) the *Property Transfer Tax Act* (PTTA).

IV. LEGISLATION AND ANALYSIS

A. Legislation

Property transfer tax is due at the time an application to register a taxable transaction is made at the Land Title Office and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax. Under the PTTA provisions all transfers of properties or interest in properties are taxable transactions unless specifically exempt.

Section 14 of the PTTA provides exemptions for certain transfers, provided that all the criteria, as described in each section and subsection, are strictly met.

Section 14(3)(c) of the Act provides an exemption when a principal residence or an

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interest in a principal residence is transferred from a trustee of a deceased's estate, who is registered as such under the *Land Title Act*, to a beneficiary of the estate. The property has to qualify as either the principal residence of the deceased prior to his death or principal residence of the beneficiary, having been used as such for a continuous period of at least six months prior to the transfer. The transferee has to be a beneficiary under the will and has to meet the definition of related individual of the deceased.

Section 1 of the Act defines related individual as being a person belonging to one of the following class of individuals: the person's spouse, child, grandchild, great-grandchild, parent, grandparent, great-grandparent; the spouse of the child, grandchild or great-grandchild; or the child, parent, grandparent, or great-grandparent of a person's spouse.

Section 14 adds to the above definition the requirement that the related individual be a Canadian citizen or a permanent resident as defined in the *Immigration and Refugee Protection Act* (Canada).

B. Analysis

As per your letter, dated June 17, 2009, you are correct in assuming that the transfer of the Property from _____ as Executor to _____ In Trust is a **taxable transaction exempt from PTT** pursuant to section 14(3)(c).

_____ meets the criteria outlined in section 14(3)(c) of the Act.
_____ was a related individual of _____ at the time of his death.
_____ is one of the beneficiaries nominated under _____ will.

Furthermore, _____ has used the property as principal residence and he is still using it as such; it is assumed that _____ will be using the property as principal residence for a continuous period of 6 months prior to him registering the transfer at the Land Title Office.

The transfer from _____ as Executor to _____ in Trust is executed in accordance with the provisions of the Will, is a transfer of principal residence among related individuals, and therefore is **tax exempt**.

This ruling is issued for the purposes of this transaction only, and with the understanding that all of the facts provided by you or your clients are accurate and complete.

In the event the Act is amended with respect to such transactions and the proposed transfer is not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the Property Transfer Tax, provided the transaction is completed in the manner described in the advance tax ruling request.

After registration, the transaction for which this advanced tax ruling has been provided

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may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance Website at <http://www.fln.gov.bc.ca/rev.htm> or by calling us in Victoria at 250-387-0604 or outside of Victoria by our toll free Enquiry BC number at 1 800 663 7867 and requesting a transfer to 387-0604 or email your questions to PTTENQ@gov.bc.ca.

Yours truly,



Tara Richards
Director Property Taxes
Policy and Legislation Branch





September 23, 2009

Dear

Re: Property Transfer Tax Advance Tax Ruling

I am responding to your letter dated July 20, 2009, requesting a ruling with respect to application of property transfer tax for a proposed transfer from estate executors to the beneficiaries named under the will. We received payment for this ruling on September 11, 2009.

I. BACKGROUND

The request is made with respect to the property legally described as:

I understand the facts as being the following:

1. The property is hectares and has been used by as his residence until when he moved off the Property to where he exclusively resided for approximately until he was admitted to in remained at until his death in



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2. Because of his declining health, _____ was unable to leave _____ and made no use of his Property during the last three and a half months of his life. Had _____ health improved, it was his intention to return to and continue to reside on the Property.
3. During _____ absence from the residence, the Property was not rented out, but was occasionally used by _____ daughters,
4. On _____, the Supreme Court of British Columbia attested to the validity of _____ will, acknowledging that the Property situated in BC devolves to and vests in the personal representatives of the deceased, _____ and _____ as joint executors named in the said will.
5. Under the will, _____ appointed his two daughters as transferee beneficiaries of equal shares in the Property.
6. On _____ the joint executors registered as trustees on title.
7. _____ maintained a residence in _____ as well _____ the address of the _____ Property showing up on the BC Property's title as contact address.

II. RULING REQUEST

You are requesting a ruling as to whether the transfer from the executors to transferee beneficiaries will qualify for a partial exemption from property transfer tax under section 14(3)(c)(iii) of the *Property Transfer Tax Act*.

III. ANSWER

It is my ruling that the proposed transfer will not be exempt from property transfer tax. The transfer is a taxable transaction under the *Property Transfer Tax Act* (the Act) and tax will be due at the time the application to register the transfers is made at the Land Title Office. The tax is due on the fair market value of the land or interest in the land transferred.

IV. LEGISLATION AND ANALYSIS

A. Legislation

Under section 2 of the Act, tax is due at the time an application to register a taxable transaction is made at the Land Title Office. Taxable transactions include the registration of a transfer of legal title.



Section 14(3)(c)(iii) of the Act provides an exemption from property transfer tax where a deceased's principal residence is transferred from the registered trustee/s on title to the trust beneficiaries.

To be exempt from the application of the property transfer tax, the transferor, the transferee and the residence have to meet strict criteria:

- The transferee is the named beneficiary of the estate or trust,
- The transferee beneficiary was a related individual of the deceased at the time of the deceased's death,
- Immediately before the deceased's death, the land was the deceased's recreational residence or principal residence, or had been the transferee's principal residence for a continuous period of at least 6 months.

Section 1 and 14(1) define the terms "**principal residence**" and "**related individual**".

Principal residence is a parcel of land no larger than 0.50 ha in the area on which:

- the transferor resided and used as his or her home,
- there are 3 improvements designated to accommodate and used to accommodate 3 families or fewer,
- all improvements are classified under the *Assessment Act* as property used for residential purposes.

Related individual means vertically related individuals, including:

- the person's spouse, child, grandchild, greatgrandchild, parent, grandparent or greatgrandparent,
- the spouse of a person's child, grandchild or greatgrandchild, or
- the child, parent, grandparent or greatgrandparent of a person's spouse.

Section 1 of the Act underlines that all individuals mentioned above have to be either Canadian citizens or permanent residents as defined in the *Immigration and Refugee Protection Act (Canada)*.

B. Analysis

As per your submission, it results that the relationship criterion between the transferee beneficiaries and the deceased is satisfied. Both transferee beneficiaries were related individuals of the deceased at the time of his death; in fact the two transferees are the deceased's daughters. The transferee beneficiaries are satisfying the citizenship criteria as well.

The residency criterion however is not satisfied for the exemption to apply. Neither the transferee beneficiaries nor the deceased have used the Property as principal residence six months prior or immediately before death. There is no clear evidence that the deceased was planning to return to the Property.
moved to the city he designated on the title to Property as



contact mail address. Because the Property has not been used as principal residence six months or immediately before the deceased's death, section 14(3)(iii) does not apply.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you or your clients are accurate and complete.

In the event the Act is amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the Property Transfer Tax, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or, if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Small Finance Web Site at www.gov.bc.ca/sbr or by calling us in Victoria at 250-387-0604 or outside of Victoria by our toll free Enquiry BC number at 1 800 663 7867 and requesting a transfer to 387-0604 or email your questions to PTTENQ@gov.bc.ca.

Yours truly,



Kevin Gudgeon
A/Director Property Taxes
Policy and Legislation Branch





August 26, 2009

Subject: Property transfer tax liability for a registered lease merging into fee simple for a subdivided parcel through airspace subdivision plan

Dear

Thank you for your letter dated August 14, 2009, requesting an advanced tax ruling. We received your request and, upon analysis of the facts you provided us with, we release this memo in response to your questions without issuing an advanced tax ruling.

I. BACKGROUND

I understand the facts as being the following:

1. Your client, the (the Co-op) is the registered owner of the property which is incrementally developed for a mix of commercial, agricultural and residential. constructions are almost complete and the Co-op entered into an agreement with members to grant them registered leases with renewal rights over individual dwelling units.



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However, because of the subdivision model chosen, the leased area might not match the airspace parcel; any increase in a parcel's boundaries, may mean an increase in the fair market value and would be a taxable transaction under the current provision of the Act. It is a question of degree, small increases or decreases may not have any impact on the value and so there will not be a further tax liability, but, if they are substantial, it could be possible that the difference in value would attract further tax.

Unfortunately, we can not provide you with more details or deem this explanatory note to be a binding ruling as we do not have all the supporting documents (i.e. the subdivision plans, explanatory plans). I understand the subdivision plan for the air space parcel is not yet available.

An ATR is a binding tool that is released based on concrete information and supporting evidence that attest to the proposed transactions. Because of the lack of concrete evidence, we can not release an ATR confirming the application of the tax in the case of the Co-op until all the information is available and can be sent in.

This correspondence briefly illustrates the application of the current provisions of the PTTA and can be used for informative purposes only.

The answer and interpretation may be impacted by variations in circumstance, subsequent changes to legislation or subsequent court decisions. Additional information may be obtained by accessing the Ministry's website at www.gov.bc.ca/sbr or by calling us in Victoria at 250-387-0604 or outside of Victoria by our toll free Enquiry BC number at 1 800 663 7867 and requesting a transfer to 387-0604 or email your questions to PTTENQ@gov.bc.ca.

Yours truly,

Tara Richards

Tara Richards
Director Property Taxes
Policy and Legislation Branch



Ministry of Finance

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November 10, 2009

Dear

RE: Property Transfer Tax Advance Tax Ruling

I am responding to your letter dated November 3, 2009, requesting a ruling with respect to the application of property transfer tax (PTT) for a proposed subdivision. We acknowledge the receipt of your payment.

I. BACKGROUND

I understand the facts are as follows:

1. The request is made on behalf of
is the registered owner of the property legally described as:

are the registered owners of the property legally described as:

1. Multi-Parcel Subdivisions

- First, the transfer to the trustee is required to facilitate the subdivision of the original parcels and
- Second, upon registration of the plan of subdivision, the trustee is required to transfer the subdivided parcels to any or all of the original owners.

An exemption from PTT is also provided under section **14(4)(k.1)** of the PTTA. This exemption is available where under section 14(4)(k) of the PTTA, the registered trustee transfers the property back to the original owners and the proportionate FMV of the new parcels, as calculated immediately after the subdivision, does not exceed the original owner's proportionate share of the FMV of the original parcels, as calculated immediately before the subdivision. Accordingly, in order to be eligible for the exemption under section 14(4)(k.1), upon completion of the subdivision, there can be no increase in the owners proportionate share of the FMV.

Eligibility for the exemption under section 14(4)(k.1) of the PTTA is based on the proportionate share of the FMV of the property and not on the proportionate share of the total land area. Even if there is no change in proportionate ownership of land area, there may still be a variation in proportionate ownership in terms of the FMV immediately before and after the subdivision.

Step 1

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Land Title Office. The transfer to the trustees is a taxable transaction, **exempt from PTT** provided that the transfer is to facilitate the subdivision of the original parcels.

STEP II:

A Subdivision Plan will be filed at the Land Title Office to subdivide the enlarged property and create the two new lots, LOT A and LOT B. The subdivision of the consolidated land is not a taxable transaction for the purposes of the PTT.

STEP III:

The transfer of legal ownership of the newly created fee simple parcel (LOT A) from _____ and _____ in trust to _____ is a **taxable transaction**. According to the facts provided it appears that _____ proportionate share of the FMV of the parcel created under the subdivision, calculated using the FMV as it was immediately after the subdivision, does not exceed _____ proportionate share of the FMV of the original parcel, calculated using the FMV as it was immediately before the subdivision. Based on the facts you submitted it appears that the transfer of legal title from the trust to _____ is **PTT exempt**. **If, however, the fair market value is different at the time of registration and there is an increase in the proportionate share, the transfer will become a taxable transaction for which PTT is payable in accordance with section 3(3.4) for the net increase.**

Similarly, the transfer of legal ownership of the newly created LOT B from the _____ and _____ in trust to _____ is a **taxable transaction**. As per the evidence provided, _____ proportionate share of the FMV of the parcel created under the subdivision, calculated using the FMV as they were immediately after the subdivision, does exceed _____ proportionate share of the FMV of the original parcel calculated using the FMV as it was immediately before the subdivision. Therefore, the transfer of legal title from the trust to _____ is **not PTT exempt**. **The evidence submitted shows an increase in the proportionate share of _____, therefore the transfer is a taxable transaction and PTT is payable by the transferees in accordance with section 3(3.4) only for the net increase.**

This ruling is issued for the purposes of **these transactions** only, and with the understanding that all of the facts provided by you or your clients are accurate and complete.

In the event the PTTA is amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the Property Transfer Tax, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advanced tax ruling has been provided may be subject to review by the Administrator. **Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.**

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance, web site at www.gov.bc.ca/sbr or by calling us in Victoria at **250-387-0604** or outside of Victoria by our toll free Enquiry BC number at **1 800 663 7867** and requesting a transfer to **387-0604** or email your questions to **PTTENQ@gov.bc.ca**.

Yours truly,

A handwritten signature in black ink, appearing to read 'K. H. Gudgeon', with a long horizontal flourish extending to the right.

Kevin Gudgeon
A/Director Property Taxes
Policy and Legislation Branch



October 13, 2009

Dear

RE: Property Transfer Tax Advance Tax Ruling

I am responding to your letter dated August 17, 2008, requesting a ruling with respect to exemption from property transfer tax (PTT) for the proposed transfers. We received payment for this ruling on September 17, 2008.

I. BACKGROUND

The request is made with respect to the property legally described as:

(the Property)

I understand the facts as being the following:

1. is the sole legal owner registered on title to the Property.
On entered into an agreement to transfer an undivided 1/3 interest to
and an undivided 2/3 interest to by way of an unregistered Trust
Declaration and Promissory Notes. are siblings and they are
children.

2. has agreed to sell and has agreed to purchase an undivided 1/3 interest (the Portion) in the Property comprising of of farm land. The agreement contained certain terms and conditions among which:

3. Similarly to the agreement between and has agreed to sell and has agreed to purchase an undivided 2/3 interest (the Portion) in the Property comprising of the principal residence, the immediately surrounding area and an additional contiguous of farm land.
4. The agreement between and has similar terms and conditions as to the agreement between and

6. With respect to the history of the Property, _____ acquired it in _____ as farm property and farmed it until _____. Since _____ the Property has been used to _____ by the _____ as part of their _____ farming operations occurring _____. As indicated by your clients _____ manure is the only farm related activity taking place on the 2/3 undivided interest in land. The _____ property is owned and farmed by _____ whose shareholders are _____.
7. The Property is _____ of land with improvements occupied by _____ as their residence. You have indicated that the fair market value of the Property is approximately _____.
8. _____ and the other two parties do not intend to register the Trust Declarations at the land title office.
9. The proposed transactions are to transfer the 1/3 undivided interest in the Property from _____ as legal owner of the Property to _____ and the 2/3 undivided interest in the Property from _____ as legal owner of the Property to _____ as outlined in the unregistered Trust Declarations.

II. RULING REQUEST

You are requesting a ruling as to whether the transfers of interest in land from _____ to _____ and _____ will be taxable transactions exempt from the application of the PTT or not.

III. ANSWER

The proposed transactions **will qualify for a PTT exemption** under the section 14(3)(a).

IV. LEGISLATION AND ANALYSIS

A. Legislation

Under section 2 of the PTTA, tax is due at the time an application to register a taxable transaction is made at the land title office. Taxable transactions include the registration of a transfer of legal title.

Section 14(1) defines the terms "family farm", "family farm corporation" and "farm land". A "family farm" is defined as farm land (i.e. land classified under the *Assessment Act* as farm land) that is used, owned and farmed by one individual, by family member, by a family farm corporation or, for the purpose of the exemption claimed under sections (3)(c), (c.1), (c.2), (d), (d.1) or (d.2) or subsection (4) (p.22) (ii) (B) of the Act, was used, owned and farmed by the settlor of a trust or the deceased.

To qualify as a "family farm corporation", a corporation's principal activity has to be "farming the farm land" and no shareholder is a corporation.

Under section 14(3)(a) of the PTTA, 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 from a transferor who is *not* a trustee of a trust established under a will or during the life time of the settlor (14(3)(c-d)), to a transferee who is a related individual, a sibling or a spouse of a sibling, and the land transferred is a family farm.

"Related individuals" are defined in the Act as being any or all the individuals below:

- A person's spouse, child, grandchild, greatgrandchild, parent, grandparent or greatgrandparent,
- The spouse of a person's child, grandchild or greatgrandchild, or
- The child, parent, grandparent or greatgrandparent of a person's spouse.

To qualify, all related individuals have to be Canadian citizens or permanent residents as defined in the *Immigration and Refugee Protection Act* (Canada).

Under section 14(3)(d.2) of the PTTA, a transfer from a transferor who is a trustee of a trust 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, might qualify for an exemption if:

- The transferee is a beneficiary of the trust,
- The transferee beneficiary is a related individual, a sibling or a spouse of a sibling of the settlor of the trust, and
- The land transferred is a family farm.

B. Analysis

Based on the information provided, the transferees _____ will qualify for a **PTT exemption** for the transfer of the family farm under section 14(3)(a) of the PTTA.

As per your submission, the relationship criterion is satisfied by all parties, _____ being a related individual of _____ and _____ in fact _____ is _____ and _____ father. Furthermore, the Property meets the criteria that qualify land as family farm.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you or your clients are accurate and complete.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you or your clients are accurate and complete.

In the event the Act is amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the Property Transfer Tax, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advance tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the land title office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance Web site at www.gov.bc.ca/sbr or by calling us in Victoria at 250-387-0604 or outside of Victoria by our toll free Enquiry BC number at 1 800 663 7867 and requesting a transfer to 387-0604 or email your questions to PTTENQ@gov.bc.ca.

Yours truly,



Kevin Gudgeon
A/ Director
Property Taxes
Policy and Legislation Branch



November 23, 2009

Dear

RE: Property Transfer Tax Advance Tax Ruling

I am responding to your letter dated September 14, 2009, requesting a ruling with respect to the application of property transfer tax (PTT) for surrender of twenty-four leases. We acknowledge the receipt of your payment on November 16, 2009.

I. BACKGROUND

I understand the facts are as follows:

1. The request is made on behalf of
(the Company), the registered owner in fee simple of the property legally described as:

2. There are registered leases against the property. Each interest in those leases of suites is held by the lessees in an unregistered trust for the lessor (i.e. the Company) with no interest in the said leases other than those of bare trustees. The declaration of trust has been signed in

3. One of the leases is the lease for unit The lease for unit registered to under the instrument it was amended under the instrument and subsequently assigned under Most recently the lease was assigned for valuable consideration under Unit is the only unit that was actually sold and valuable consideration will be required to be paid to the current lessee to surrender/de-register the lease from title.
4. Currently, the fee simple owner, intends to refinance the property and, in order to obtain the funds, the Company has to have full control of the unencumbered fee simple.
5. As per your letter, it is my understanding that intends to obtain the surrender of the leases and there is the possibility that the may have to pay one or more of the lessees for the surrender of their leases.

II. RULING REQUEST

You are requesting a ruling with respect to the applicability of the *Property Transfer Tax Act* (PTTA) to the transactions mentioned above.

III. LEGISLATION AND ANALYSIS

Property transfer tax is due at the time an application to register a taxable transaction is made at the Land Title Office and is based on the FMV of the land or interest in the land transferred. The transferee is subject to the tax. Under the PTTA provisions all transfers are taxable transactions, for which tax is payable unless specifically exempt.

The de-registration of a charge from title is not as a taxable transaction for the purpose of the PTTA. Therefore, the de-registration or surrender of a lease, whether or not consideration is paid, so that the reversionary interest is transferred back to the original registered fee simple owner, is not taxed for the purpose of the PTTA.

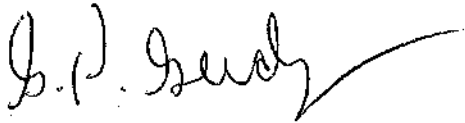
This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you or your clients are accurate and complete.

In the event the PTTA is amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the Property Transfer Tax, provided the transactions are completed in the manner described in the advance tax ruling request.

Additional information may be obtained by accessing the Ministry of Finance, web site at www.gov.bc.ca/sbr or by calling us in Victoria at 250-387-0604 or outside of Victoria by

our toll free Enquiry BC number at 1 800 663 7867 and requesting a transfer to 387-0604 or email your questions to PTTENQ@gov.bc.ca.

Yours truly,

A handwritten signature in black ink, appearing to read 'K. Gudgeon', with a long horizontal flourish extending to the right.

Kevin Gudgeon
A/Director Property Taxes
Policy and Legislation Branch



2018
January 12, 2009

Subject: Property Transfer Tax Advance Ruling

Dear

I am responding to your letter dated October 9, 2009 requesting a ruling as to whether or not property transfer tax (PTT) would be payable on the proposed transactions. We acknowledge the receipt of your payment on December 14, 2009.

I. BACKGROUND

I understand the facts of your request are as following:

1. The properties to be transferred are legally described as

2. _____ is the registered owner of the LOT 4. The sole shareholders of the corporation are the spouses

3. Is the registered owner of the LOT 3 and Parcel A. The changed its name to on and received a Certificate of Change of Name issued by John. S. Powell, Registrar of Companies, Province of British Columbia, Canada.
4. LOT 3 and Parcel A are actively used and farmed by the The shareholders of the are the spouses, are family members of
5. LOT 4 is used and farmed by the for mostly used in the undergone on LOT 3 and Parcel A and for on LOT 3 and Parcel A. All the excess crops from LOT 4 are sold.
6. All the persons or employees who are assisting in the farming activities are related individuals or family members.
7. The proposed transactions are as following:

Transfer LOT 4 from	to	and then transfer LOT 4 from
to		
Transfer LOT 3 from	to	and then transfer LOT 3 from
to		
Transfer Parcel A from	to	and then transfer Parcel A
from	to	
8. As per the Central Securities Register documents, the shareholders of the and the are The did not operate as a separate limited company in the fiscal year ended but it is operating separately as of Prior to incorporation, the farming operations presently performed by the were performed by the

II. RULING REQUEST

You are requesting a ruling as to whether the proposed transactions are exempt from PTT.

III. RULING

It is my ruling that the proposed transactions are PTT exempt.

IV. LEGISLATION AND ANALYSIS

A. Legislation

PTT is due at the time an application to register a taxable transaction is made at the Land Title Office (LTO) and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax. Under the *Property Transfer Tax Act* (PTTA), all transfers are taxable transactions, unless specifically exempt.

Section 14 of the PTTA provides exemptions for transfers of family farms to and from a family farm corporation, provided that certain eligibility criteria are met.

To be exempt from paying PTT:

1. The land transferred has to be classified under the *Assessment Act* as farm land and must be a "family farm" as defined in section 14(1) of the Act. "Family farm" means farm land that is used, owned and farmed by one individual and/or family members, or is used, owned and farmed by a family farm corporation.
2. The transferor cannot be transferring the property as a trustee.
3. The transferee must be a related individual, a sibling or spouse of a sibling of the transferor or under section 14(3)(g) also a sibling of the spouse of the shareholder.

Sections 1(1) and 14(1) of the Act define "related individual" to mean a Canadian citizen or permanent resident as defined in the *Immigration and Refugee Protection Act (Canada)*, who is:

- a person's spouse, child, grandchild, great-grandchild, parent, grandparent or great-grandparent, the spouse of a person's child, grandchild or great-grandchild, or
- the child, parent, grandparent or great-grandparent of a person's spouse.

Section 14(1) defines "family member" to mean a Canadian citizen or permanent resident as defined in the *Immigration and Refugee Protection Act (Canada)*, who is

- a related individual
- a person's sibling, cousin, niece, nephew, aunt or uncle
- the spouse of a person's sibling, cousin, niece, nephew, aunt or uncle or
- the sibling, cousin, niece, nephew, aunt or uncle of a person's spouse.

Section 14(1) defines "family farm corporation" as a corporation of which the principal activity is farming the farm land and no shareholder is a corporation.

Section 14(3)(f) exempts from PTT the transfer of a family farm from a transferor to a transferee who is a family farm corporation, the shareholder of which are, one or all of the following: the

transferor, a related individual of the transferor, a sibling or a spouse of a sibling of the transferor.

Section 14(3)(g) exempts from PTT the transfer of a family farm from a transferor who is a family farm corporation to a transferee who is either the sole shareholder of the family farm corporation or a related individual, the sibling, the sibling of the spouse or spouse of the sibling of the shareholder.

B. Analysis

The properties (i.e. LOT 4, LOT 3 and Parcel A) have been assessed as farm land under the *Assessment Act*, and, as per your letter, the lands are owned by the _____ are whose shareholders are _____ performing most of the farming operations, while assisted by _____ as well as _____ Nonetheless, most of the use and the farming are done corporately through the newly created corporations:

I have assumed that there are no unrelated parties involved in the farming operations. In the absence of evidence (i.e. farming income schedules), especially for the _____ and the _____ I have only assumed that these two corporations meet the PTTA definition of family farm corporations in that their principal activity is farming and no shareholder is a corporation (section 14(1)). The schedule of income provided for the _____ shows that the corporation is actively involved in _____ therefore is a family farm corporation as per the PTTA definition in section 14(1). The parties (i.e. _____) involved in the transfer meet the "related individual" and "family member" relationship criteria required in section 14(3)(f) and 14(3)(g).

If the assumptions mentioned above are accurate, the "the used, owned and farmed" criterion is satisfied in the case of LOT 4, LOT 3 and Parcel A and the lands meet the definition of "family farm" (section 14(1)).

As such, the transfer of LOT 4, LOT 3 and Parcel A from _____ to _____ are taxable transactions **exempt from PTT** under section 14(3)(g). The subsequent transfers from _____ to _____ (LOT 4) and from _____ to _____ (LOT 3 and Parcel A) are taxable transactions **exempt from PTT** under section 14(3)(f).

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you or your clients are accurate and complete. If upon auditing, _____ are not considered to be family farm corporations, the proposed transactions will not be PTT exempt.

In the event the Act is amended with respect to such transactions and the proposed transfer is not registered before the amendment, this ruling will be null and void. This ruling is binding on

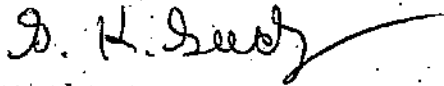
the Administrator of the Property Transfer Tax, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transaction for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for the purpose of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the property transfer tax return submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional Information may be obtained by accessing the Ministry of Finance and Revenue Web site at www.gov.bc.ca/fin/ or by calling us in Victoria at 250-387-0604 or outside of Victoria by our toll free Enquiry BC number at 1 800 663 7867 and requesting a transfer to 387-0604 or email your questions to PTTENQ@gov.bc.ca.

Yours truly,



Kevin Gudgeon
A/Director Property Taxes
Policy and Legislation Branch
Ministry of Finance



March 31, 2010

Dear

RE: Property Transfer Tax Advance Tax Ruling

I am responding to your letter dated October 20, 2009, requesting a ruling with respect to the application of property transfer tax (PTT) to a proposed registration of an assignment of a surrendered lease. We acknowledge the receipt of your payment on March 30, 2010.

I. BACKGROUND

I understand the facts are as follows:

1. _____ is the registered owner of fee simple of _____ in _____ BC (the Property).
2. The legal description of the Property is: _____
3. In _____ leased the Property from _____ The lease was registered at the Land Title Office (LTO) in _____ for a term of _____ expiring on _____
4. On _____ assigned all its rights, title and interest in the Lease to _____ requiring to be released from all _____

Ministry of Finance
Property Taxation Branch

4th Floor 1820 Douglas Street
Victoria, BC V8T 4K6
Ph: 250-387-0602
Fax: 250-953-3094

liabilities arising on the covenants of the Lease or otherwise arising from the Lease. The assignment of this lease was not registered on title, but the change in name of the lease was submitted to the Land Title Office on

5. On amalgamated with under the *Canada Business Corporation Act*. On and entered into a lease agreement (Lease). Section 2.1 Article 2 of the Lease stipulates that and acknowledge and agree that:

"the lease [i.e. Lease] amends, restates and supersedes the Lease such that the Lease shall have no further force or effect upon and after the Commencement Date except as amended and restated by the Lease".

6. The Lease is a lease with an initial term of a term that has the option to extend for successive Renewal Terms of each, on the same terms and conditions as contained in the Lease. The Lease was not registered.
7. On was dissolved under the provisions of the *Canada Business Corporations Act*.
8. requires to provide it with a registrable discharge of the Lease assigned to and superseded by the Lease.
9. The proposed transaction is the discharge of the from title and the registration of the Lease on title as well as of all the documents in regards to the amalgamation of with

II. RULING REQUEST

You are requesting a ruling with respect to the applicability of the *Property Transfer Tax Act* (PTTA) to the proposed transactions mentioned above.

III. RULING

The discharge of the Lease is not a taxable transaction for PTT purposes. The registration of the Lease is a taxable transaction on which PTT is payable on 100% of the fee simple fair market value.

IV. LEGISLATION AND ANALYSIS

A. Legislation and Analysis

Property transfer tax is due at the time an application to register a taxable transaction is made at the LTO and is based on the fair market value (FMV) of the land or interest in the land transferred. The transferee is subject to the tax. Under the PTTA provisions all transfers are taxable transactions, unless specifically exempt.

Under section 1 of the PTTA the term "taxable transaction" is defined as a transaction purporting to transfer [...] a right to occupy land under a lease agreement [...].

Section 14(4)(o) exempts from the tax the transfers of lease agreements (with the exception of lease modification agreement) with a term of 30 years or less remaining as of the date of registration of that lease agreement.

Table 1 in the *Property Transfer Tax Regulation 74/88* determines the amount of tax payable upon the registration of a lease with a term of 30 years or more. Leases with a term of:

- 30 to 40 years are taxable 80% of the fair market value of the fee simple;
- 40 to 50 years are taxable 90% of the fair market value of the fee simple, while
- 50 years or above are taxable 100% of the fair market value of the fee simple.

B. Analysis and application of legislation to facts

As per your letter, a number of transactions are required to obtain the proposed end result.

- The discharge of the Lease registered on title in is required. The discharge is not a taxable transaction.
- The registration of the Lease concurrently with the registration of the evidence of the amalgamation.

As per the documents you have provided us with there is no evidence supporting the claim that the Lease is an assignment of the previous Lease and, that at the date of the registration of the assignment, the number of years for which the holder of the Lease has the right to occupy the demised premises will be zero.

The Lease, although it was intended to amend some of the Lease provisions, is a lease with a different term and expiry date. As compared to the Lease that had a term of until the Lease has a renewable term with an expiry date projected for

Based on the evidence and the wording used in the two lease documents, the Lease is a new lease with a term of

Upon the registration of the Lease, PTT will be payable on 100% of the fee simple fair market value as per Table 1 in the *Property Transfer Tax Regulation 74/88*.

This ruling is issued for the purposes of **these transactions** only, and with the understanding that all of the facts provided by you or your clients are accurate and complete.

In the event the PTTA is amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding

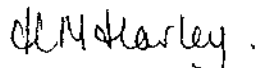
on the Administrator of the Property Transfer Tax, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance, web site at www.gov.bc.ca/sbr or by calling us in Victoria at **250-387-0604** or outside of Victoria by our toll free Enquiry BC number at **1 800 663 7867** and requesting a transfer to **387-0604** or email your questions to **PTTENQ@gov.bc.ca**.

Yours truly,



Hilary Harley
Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance



November 23, 2009

Dear

RE: Property Transfer Tax Advance Tax Ruling

I am responding to your letter dated October 28, 2009, requesting a ruling with respect to the application of property transfer tax (PTT) for a proposed subdivision. We acknowledge the receipt of your payment on November 6, 2009.

I. BACKGROUND

I understand the facts are as follows:

1. The request is made on behalf of _____ who are proposing a subdivision of their respective properties.
2. _____ are the registered owners in fee simple of the property legally described as:

_____ are the registered owners in fee simple of the property legally described as:

are registered owners in fee simple of the property legally described as:

are registered joint tenants in fee simple of the property legally described as:

3. Your clients are proposing to readjust the boundaries of their properties and create four new lots which, after the subdivision, will be designated as LOT 1, LOT 2, LOT 3, and LOT 4.
4. As per your letter it is my understanding that as part of the process the following adjustments will occur to create the new lots the ownership of which is as follows.

Lot 5 will be subdivided in such a manner so that a portion is added to **LOT C** to create **the new LOT 1**, which will be owned by

Lots 5, 6 and A will be subdivided in such a manner to create **the new LOT 2** which will be owned by **the new LOT 3** which will be owned by and the **new LOT 4** which will be owned by

As part of the process you are proposing the use of a trustee to facilitate the subdivision.

II. RULING REQUEST

You are requesting a ruling with respect to the applicability of the *Property Transfer Tax Act* (PTTA) to the subdivision process mentioned above.

III. LEGISLATION AND ANALYSIS

A. Legislation and Analysis

Property transfer tax is due at the time an application to register a taxable transaction is made at the Land Title Office and is based on the fair market value (FMV) of the land or interest in the land transferred. The transferee is subject to the tax. Under the PTTA provisions all transfers are taxable transactions, unless specifically exempt.

Under section 14 of the PTTA some transactions that are part of a subdivision process are exempt, if strict criteria are met.

1. Multi-Parcel Subdivisions

Section 14(4)(k) of the PT TA provides an exemption from PTT where two or more adjacent parcels of land owned by two or more parties are transferred from the original owners **to a trustee, registered** under the *Land Title Act* at the Land Title Office and two further conditions are met.

- First, the transfer to the trustee is required to facilitate the subdivision of the original parcels and
- Second, upon registration of the plan of subdivision, the trustee is required to transfer the subdivided parcels to any or all of the original owners.

If the trustee either retains or transfers one or more of the newly created parcels, tax is payable by the trustee in accordance with section 3(3.3) of the PT TA.

An exemption from PTT is also provided under section 14(4)(k.1) of the PT TA. This exemption is available where under section 14(4)(k) of the PT TA, the registered trustee transfers the property back to the original owners and the proportionate FMV of the new parcels, as calculated immediately after the subdivision, does not exceed the original owner's proportionate share of the FMV of the original parcels, as calculated immediately before the subdivision. Accordingly, in order to be eligible for the exemption under section 14(4)(k.1), upon completion of the subdivision, there can be no increase in the owners proportionate share of the FMV.

If an original owner receives a greater proportionate share of the total FMV of the parcels created under the subdivision than was held in the original parcel or parcels, that transfer will be subject to tax based on the increase in the proportion of FMV that was received as a result of the subdivision in accordance with section 3(3.4) of the PT TA.

Eligibility for the exemption under section 14(4)(k.1) of the PT TA is based on the proportionate share of the FMV of the property and not on the proportionate share of the total land area. Even if there is no change in proportionate ownership of land area, there may still be a variation in proportionate ownership in terms of the FMV immediately before and after the subdivision.

B. Analysis and application of legislation to facts

As per your letters a number of transactions are required to obtain the proposed new lots, LOT 1, LOT 2, LOT 3, and LOT 4.

Step 1

will transfer their interest in their properties to **a trustee**, pursuant to the declarations of trusts they will register at the Land Title Office. The transfer to the trustees is a taxable transaction, **exempt from PTT** provided that the transfer is to facilitate the subdivision of the original parcels.

STEP II:

A Subdivision Plan will be filed at the Land Title Office to subdivide the enlarged property and create the new lots, LOT 1, LOT 2, LOT 3 and LOT 4. The subdivision of the consolidated land is **not a taxable transaction** for the purposes of the PTT.

STEP III:

Step III involves the transfer of legal ownership of the newly created fee simple parcels from the **registered trustee** back to original owners as following:

LOT 1 and LOT 4 will be transferred to _____ This transfer is a **taxable transaction** for which PTT will be payable if, the FMV as it was immediately after the subdivision, does exceed _____ proportionate share of the FMV of the original parcel/s, calculated using the FMV as it was immediately before the subdivision. **If, at the time of registration there is an increase in the proportionate share, the transfers will become taxable transactions for which PTT is payable in accordance with section 3(3.4) for the net increase.**

Similarly, the transfer of legal ownership of the newly created LOT 2 to _____ and LOT 3 to _____ are **taxable transactions for which PTT is payable in accordance with section 3(3.4) if there is a net increase in the proportionate shares received by**

As per your letter you have not provided any evidence as to whether there will be a change in the proportionate share each of the original owners will receive after the subdivision as compared to the proportionate share they owned before the subdivision process.

This ruling is issued for the purposes of **these transactions** only, and with the understanding that all of the facts provided by you or your clients are accurate and complete.

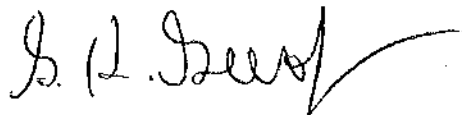
In the event the PTTA is amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the Property Transfer Tax, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advanced tax ruling has been provided may be subject to review by the Administrator. **Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.**

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance, web site at www.gov.bc.ca/sbr or by calling us in Victoria at 250-387-0604 or outside of Victoria by our toll free Enquiry BC number at 1 800 663 7867 and requesting a transfer to 387-0604 or email your questions to PTTENQ@gov.bc.ca.

Yours truly,



Kevin Gudgeon
A/Director Property Taxes
Policy and Legislation Branch



May 27, 2010

Subject: *Property Transfer Tax Advance Ruling*

Dear

I am responding to your letter dated March 29, 2010, requesting a ruling with respect to the application of the property transfer tax (PTT) to a proposed transaction by your clients and the

We received payment for this ruling on May 26, 2010.

I. BACKGROUND

I understand the facts of your request are as follows:

1. The properties are legally described as:

2. The subject properties are bare land and are part of the Strata Plan

3. The first transaction is to apply to the Registrar of Land Titles to wind up the Strata Plan We assumed that the cancellation of the strata plan and the winding up of the strata corporation are done in accordance with Division 1, Part 16, section 275, of the *Strata Property Act*.

Ministry of Finance
Property Taxation Branch

4th Floor 1802 Douglas Street
Victoria, BC V8T 4K6
Ph: 250-387-0602
Fax: 250-953-3094

4. Upon the cancellation of the strata plan and the winding up of the strata corporation, the second transaction is to file a subdivision plan with the Land Title Office (LTO), showing and as tenants in common on the newly created LOT 1. LOT 1 will be subdivided, and will register title to the newly created LOT B and will register title to the newly created LOT A.
5. Parts of the newly created lots will be dedicated to road access for the use of the City.
6. You have indicated in your letter that, before the cancellation of the strata plan and the winding up of the strata corporation, the interests in the and were as following.
 - a. Owners of the
 - b. Owners of the

II. RULING REQUEST

You are requesting a ruling as to whether the proposed transactions are exempt from property transfer tax (PTT).

III. RULING

The first proposed transaction, that is, the cancellation of the strata plan and the winding up of the strata corporation as well as the transfer of title into the names of the strata lot owners as tenants in common is **exempt from PTT**.

The second proposed transaction, will be exempt from PTT if the registered owners who maintain the same proportionate share in the fair market value of the subdivided parcels, as they did prior to the subdivision as tenants in common, OR taxable, with PTT payable, if there is an increase in the proportion of the fair market value that was received by the taxpayers, calculated in accordance with section 3(3.2) of the PTTA.

IV. LEGISLATION AND ANALYSIS

A. Legislation

PTT is due at the time an application to register a taxable transaction is made at the LTO and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax. Under the *Property Transfer Tax Act* (PTTA), all transfers are taxable transactions, unless specifically exempt.

Section 14 of the PTTA provides exemptions for certain transfers, provided that all of the criteria, as described in the Act's sections and subsections, are strictly met.

Section 14(3)(p.2) of the PTTA provides an exemption for a transfer under section 275 of the *Strata Property Act* of land that was shown on a Strata Plan and cancelled under that provision.

Section 14(3)(j) of the PTTA provides an exemption for a transfer where a parcel is subdivided. The transfer is exempt if:

- the parcel, 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
- 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.

B. Analysis

FIRST TRANSACTION

Division 1, Part 16 of the *Strata Property Act* establishes what is required to apply for a cancellation of a strata plan and the winding up of a strata corporation. If the Registrar is satisfied that the requirements are met, the Registrar can order the cancellation of the strata plan under section 275, and transfer the land to the strata lot owners as tenants in common, in accordance to a conversion schedule approved in the resolution.

Your first proposed transaction consists of an application to the Registrar for the cancellation of the Strata Plan _____ and the transfer of the land into the name of _____ as tenants in common. This transfer will therefore qualify for an exemption as per section 14(3)(p.2) of the PTTA.

SECOND TRANSACTION

The second proposed transaction is the subdivision of the newly created parcel through the cancellation of the Strata Plan _____. The owners of the original parcel prior to subdivision will be the owners of the subdivided parcels, LOT A and LOT B, after the subdivision. The first criteria under section 14(3)(j) is therefore satisfied.

Section 14(3)(j) further requires the owners to have the same proportionate shares in the fair market value of the smaller parcels as they did prior to subdivision.

According to the documents submitted, there is an increase in the proportionate share of the fair market value post subdivision, of at least one of the two transferees. When an original

owner receives a greater proportionate share of the fair market value of the parcel created under the subdivision, than was held in the original parcel, the transfer will be subject to tax based on the increase in the proportion of the fair market value that was received, calculated in accordance with section 3(3.2) of the PTTA.

Provided that the owners have the same or less proportionate share in the fair market value of the subdivided parcels as they did prior to the subdivision as tenants in common, this second transaction will be exempt under section 14(3)(j) of the PTTA.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you or your clients are accurate and complete.

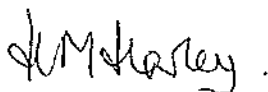
In the event the Act is amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the Property Transfer Tax, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Please attach a copy of this ruling to the *Property Transfer Tax Returns* submitted with the application for registration at the LTO, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance Web site at www.gov.bc.ca/fin/ or by calling us in Victoria at 250-387-0604 or outside of Victoria by our toll free Enquiry BC number at 1 800 663 7867 and requesting a transfer to 387-0604 or email your questions to PTTENQ@gov.bc.ca.

Yours truly,



Hilary Harley
Director Compliance and Audit
Property Taxation Branch



June 10, 2010

Subject: *Property Transfer Tax Advance Ruling*

Dear

I am responding to your letter dated May 12, 2010 requesting a ruling as to the application of the property transfer tax (PTT) on the transactions proposed by the

We acknowledge the receipt of your payment on June 8, 2010.

I. BACKGROUND

I understand the facts of your request are as following:

1. The properties to be transferred are legally described as

2. The _____ is the registered owner of all the four lots mentioned above. The shareholders of the corporation are

The

directors of the corporation are
children of

are siblings and the

3. The farming operation conducted on the land is _____ and _____ are actively involved in the day to day operations of the farms, while _____ is more involved in the book keeping matters assisting with the farming operations whenever required.
4. All the persons or employees who are assisting in the farming activities are related individuals or family members. They are also Canadian Citizens and permanent residents of Canada.
5. The proposed transactions are as following:

- Transfer _____ and _____ from _____ to _____
- Transfer _____ from _____ to _____
- Transfer _____ from _____ to _____

I have assumed, as per you first submissions, that _____ the intended transferees, are related to _____ in fact it is my understanding that _____ are _____ siblings.

II. RULING REQUEST

You are requesting a ruling as to whether the proposed transactions are exempt from PTT.

III. RULING

It is my ruling that the proposed transactions are PTT exempt.

IV. LEGISLATION AND ANALYSIS

A. Legislation

PTT is due at the time an application to register a taxable transaction is made at the Land Title Office (LTO) and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax. Under the *Property Transfer Tax Act* (PTTA), all transfers are taxable transactions, unless specifically exempt.

Section 14 of the PTTA provides exemptions for transfers of family farms to and from a family farm corporation, provided that certain eligibility criteria are met. To be exempt from paying PTT:

1. The **land** transferred has to be classified under the *Assessment Act* as farm land and must be a "**family farm**" as defined in section 14(1) of the Act. "Family farm" means farm land that is used, owned and farmed by one individual and/or family members, or is used, owned and farmed by a family farm corporation.
2. The **transferor** cannot be transferring the property as a trustee.
3. The **transferee** must be a related individual, a sibling or spouse of a sibling of the transferor, or, under section 14(3)(g) also a sibling of the spouse of the shareholder.

Sections 1(1) and 14(1) of the Act define "related individual" to mean a Canadian citizen or permanent resident as defined in the *Immigration and Refugee Protection Act (Canada)*, who is:

- a person's spouse, child, grandchild, great-grandchild, parent, grandparent or great-grandparent, the spouse of a person's child, grandchild or great-grandchild, or
- the child, parent, grandparent or great-grandparent of a person's spouse.

Section 14(1) defines "family member" to mean a Canadian citizen or permanent resident as defined in the *Immigration and Refugee Protection Act (Canada)*, who is

- a related individual
- a person's sibling, cousin, niece, nephew, aunt or uncle
- the spouse of a person's sibling, cousin, niece, nephew, aunt or uncle or
- the sibling, cousin, niece, nephew, aunt or uncle of a person's spouse.

Section 14(1) defines "family farm corporation" as a corporation of which the principal activity is farming the farm land and no shareholder is a corporation.

Section 14(3)(g) exempts from PTT the transfer of a family farm from a transferor who is a family farm corporation to a transferee who is either the sole shareholder of the family farm corporation or a related individual, the sibling, the sibling of the spouse or spouse of the sibling of the shareholder.

B. Analysis

The properties _____ have been assessed as farm land under the *Assessment Act*, and, as per your letter, the lands are owned by the _____ whose shareholders are _____ attending to _____ I have assumed that there are no unrelated parties involved in the farming operations. Thus, "the used, owned and farmed" criterion is satisfied in the case of the four parcels and the lands meet the definition of "family farm" (section 14(1)).

I have also assumed that the transferees
are children of the shareholders, therefore they satisfy the
relationship criterion. You have mentioned in your letter from June 1, 200 that neither
nor have used or occupied the residences on the property
they are about to receive as their principal residence.

As such, the transfers of and from
to are taxable transactions,
exempt from PTT under section 14(3)(g).

The transfers of from to
and to are taxable
transactions, **exempt from PTT** under section 14(3)(g).

This ruling is issued for the purposes of these transactions only, and with the understanding that
all of the facts provided by you or your clients are accurate and complete. If upon auditing,
is not considered to be a family farm corporation, the
proposed transactions will not be PTT exempt.

In the event the Act is amended with respect to such transactions and the proposed transfer is
not registered before the amendment, this ruling will be null and void. This ruling is binding on
the Administrator of the Property Transfer Tax, provided the transactions are completed in the
manner described in the advance tax ruling request.

After registration, the transaction for which this advanced tax ruling has been provided may be
subject to review by the Administrator. Information provided for the purpose of this ruling will be
verified against the information and relevant circumstances presented at the date of registration
in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the Property Transfer Tax Return submitted with the
application for registration at the Land Title Office, or if you submit the application for registration
electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance and Revenue Web
site at www.gov.bc.ca/fin/ or by calling us in Victoria at 250-387-0604 or outside of Victoria by
our toll free Enquiry BC number at 1 800 663 7867 and requesting a transfer to 387-0604 or
email your questions to PTTENQ@gov.bc.ca.

Yours truly,



Hilary Harley
Director Audit and Compliance
Property Taxation Branch

June 30, 2010

Subject: *Property Transfer Tax Advance Ruling*

Dear

I am responding to your letter dated May 10, 2010 requesting a ruling as to the application of the property transfer tax (PTT) to a proposed transaction. We acknowledge the receipt of your payment June 18, 2010.

I. BACKGROUND

I understand the facts of your request are as following:

1. The property to be transferred is owned by the _____ and it is
legally described as _____

(the Property)

2. The _____ is a family farm corporation whose shareholders
are _____

3. The Property has been assessed as both farm land and residential. There are two
residences on the land: a relatively new _____ farmhouse occupied by the
_____ and a second residence which is a _____

farmhouse occupied exclusively by

4. Up to recently, the farming on the land has been performed by the farming activities were undertaken by a cutting and bailing company, The services provided by the company are paid. Farming is also performed by a farm hand, The farm hand provides her services for extra farm duties as she may be called upon. According to your submissions she carries no other business on the land.
5. are the registered owners of a life estate on title, and therefore are liable for the payment of the property taxes. As such, in a land tax deferment agreement has been registered against title allowing for the property taxes payable by to be deferred.
6. For the purpose of estate planning, the following transactions are proposed:
- a. The de-registration of the life estate and,
 - b. The transfer of title from the to as fee simple owners.

II. RULING REQUEST

You are requesting a ruling as to whether the proposed transactions are exempt from PTT.

III. RULING

It is my ruling that the proposed transactions are taxable transaction that are PTT exempt.

IV. LEGISLATION AND ANALYSIS

A. Legislation

PTT is due at the time an application to register a taxable transaction is made at the Land Title Office (LTO) and is based on the fair market value of the land or interest in the land transferred. The transferee is subject to the tax. Under the *Property Transfer Tax Act* (PTTA), all transfers are taxable transactions, unless specifically exempt.

The de-registration of a document off title is not a taxable transactions for the purposes of PTT, therefore the de-registration of the life estate is not taxable.

Section 14 of the PTТА provides exemptions for transfers of family farms to and from a family farm corporation, provided that certain eligibility criteria are met.

To be exempt from paying PTT:

- The land transferred has to be classified under the *Assessment Act* as farm land and must be a "family farm" as defined in section 14(1) of the Act. "Family farm" means farm land that is used, owned and farmed by one individual and/or family members, or is used, owned and farmed by a family farm corporation.
- The transferor cannot be transferring the property as a trustee.
- The transferee must be a related individual, a sibling or spouse of a sibling of the transferor or under section 14(3)(g), also a sibling of the spouse of the shareholder.

Sections 1(1) and 14(1) of the Act define "related individual" to mean a Canadian citizen or permanent resident as defined in the *Immigration and Refugee Protection Act (Canada)*, who is:

- a person's spouse, child, grandchild, great-grandchild, parent, grandparent or great-grandparent, the spouse of a person's child, grandchild or great-grandchild, or
- the child, parent, grandparent or great-grandparent of a person's spouse.

Section 14(1) defines "family member" to mean a Canadian citizen or permanent resident as defined in the *Immigration and Refugee Protection Act (Canada)*, who is

- a related individual
- a person's sibling, cousin, niece, nephew, aunt or uncle
- the spouse of a person's sibling, cousin, niece, nephew, aunt or uncle or
- the sibling, cousin, niece, nephew, aunt or uncle of a person's spouse.

Section 14(1) defines "family farm corporation" as a corporation of which the principal activity is farming the farm land and no shareholder is a corporation.

Section 14(3)(g) exempts from PTT the transfer of a family farm from a transferor who is a family farm corporation to a transferee who is either the sole shareholder of the family farm corporation or a related individual, the sibling, the sibling of the spouse or the spouse of the sibling of the shareholder.

B. Analysis

The property has been assessed as farm land under the *Assessment Act* and, as per your submission, the land is owned by the _____ whose shareholders meet the relationship criteria under the PTTA provisions. The "used, owned and farmed" requirements are also met, since the ownership and most of the use is done corporately.

The _____ meets the PTTA definition of family farm corporations, in that its principal activity is farming. The schedule of income provided for the _____ year shows that the corporation was involved in _____

I have assumed that the schedule of income will continue to show the corporation as being involved in and if, this assumption is accurate, the "the used, owned and farmed" criterion is satisfied, and the meets the definition of "family farm corporation". As such, the transfer of the property from the to as fee simple owners, is a taxable transactions, **exempt from PTT** under section 14(3)(g).

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you are accurate and complete. If upon auditing, the is not considered to be a family farm corporation, the proposed transaction will not be PTT exempt.

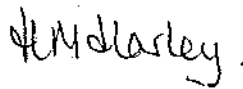
You have also asked us what would the implementation period of the ruling be, after you receive it. There is no time limit or expiry date as to when the proposed transactions can be registered. Nonetheless, in the event the Act is amended with respect to such transactions and the proposed transfer is not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the Property Transfer Tax provided the transactions are completed in the manner described in the above ruling.

After registration, the transaction for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for the purpose of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the *Property Transfer Tax Return* submitted with the application for registration at the LTO, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance Web site at www.gov.bc.ca/fin/ or by calling us in Victoria at 250-387-0604 or outside of Victoria by our toll free Enquiry BC number at 1 800 663 7867 and requesting a transfer to 387-0604 or email your questions to PTTENQ@gov.bc.ca.

Yours truly,



Hilary Harley
Director, Audit and Compliance
Property Taxation Branch



August 27, 2010

Dear

RE: Property Transfer Tax Advance Tax Ruling

I am responding to your letter dated July 28, 2010 requesting a ruling with respect to the application of property transfer tax (PTT) to the transactions proposed by your clients: and,
We acknowledge the receipt of your payment on August 18, 2010.

I. BACKGROUND

I understand the facts are as follows:

1. (Condo) is the registered owner of BC.
the Property at
2. The legal description of the Property is:
3. In Condo leased the Property to (Resort), a lease that was registered on title , renewed in and modified by a number of lease modifications.
4. Condo is a fully owned subsidiary of the Resort, as per the definition in the BC *Business Corporation Act* [S.B.C., 2002].
5. In Resort subleased the Property to .
The sublease agreement was registered on title At the time of registration of the sublease, all rents, other than certain expenses and property taxes, were prepaid in accordance with the terms of the Sublease.

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6. proposes to purchase the Property from Condo in the following manner:
- a. A contract will be drafted and executed between _____ and Resort through which Resort agrees to sell and cause Condo to sell the Property for a selling price that will be below the BC Assessment value.
 - b. According to the contract, the following transactions will be executed by the three parties:
 1. Condo will transfer the beneficial interest in the Property to Resort pursuant to the Declaration of Trust No. 1 that **will not be registered** on title. The interest in the Property pursuant to the Head lease will merge with the beneficial interest. Condo will continue to remain registered on title, but it will keep the Property in trust for Resort.
 2. Resort will refund to _____ all the unamortized portion of the prepaid rents pursuant to a Refund Agreement. The Refund Agreement is for the unamortized portion of the prepaid rents in the amount of \$ _____
 3. Resort will transfer the beneficial interest in the Property to _____ pursuant to the **unregistered** Declaration of Trust No. 2 causing the _____ interest to merge with the beneficial interest (the Sublease Merger). Resort will terminate the Declaration of Trust No. 1 by serving notice to Condo. Condo will continue to be the registered owner of the Property, but it will keep the Property in trust for _____
 4. Resort and _____ will give effect to the Sublease Merger and file and register FORM C Release No. 1 at the Land Title Office.
 5. Condo and Resort will give effect to the Head Lease Merger and file and register FORM C Release No. 2 at the Land Title Office.
 6. Condo will transfer the fee simple interest to _____. The transfer will be registered at the Land Title Office. Pursuant to the registration of title at the Land Title Office, _____ will terminate the Declaration of Trust No. 2 by providing a termination notice to Condo.

II. RULING REQUEST

You are requesting a ruling with respect to the applicability of the *Property Transfer Tax Act* (PTTA) to the proposed transactions mentioned above.

III. RULING

The discharge of the Head Lease and the Sublease are not a taxable transaction for PTT purposes. The registration of title in the name of s.21 **is a taxable transaction** on which PTT is payable on 100% of the fee simple **fair market value as of the date of registration.**

IV. LEGISLATION AND ANALYSIS

A. Legislation and Analysis

Property transfer tax is due at the time an application to register a taxable transaction is made at the Land Title Office and is based on the fair market value (FMV) of the land or interest in the land transferred. The transferee is subject to the tax. Under the PTTA provisions all transfers are taxable transactions, unless specifically exempt.

Please note that the PTT is a registration tax. Interests or declarations of trust/promissory notes that are not registered on title, do not affect the title or the fair market value of the fee simple and do not attract tax.

Under section 1 of the PTTA the term "taxable transaction" is defined as a transaction purporting to transfer [...] an estate in fee simple referred to in section 23(2) of the *Land Title Act* [...]. The rate of tax is prescribed in section 3 of the PTTA as being 1% of the first \$200,000 of the fair market value of the taxable transaction and 2% of the remaining fair market value of the taxable transaction.

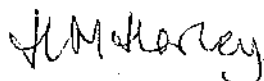
This ruling is issued for the purposes of **these transactions** only, and with the understanding that all of the facts provided by you or your clients are accurate and complete.

In the event the PTTA is amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the Property Transfer Tax, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling. Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance, web site at www.gov.bc.ca/sbr or by calling us in Victoria at 250-387-0604 or outside of Victoria by our toll free Enquiry BC number at 1 800 663 7867 and requesting a transfer to 387-0604 or email your questions to PTTENQ@gov.bc.ca.

Yours truly,



Hilary Harley
Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance



August 27, 2010

Revised: Sept 20, 2010

Dear

RE: *Property Transfer Tax Advance Tax Ruling* . - revised

I am responding to your letter dated July 28, 2010 requesting a ruling with respect to the application of property transfer tax (PTT) to the transactions proposed by your clients:

and,

We acknowledge the receipt of your payment on August 18, 2010.

I. BACKGROUND

I understand the facts are as follows:

1. (Condo) is the registered owner of the Property BC.
2. The legal description of the Property is:
3. (Resort) is the registered owner of a leasehold interest in the Property pursuant to a lease registered on title in (the Head Lease - , renewed in and modified by a number of lease modifications.
4. Condo is a fully owned subsidiary of the Resort, as per the definition in the *BC Business Corporation Act* [S.B.C., 2002].
5. In became the registered owner of a sublease interest in the Property pursuant to a sublease registered on title on

by _____
and assigned to _____ in _____ **the Sublease**). At the time of registration of the Sublease, all rents, other than certain expenses and property taxes, were prepaid in accordance with the terms of the Sublease.

6. _____ proposes to purchase the Property from Condo in the following manner:
- a. A contract will be drafted and executed between _____ and Resort through which Resort agrees to sell and cause Condo to sell the Property for a selling price that will be below the BC Assessment value.
 - b. According to the contract, the following transactions will be executed by the three parties:
 1. Condo will transfer the beneficial interest in the Property to Resort pursuant to the Declaration of Trust No. 1 that **will not be registered** on title. The interest in the Property pursuant to the Head Lease will merge with the beneficial interest (the Head Lease Merger). Condo will continue to remain registered on title, but it will keep the Property in trust for Resort.
 2. Resort will refund to _____ all the unamortized portion of the prepaid rents pursuant to a Refund Agreement. The Refund Agreement is for the unamortized portion of the prepaid rents in the amount of \$ _____.
 3. Resort will transfer the beneficial interest in the Property to _____ pursuant to the **unregistered** Declaration of Trust No. 2 causing the _____ interest to merge with the beneficial interest (the Sublease Merger). Resort will terminate the Declaration of Trust No. 1 by serving notice to Condo. Condo will continue to be the registered owner of the Property, but it will keep the Property in trust for _____.
 4. Resort and _____ will give effect to the Sublease Merger and file and register FORM C Release No. 1 at the Land Title Office.
 5. Condo and Resort will give effect to the Head Lease Merger and file and register FORM C Release No. 2 at the Land Title Office.
 6. Condo will transfer the fee simple interest to _____. The transfer will be registered at the Land Title Office. Pursuant to the registration of title at the Land Title Office, _____ will terminate the Declaration of Trust No. 2 by providing a termination notice to Condo.

II. RULING REQUEST

You are requesting a ruling with respect to the applicability of the *Property Transfer Tax Act* (PTTA) to the proposed transactions mentioned above.

III. RULING

The discharge of the Head Lease and the Sublease are not a taxable transaction for PTT purposes. The registration of title in the name of is a taxable transaction on which PTT is payable on 100% of the fee simple fair market value as of the date of registration. The fair market value will be calculated for the value of the land and all improvements transferred at the date of registration.

IV. LEGISLATION AND ANALYSIS

A. Legislation and Analysis

Property transfer tax is due at the time an application to register a taxable transaction is made at the Land Title Office and is based on the fair market value (FMV) of the land or interest in the land transferred. For PTT purposes land has the same meaning as in the definition of the term land in section 29 in the *Interpretation Act* [RSBC 1996] "'land" includes any interest in land, including any right, title or estate in it of any tenure, with all buildings and houses, unless there are words to exclude buildings and houses, or to restrict the meaning". The transferee is subject to the tax. Under the PTTA provisions all transfers are taxable transactions, unless specifically exempt.

Please note that the PTT is a registration tax. Interests or declarations of trust/promissory notes that are not registered on title, do not affect the title or the fair market value of the fee simple and do not attract tax.

Under section 1 of the PTTA the term "taxable transaction" is defined as a transaction purporting to transfer [...] an estate in fee simple referred to in section 23(2) of the *Land Title Act* [...]. The rate of tax is prescribed in section 3 of the PTTA as being 1% of the first \$200,000 of the fair market value of the taxable transaction and 2% of the remaining fair market value of the taxable transaction.

This ruling is issued for the purposes of **these transactions** only, and with the understanding that all of the facts provided by you or your clients are accurate and complete.

In the event the PTTA is amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the Property Transfer Tax, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling. Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance, web site at www.gov.bc.ca/sbr or by calling us in Victoria at **250-387-0604** or outside of Victoria by our toll free Enquiry BC number at **1 800 663 7867** and requesting a transfer to **387-0604** or email your questions to **PTTENQ@gov.bc.ca**.

Yours truly,



Nina Yee
A/Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance



October 28, 2010

Dear

RE: Property Transfer Tax Advance Tax Ruling

I am responding to your letter dated August 5, 2010, requesting a ruling with respect to the application of property transfer tax (PTT) to the transfer proposed by your clients,

We received the additional information requested and the payment for this ruling on October 19, 2010.

I. BACKGROUND

The request is made with respect to the property located at
legally described as:

BC and

("the Property")

I understand the facts as being the following:

- a) The spouses are the registered owners to the property as joint tenants. The property has been assessed by the BC Assessment Authority as farm land.
- b) In the farm received certification for organic crops from the *Pacific Agricultural Certification Society*. The application has been renewed by the property owners in with an open expiry date.

- Starting with _____ the farming is under the family farm corporation
whose sole shareholder is _____

6. The proposed transaction is the transfer of title from _____ as joint tenants to _____ as joint tenants.

You are requesting a ruling as to whether the transfer from _____ to _____ is exempt from property transfer tax.

It is my ruling that the proposed transfers will be a taxable transaction exempt from property transfer tax.

Section 14 of the PTTA provides exemptions for transfers of family farms provided that certain eligibility criteria are met.

To be exempt from paying PTT:

1. The **land** transferred has to be classified under the *Assessment Act* as farm land and must be a "**family farm**" as defined in section 14(1) of the Act. "Family farm" means farm land that is used, owned and farmed by one individual and/or family members, or is used, owned and farmed by a family farm corporation.
2. The **transferor** cannot be transferring the property as a trustee.
3. The **transferee** must be a related individual, a sibling or spouse of a sibling of the transferor under section 14(3)(a).

Sections 1(1) and 14(1) of the Act define "related individual" to mean a Canadian citizen or permanent resident as defined in the *Immigration and Refugee Protection Act (Canada)*, who is:

- a person's spouse, child, grandchild, great-grandchild, parent, grandparent or great-grandparent, the spouse of a person's child, grandchild or great-grandchild, or
- the child, parent, grandparent or great-grandparent of a person's spouse.

Section 14(1) defines "family member" to mean a Canadian citizen or permanent resident as defined in the *Immigration and Refugee Protection Act (Canada)*, who is

- a related individual
- a person's sibling, cousin, niece, nephew, aunt or uncle
- the spouse of a person's sibling, cousin, niece, nephew, aunt or uncle or
- the sibling, cousin, niece, nephew, aunt or uncle of a person's spouse.

Section 14(1) defines "family farm corporation" as a corporation of which the principal activity is farming the farm land and no shareholder is a corporation.

Analysis

Pursuant to the documentation submitted, it seems that the legislative requirements for the proposed transaction have been met.

The relationship criterion between the transferors and the transferees is satisfied as the property transfers from the _____ to _____ respectively.

The land is classified by BC Assessment as farm land and satisfies the criteria of "used, owned and farmed" by the farmers, the family members and the family farm corporation, therefore meets the definition of "family farm" for PTT purposes.

It is my understanding that the transferors will not transfer the land as trustees therefore they will meet the requirement in section 14(3)(a).

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you or your clients are accurate and complete.

In the event the Act is amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the Property Transfer Tax, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transaction for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Small Business and Revenue Web site at www.gov.bc.ca/sbr or by calling us in Victoria at 250-387-0604 or outside of Victoria by our toll free Enquiry BC number at 1 800 663 7867 and requesting a transfer to 387-0604 or email your questions to PTTENQ@gov.bc.ca.

Yours truly,



Hilary Harley
Director Audit and Compliance
Property Taxation Branch



November 9, 2010

Dear

RE: Property Transfer Tax Advance Tax Ruling

I am responding to your letter dated August 17, 2010 requesting a ruling with respect to the application of property transfer tax (PTT) to the strata corporation amalgamation proposed by your client – the legal and beneficial owner of Strata Plan . We received the additional information requested and payment for this ruling on October 19, 2010.

I. BACKGROUND

The request is made with respect to the property comprising Strata Plan and Strata Plan , both of

I understand the facts as being the following:

Your client proposes to amalgamate with pursuant to s. 269 of the *Strata Property Act*.

1. The *Strata Property Act* requires the following be filed in the Land Title Office to effect the amalgamation:
 - a. Amalgamation Agreement;
 - b. *Strata Property Act* Form Z (Amended Form Z) with the required Explanatory or Reference Plan consolidating the strata plans into a single strata plan;

- c. *Strata Property Act* Form E Certificate of Strata Corporation confirming the resolution to approve the amalgamation was passed by a ¾ vote by each Strata Corporation;
 - d. *Strata Property Act* Form V Schedule of Unit Entitlement approved by the Superintendent of Real Estate; and, if applicable;
 - e. *Strata Property Act* Form I Amendment to any Bylaws of the amalgamated Strata Corporation.
2. The Schedule of Voting Rights listed in s.269 of the *Strata Property Act* is not required in this instance.
 3. You have been informed, through your registry agent, by the Land Title Office of the correct process and to proceed as outlined above.

II. RULING REQUEST

You are requesting a ruling as to whether the amalgamation of the two strata corporations is a taxable transaction, and if so, whether the exemption under s.14(4)(u) of the *Property Transfer Tax Act* is applicable to the proposed strata amalgamation. You have also requested information on how the tax will be applied in the event the exemption does not apply to the strata amalgamation.

III. ANSWER

It is my ruling that the proposed transfers will be a taxable transaction exempt from property transfer tax. Since I have ruled that the exemption under s.14(4)(u) is applicable, I am not providing information on how the tax will be applied in the event the exemption did not apply.

IV. LEGISLATION AND ANALYSIS

Legislation and Analysis

Property Transfer Tax Act (PTTA)

PTT is due at the time an application to register a taxable transaction is made at the Land Title Office and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax. Under the PTTA, all transfers that are taxable transactions are subject to PTT, unless specifically exempt.

The PTTA's definition of "taxable transaction" means, in paragraph f), a transaction "that consists of an application under s. 191 of the *Land Title Act* in respect of an amalgamation referred to in s. 191(4) of that Act."

Section 14(4)(u) of the PTTA provides an exemption for registrations of transfers referred to in paragraph f) of the definition of "taxable transaction" if :

- a. the amalgamation is effected under Division 3 of Part 9 of the *Business Corporations Act*, under section 181 to 186 of the *Canada Business Corporations Act* (Canada) or under similar provisions of an enactment of Canada or of a province, and
- b. 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.

Land Title Act (LTA)

Section 191(1) and (2) of the LTA provides that if a person legally changes that person's name and applies to the registrar to do so, the registrar must cancel the existing indefeasible title and register a new indefeasible title in the changed name of that person, or endorse the change of name on the register. Section 191(4) deems an amalgamation of 2 or more corporations, however effected, as a change of name.

Strata Property Act (SPA)

Section 2 of the SPA provides a strata corporation is established from the time the strata plan is deposited in a land title office. In addition, the SPA:

- a. allows two or more strata corporations to amalgamate if certain conditions are satisfied (s. 269),
- b. provides that the registrar must, if satisfied that the application and accompanying documents received under section 269 comply with this Act and the LTA, endorse on the amalgamation agreement the name of the amalgamated strata corporation and alter the indefeasible titles and amend all relevant plans in whatever way is necessary to give full effect to the amalgamation agreement. (s. 270)
- c. provides that on and after the date the registrar deposits the reference or explanatory plan, the amalgamating strata corporations are amalgamated and are continued as one strata corporation under the name endorsed on the amalgamation agreement, the amalgamated strata corporation is seized of, and holds and possesses, the property, rights and interests and is subject to the liabilities and obligations of each amalgamating strata corporation, the bylaws of the amalgamated strata corporation are the Standard Bylaws except to the extent that different bylaws have been filed with the registrar under section 269, and each owner in each amalgamating strata corporation is bound by the terms of the amalgamation agreement (s. 271).

Interpretation Act (IA)

In s. 29 of the IA, "corporation" means an incorporated association, company, society, municipality or other incorporated body, where and however incorporated, and includes a corporation sole other than Her Majesty or the Lieutenant Governor.

Analysis

As provided by paragraph f) of the PTTA's definition of "taxable transaction", a strata amalgamation is a taxable transaction if it is a transaction that consists of an application under s. 191 of the LTA in respect of an amalgamation referred to in s. 191(4) of that Act.

Section 191(4) of the LTA deems an amalgamation of 2 or more corporations, however effected, as a change of name. The LTA does not define "corporation"; however, the definition of "corporation" in s.29 of the IA applies in the LTA unless there is a contrary intention in the LTA. There is no contrary intention in the LTA that the IA definition should apply, as such the IA's

definition of "corporation" meaning "an incorporated body, where and however incorporated" applies to the LTA. This broad definition captures a strata corporation established under s.2 of the SPA. As a result, a change of name stemming from a strata amalgamation requires the procedures under s. 191 of the LTA be satisfied.

It should be noted that while s. 270 of the SPA compels the registrar to alter the indefeasible titles and amend all relevant plans in whatever way is necessary to give full effect to the amalgamation agreement, it does not preclude the requirements of the LTA from being fulfilled. Consequently, a strata amalgamation requires an application under s.191 of the LTA to amend the indefeasible titles to the name of the amalgamation strata corporation, and this is considered a taxable transaction under paragraph f) of the PTTA's definition of "taxable transaction". As such, it is my ruling that that the proposed amalgamation of _____ with _____ pursuant to s. 269 of the SPA, will be a taxable transaction under the PTTA.

The proposed strata amalgamation will be exempt from PTT if it meets the requirements of s. 14(4)(u) of the PTTA. Section 14(4)(u) provides an exemption for registrations of transfers referred to in paragraph f) of the definition of "taxable transaction" if :

- a. the amalgamation is effected under Division 3 of Part 9 of the *Business Corporations Act*, under section 181 to 186 of the *Canada Business Corporations Act* (Canada) or under similar provisions of an enactment of Canada or of a province, and
- b. 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.

A strata amalgamation under s. 269 of the SPA is similar to an amalgamation effected under Division 3 of Part 9 of the *Business Corporations Act* or under section 181 to 186 of the *Canada Business Corporations Act* (Canada) because section 271 of the SPA provides that the assets and liabilities of the amalgamating strata corporations continue in the amalgamated strata corporation.

Furthermore, a certificate of amalgamation is not required because proof of the amalgamation is provided when the register effects the strata amalgamation at the Land Title Office by endorsing the amalgamation agreement, altering the indefeasible titles and amending all relevant plans in whatever way is necessary to give full effect to the amalgamation agreement. Consequently, it is my ruling that that the proposed amalgamation of _____ with _____ pursuant to s. 269 of the SPA, will be a taxable transaction that is exempt under s. 14(4)(u) of the PTTA.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you or your clients are accurate and complete.

In the event the Act is amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the Property Transfer Tax, provided the transactions are completed in the manner described in the advance tax ruling request.

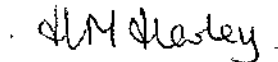
After registration, the transaction for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will

be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance Web site at www.gov.bc.ca/fin/ or by calling us in Victoria at **250-387-0604** or outside of Victoria by our toll free Enquiry BC number at **1 800 663 7867** and requesting a transfer to **387-0604** or email your questions to **PTTENQ@gov.bc.ca**.

Yours truly,



Hilary Harley
Director Audit and Compliance
Property Taxation Branch



December 1, 2010

Dear

RE: Property Transfer Tax Advance Tax Ruling

I am responding to your letter dated August 19, 2010 requesting a ruling with respect to the application of the property transfer tax (PTT) to the transactions proposed by your client,
We received payment for this ruling on November 30, 2010.

I. BACKGROUND

I understand the facts as being the following:

1. The property is located at _____ British Columbia
and is legally described as: _____
- _____ (the Property)
2. The registered owner on title to the Property was _____ who held
100% of the fee simple before passing away in _____
3. _____ and _____ were common in law spouses at
the time of _____ death and both resided on the Property for at least _____
4. _____ estate has been probated and _____ was
designated as personal representative of the deceased in _____ . On _____
_____ took title to the Property as an Executrix of the
deceased's estate.

Ministry of Finance

Mailing Address:
4th Floor - 1802 Douglas Street
Property Taxation Branch
Victoria, BC V8T 4K6
Telephone: 250 387-0602
Facsimile: 250 953-3094

II. RULING REQUEST

You are requesting a ruling as to whether the transfer from Executrix to as a life estate holder, while the fee simple remains in the name of the Executrix, is exempt from PTT.

III. RULING

It is my ruling that the proposed transfer is a taxable transaction exempt from PTT.

IV. LEGISLATION AND ANALYSIS

A. Legislation and Analysis

PTT is due at the time an application to register a taxable transaction is made at the Land Title Office (LTO) and is based on the fair market value of the land or interest in the land transferred. The transferee is subject to the tax. Under the *Property Transfer Tax Act* (PTTA), all transfers are taxable transactions, unless specifically exempt.

Section 14(3)(q) of the PTTA provides an exemption from PTT for the transfer of property into the name of a personal representative if the land transferred is part of the deceased's estate. As per the documentation submitted, the transfer of the Property to _____ as the personal representative of the estate of _____ was effected in _____ and was to be exempt from PTT at the date of registration.

Section 1(1) of the Act defines "spouse" to mean a person who

- is married to another person, or
- is living and cohabiting with another person in a marriage-like relationship, including a marriage like relationship between persons of the same gender, and has been living and cohabiting in that relationship for a continuous period of at least two years.

_____ and _____ were common in law spouses at the time of death. They were in a common in law marriage for at least _____ before death.

Section 14(1) defines "principal residence" as a parcel of land

- on which a person in relations to whose residence the exemption under this section is claimed usually resided and used as his or her home,
- on which there are improvements that are designed to accommodated and that are used to accommodate 3 or fewer families,
- on which all the improvements are classified under section 19 of the *Assessment Act* as property used for residential purposes, and
- that is no larger than 0.5 ha in area.

The property located at _____ BC has been used by the _____ as their principal residence prior to _____ passing away.

Section 14(3)(c) provides an exemption from PTT for the transfer from a transferor who is a trustee of a deceased's estate or of a trust established under the 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

- the transferee is a beneficiary of the estate or trust,
- the transferee beneficiary was a related individual of the deceased at the time of the deceased's death, and
- immediately before the deceased's death, the land transferred
 - A) was the deceased's recreational residence or **principal residence**
 - B) [...].

as the registered personal representative of
 estate, will transfer a life estate against the Property to as the
 beneficiary of the estate pursuant to the testamentary will's provisions. The transfer will be
 exempt from PTT as the transfer meets all the requirements set under section 14(3)(c) of the
 Act.

This ruling is issued for the purposes of these transactions only, and with the understanding that
 all of the facts provided by you or your clients are accurate and complete.

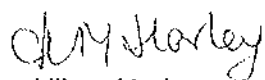
In the event the Act is amended with respect to such transactions and the proposed transfers
 are not registered before the amendment, this ruling will be null and void. This ruling is binding
 on the Administrator of the Property Transfer Tax, provided the transactions are completed in
 the manner described in the advance tax ruling request.

After registration, the transactions for which this advanced tax ruling has been provided may be
 subject to review by the Administrator. Information provided for the purposes of this ruling will
 be verified against the information and relevant circumstances presented at the date of
 registration in order to determine the accurate application of this ruling.

Please attach a copy of this ruling to the property transfer tax returns submitted with the
 application for registration at the Land Title Office, or if you submit the application for registration
 electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance Website at
www.gov.bc.ca/sbr or by calling us in Victoria at **250-387-0604** or outside of Victoria by our toll
 free Enquiry BC number at **1 800 663 7867** and requesting a transfer to **387-0604** or email your
 questions to **PTTENQ@gov.bc.ca**.

Yours truly,



Hilary Harley
 Director Audit and Compliance
 Property Taxation Branch

Ministry of Finance

Mailing Address:
 4th Floor - 1802 Douglas Street
 Property Taxation Branch
 Victoria, BC V8T 4K6
 Telephone: 250 387-0602
 Facsimile: 250 953-3094



October 1, 2010

Subject: Property Transfer Tax Advance Ruling #

Dear

I am responding to your letter dated September 17, 2010 requesting a ruling as to the application of property transfer tax (PTT) on the transactions proposed by your client.

We acknowledge the receipt of your payment on

September 28, 2010.

I. BACKGROUND

I understand the facts of your request are as follows.

1. There are parcels of land to be transferred and these parcels are legally described as:

(the Property)

2. The property is encumbered by a _____ covenant granted on _____ by the _____
the property is appraised and assessed _____
as farm land. The registered owner of the lands is _____ The farm
has been in the _____ family since _____
3. The lands are used and farmed by _____ whose sole shareholder is the _____
registered owner of the property, _____ carries
_____ activities on the farm lands.
4. _____ and his son, _____ are actively involved in the farming activities and
are occasionally assisted by _____ daughter, _____ who also
resides on the property. _____ are Canadian citizens.
5. You have confirmed that there are no other related or unrelated parties who assist in the
daily operation of the farm and that there are no registered lease agreements in regards to
the lands.
6. The proposed transaction is the transfer of all the _____ lots from _____ to his children, including
the lot that has the residence on _____

II. RULING REQUEST

You are requesting a ruling as to whether the proposed transaction is exempt from PTT.

III. RULING

It is my ruling that the proposed transaction is PTT exempt.

IV. LEGISLATION AND ANALYSIS

Legislation and Analysis

PTT is due at the time an application to register a taxable transaction is made at the Land Title Office (LTO) and is based on the fair market value (FMV) of the land or interest in land transferred. The transferee is subject to the tax. Under the *Property Transfer Tax Act* (PTTA), all transfers are taxable transactions, unless specifically exempt.

Section 14 of the PTTA provides exemptions for transfers of family farms to and from a family farm corporation, provided that certain eligibility criteria are met.

To be exempt from paying PTT:

1. The land transferred has to be classified under the *Assessment Act* as farm land and must be a "family farm" as defined in section 14(1) of the Act. "Family farm" means farm land that is used, owned and farmed by one individual and/or family members, or is used, owned and farmed by a family farm corporation.
2. The transferor cannot be transferring the property as a trustee.
3. The transferee must be a related individual, a sibling or spouse of a sibling of the transferor under section 14(3)(a)(i).

Sections 1(1) and 14(1) of the Act define "related individual" to mean a Canadian citizen or permanent resident as defined in the *Immigration and Refugee Protection Act (Canada)*, who is:

- a person's spouse, child, grandchild, great-grandchild, parent, grandparent or great-grandparent, the spouse of a person's child, grandchild or great-grandchild, or
- the child, parent, grandparent or great-grandparent of a person's spouse.

Section 14(1) defines "family farm corporation" as a corporation of which the principal activity is farming the farm land and no shareholder is a corporation. Section 14(3)(a)(i) exempts from PTT the transfer of a family farm from a transferor to a transferee who is a related individual of the transferor, a sibling or a spouse of a sibling of the transferor.

As per your submissions, all the parcels have been assessed as farm land under the *Assessment Act*, and the lands are owned by _____ who is also the sole shareholder of the farm corporation

_____ are performing some the farming operations.

Nonetheless, most of the use and the farming are done corporately through the farm corporation and there are no unrelated parties involved in the farming operations.

Based on the documents received I concluded that the _____ corporation meets the PTTA definition of family farm corporation in that its principal activity is farming and no shareholder is a corporation (section 14(1)). The schedule of income and other financial statements provided for the _____ show that the corporation is actively involved in the beef ranch operations, therefore it is a family farm corporation as per the PTTA definition in section 14(1).

As such, the transfer of the _____ lots from _____ to his children, _____ are taxable transactions, **exempt from PTT** under section 14(3)(a)(i).

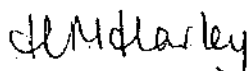
This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you or your clients are accurate and complete. If upon auditing, _____ is not considered to be a family farm corporation, the proposed transactions will not be PTT exempt.

In the event the Act is amended with respect to such transactions, and the proposed transfer is not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the Property Transfer Tax, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transaction for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for the purpose of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling. Please attach a copy of this ruling to the property transfer tax return submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance and Revenue Web site at www.gov.bc.ca/fin/ or by calling us in Victoria at 250-387-0604 or outside of Victoria by our toll free Enquiry BC number at 1 800 663 7867 and requesting a transfer to 387-0604 or email your questions to PTTENQ@gov.bc.ca.

Yours truly,



Hilary Harley
Director Compliance and Audit
Property Taxation Branch
Ministry of Finance



October 12, 2010

Dear

RE: Property Transfer Tax Advance Tax Ruling

I am responding to your letter dated September 28, 2010 requesting a ruling with respect to application of the property transfer tax (PTT) to the transactions proposed by your client,
We received payment for this ruling on October 8, 2008.

I. BACKGROUND

I understand the facts as being the following:

1. The property is located at _____ BC and is
legally described as: _____

(the Property)
2. The registered owner on title to the Property was _____
who hold 100% of the fee simple before passing
away in _____
3. _____ and _____ have been married since _____ and have been using
the Property as their principal residence since _____
4. _____ estate has been probated and _____ was designated as
personal representative of the deceased in _____ There are no children or
other beneficiaries of _____ estate and, therefore, _____ is the sole beneficiary
of the estate.

Ministry of Finance

Mailing Address:
4th Floor - 1802 Douglas Street
Property Taxation Branch
Victoria, BC V8T 4K6
Telephone: 250 387-0602
Facsimile: 250 953-3094

II. RULING REQUEST

You are requesting a ruling as to whether the transfer to _____ as personal representative of the deceased's estate, followed by the transfer of fee simple to _____ as the beneficiary of the estate are exempt from PTT.

III. RULING

It is my ruling that the proposed transfers are taxable transactions exempt from PTT.

IV. LEGISLATION AND ANALYSIS

A. Legislation and Analysis

PTT is due at the time an application to register a taxable transaction is made at the Land Title Office (LTO) and is based on the fair market value of the land or interest in the land transferred. The transferee is subject to the tax. Under the *Property Transfer Tax Act* (PTTA), all transfers are taxable transactions, unless specifically exempt.

Section 14(3)(q) of the PTTA provides an exemption from PTT for the transfer of property into the name of a personal representative if the land transferred is part of the deceased's estate.

As per the documentation submitted, the transfer of the Property to _____ as the personal representative of the estate of _____ is exempt from PTT.

Section 1(1) of the Act defines "spouse" to mean a person who

- is married to another person, or
- is living and cohabiting with another person in a marriage-like relationship, including a marriage like relationship between persons of the same gender, and has been living and cohabiting in that relationship for a continuous period of at least two years.

and _____ were spouses at the time of _____ death. They married on _____ as shown by the Marriage Certificate you attached to your request.

Section 14(1) defines "principal residence" as a parcel of land

- on which a person in relations to whose residence the exemption under this section is claimed usually resided and used as his or her home,
- on which there are improvement that are designed to accommodated and that are used only to accommodate 3 or fewer families,
- on which all the improvements are classified under section 19 of the *Assessment Act* as property used for residential purposes, and
- that is no larger than 0.5 ha in the area.

The Property located at _____ BC has been used by the _____ as their principal residence prior to _____ passing away.

Section 14(3)(c) provides an exemption from PTT for the transfer from a transferor who is a trustee of a deceased's estate or of a trust established under the 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

- the transferee is a beneficiary of the estate or trust,
- the transferee beneficiary was a related individual of the deceased at the time of the deceased's death, and
- immediately before the deceased's death, the land transferred
 - A) was the deceased's recreational residence or **principal residence**
 - B) [...].

as the registered personal representative of estate, will transfer the Property to himself as the sole beneficiary of the estate. The transfer will be exempt from PTT as the transfer meets all the requirements set under section 14(3)(c) of the Act.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you or your clients are accurate and complete.

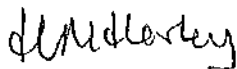
In the event the Act is amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the Property Transfer Tax, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance Website at www.gov.bc.ca/sbr or by calling us in Victoria at **250-387-0604** or outside of Victoria by our toll free Enquiry BC number at **1 800 663 7867** and requesting a transfer to **387-0604** or email your questions to PTTENQ@gov.bc.ca.

Yours truly,



Hilary Harley
Director Audit and Compliance
Property Taxation Branch

Ministry of Finance

Mailing Address:
4th Floor - 1802 Douglas Street
Property Taxation Branch
Victoria, BC V8T 4K6
Telephone: 250 387-0602
Facsimile: 250 953-3094

March 23, 2011

Dear

RE: Property Transfer Tax Advance Tax Ruling ATR:

I am responding to your letters dated March 1st and March 8th, 2011 requesting a ruling in regards to the application of the property transfer tax (PTT) to the transfer proposed by your clients, We received additional information and payment for this ruling on March 15, 2011.

I. BACKGROUND

I understand the facts of your request are as following.

- ✓ spouses and Canadian citizens, are the registered owners in fee simple of the property legally described as:

- ✓ are running a farm operation and have been active in the farming operations for many years. The farming on the property is run through is a farm corporation employing employees. and and the Family Trust are the shareholders of the farm corporation.

- ✓ The trustees of the Family Trust are and Geen.

- ✓ There is a written lease agreement, with the term of 30 years, not registered on title

between _____ and _____ against the property. The lessors are _____ and the lessee is _____ and the lease is exclusively "[...]" for a commercial _____ and related farm uses and for no other purpose whatsoever without prior consent of the landlord [...].

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- ✓ In _____ a new farm corporation, _____ has been created. The shareholders of the corporation are _____ as well as the _____ Family Trust.
- ✓ The trustees of _____ Family Trust are _____ and _____ Geen.
- ✓ Currently, the Central Securities Register for _____ and _____ show no other shareholders except the ones mentioned above.
- ✓ You are proposing to transfer the land from _____ as joint tenants to _____ The land will continue to be farmed by, both _____ and _____ in partnership.

II. RULING REQUEST

You are requesting a ruling as to whether the transfer from _____ to the newly created family farm corporation, the _____ is exempt from PTT.

III. ANSWER

It is my ruling that the **proposed transfer** is a taxable transaction **not exempt from PTT**.

IV. LEGISLATION AND ANALYSIS

Legislation and Analysis

PTT is due at the time an application to register a taxable transaction is made at the Land Title Office (LTO) and is based on the fair market value (FMV) of the land or interest in the land transferred. The transferee is subject to the tax. Under the *Property Transfer Tax Act* (PTTA), all transfers are taxable transactions, unless specifically exempt.

Section 14 of the PTTA provides exemptions for transfers of family farms provided that certain eligibility criteria are met.

To be exempt from paying PTT:

1. The **land** transferred has to be classified under the *Assessment Act* as farm land and must be a "**family farm**" as defined in section 14(1) of the Act. "Family farm" means farm land that is **used**, **owned** and **farmed** by one individual and/or family members, or is **used**, **owned** and **farmed** by a family farm corporation.

2. The **transferor** cannot be transferring the property as a trustee.
3. The **transferee** is a family farm corporation and each shareholders of the family farm corporation is the transferor, a related individual, a sibling or spouse of a sibling of the transferor under section 14(3)(f).

Sections 1(1) and 14(1) of the Act define "related individual" to mean a Canadian citizen or permanent resident as defined in the *Immigration and Refugee Protection Act (Canada)*, who is:

- a person's spouse, child, grandchild, great-grandchild, parent, grandparent or great-grandparent, the spouse of a person's child, grandchild or great-grandchild, or
- the child, parent, grandparent or great-grandparent of a person's spouse.

Sections 1(1) defines "spouse" to mean a person who is married to another person or is living and cohabiting in a marriage like relationship, including persons of the same gender, and has been living and cohabiting in that relationship for a continuous period of at least 2 years. Section 14(1) adds to the definition the requirement that the spouse is either a Canadian citizen or a permanent resident as defined in the *Immigration and Refugee Protection Act (Canada)*.

Section 14(1) defines "family member" to mean a Canadian citizen or permanent resident as defined in the *Immigration and Refugee Protection Act (Canada)*, who is:

- a related individual
- a person's sibling, cousin, niece, nephew, aunt or uncle
- the spouse of a person's sibling, cousin, niece, nephew, aunt or uncle or
- the sibling, cousin, niece, nephew, aunt or uncle of a person's spouse.

Section 14(1) defines "family farm corporation" as a corporation of which the principal activity is farming the farm land and no shareholder is a corporation.

Section 14(3)(f) requires that in order to be exempt, the transfer of the family farm meets the following criteria:

- (i) the transferee is a family farm corporation
- (ii) each of the shareholder 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 should be a family farm.

As per the requirements above, the proposed transaction does not meet the relationship criterion essential for the exemption as outlined in section 14(3)(f)(ii)(B). The list of eligible shareholders under section 14(3)(f) is exclusive and does not account for trustees of family trusts. Furthermore, the relationship criterion (i.e. related individuals) is not satisfied as _____ and _____ as trustees are not related individuals. Previous court decisions have shown that one is not related to oneself and the transfer of property from one to oneself in trust is taxable under the current provisions of the PTTA.

Based on the documentation submitted, it seems that the legislative requirements for the proposed transfer have not been fully met.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you or your clients are accurate and complete.

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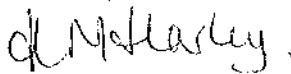
In the event the Act is amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the Property Transfer Tax, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transaction for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against possible more detailed information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance web site at www.gov.bc.ca/sbr or by calling us in Victoria at **250-387-0604** or outside of Victoria by our toll free Enquiry BC number at **1 800 663 7867** and requesting a transfer to **387-0604** or email your questions to **PTTENQ@gov.bc.ca**.

Yours truly,



Hilary Harley
Director Audit and Compliance
Property Taxation Branch



May 13, 2011

Re: Property Transfer Tax Advance Ruling

Dear

I am responding to your letter dated March 4, 2011 requesting a ruling as to whether or not property transfer tax (PTT) would be payable on the proposed transactions. We acknowledge the receipt of your payment on April 13, 2011.

I. BACKGROUND

I understand the facts of your request are as following:

1. The properties to be transferred are legally described as

2. Lot 3, 4 and 5 were registered in the name of deceased. The properties were transferred into the name of the Executor of her Estate, the deceased's spouse.

Ministry of Finance

Property Taxation Branch
1802 Douglas Street- 4th floor
Victoria, BC V8T 4K6
PH: 250 387 - 0602
FAX: 250 953 - 3094

3. Each lot has _____ and has split farm and residential class. Lot 4 has an improvement used as principal residence by the deceased's spouse,

Lot 3 has two improvements: one residence is used as principal residence by _____ the deceased's daughter and son-in law;
the other residence, which is a partially registered manufactured home in the Manufactured Home Registry, is used as principal residence by _____ the deceased's granddaughter and her spouse.
4. The lots have also farm class and have been actively farmed during the deceased's lifetime. The farm operation consists of _____

The farming operation produces _____
5. _____
6. The _____ operation has been and is conducted by _____ His activities include _____
7. The _____ operation is conducted by _____ a farm
corporation that is operated by _____ The operational activities
include _____
They also do land improvements and have more lands coming into forage production.
8. There are no paid employees except minimal casual labor from time to time assisting with the farming operations.
9. There are no written contracts or agreements. There are no registered leases on the property other than the unregistered lease to the _____ family which is with _____ operated by _____
10. The proposed transaction is to transfer the above mentioned lots into the names of _____ as joint tenants.
11. You are proposing to obtain the above mentioned outcome through two steps:

Step 1

Transfer Lot 3, Lot 4 and Lot 5 from _____ as Executor of deceased's estate to _____ as beneficiary of the estate and claim principal residence exemption under code 40.

Step 2

Transfer Lot 3, Lot 4 and Lot 5 from _____ to _____
in joint tenancy and claim a farm exemption under code 07.

II. RULING REQUEST

You are requesting a ruling as to whether the proposed transactions are exempt from PTT.

III. RULING

It is my ruling that the proposed transactions **are not fully exempt**. See section **B. Analysis** below for interpretation and explanation.

IV. LEGISLATION AND ANALYSIS

A. Legislation

PTT is due at the time an application to register a taxable transaction is made at the Land Title Office (LTO) and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax. Under the *Property Transfer Tax Act* (PTTA), all transfers are taxable transactions, unless specifically exempt.

Section 14 of the PTТА provides exemptions for transfers of a principal residence from a trustee of a deceased's estate and of family farms to related individuals of the farm owner, provided that certain eligibility criteria are met.

PRINCIPAL RESIDENCE TRANSFER

To be exempt from paying PTT the land and the improvement have to meet the following.

1. The principal residence should be 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**;
2. The transferee should be a related individual of the transferor.

Section 14(3)(c) exempts the transfer of a principal residence if the transferor is a trustee of a deceased's estate registered at the Land Title Office in that capacity, if the transferee is a beneficiary of the estate and was a related individual of the deceased and the land transferred the **principal residence of either the deceased or of the transferee for a for a continuous period of at least 6 months immediately before the deceased's death**.

FARM TRANSFER

To be exempt from paying PTT:

1. The **land** transferred has to be classified under the *Assessment Act* as farm land and must be a "**family farm**" as defined in section 14(1) of the Act. "Family farm" means farm land that is **used**, **owned** and **farmed** by one individual and/or family members, or is **used**, **owned** and **farmed** by a family farm corporation.
2. The **transferor** cannot be transferring the property as a trustee.
3. The **transferee** must be a related individual, a sibling or spouse of a sibling of the transferor or under section 14(3)(a) also a sibling of the spouse of the shareholder.

Sections 1(1) and 14(1) of the Act define "related individual" to mean a Canadian citizen or permanent resident as defined in the *Immigration and Refugee Protection Act (Canada)*, who is:

- a person's spouse, child, grandchild, great-grandchild, parent, grandparent or great-grandparent, the spouse of a person's child, grandchild or great-grandchild, or
- the child, parent, grandparent or great-grandparent of a person's spouse.

Section 14(1) defines "family farm corporation" as a corporation of which the principal activity is farming the farm land and no shareholder is a corporation.

Section 14(3)(a) exempts from PTT the transfer of a family farm from a transferor, who is not a trustee of a deceased's estate or of a trust settled during the lifetime of the settler, to a transferee who is a related individual, a sibling or a spouse of a sibling of the transferor. The land needs to meet the strict definition of "family farm" as described in section 14(1).

B. Analysis

PRINCIPAL RESIDENCE TRANSFER

You are proposing to transfer all lots (i.e. Lot 3, Lot 4 and Lot 5) from _____ as Executor of the Estate to _____ as beneficiary of the estate and claim a principal residence exemption. According to the legislative requirements mentioned above, the transfer will solely qualify for a partial exemption and only for the parcel where _____ principal residence is located. Only 0.5 ha of land will be exempt, while the other two lots (i.e. remainder of Lot 4, and the entire Lot 3 and LOT 5) will be taxable and PTT will be payable on the fair market value as of the date of registration of title. (See note at the end of this ruling for possible options you might consider exploring).

FAMILY FARM TRANSFER

The properties (i.e. Lot 3, Lot 4 and Lot 5) have been assessed as farm land under the *Assessment Act*, and, as per your letter, the lands are currently farmed by both and the , operated by

As per the documents submitted and not knowing who the shareholders of the corporation are, we have concluded that the corporation meets the PTTA definition of family farm corporation in that their principal activity is farming (section 14(1)).

The schedule of income provided for shows him last claiming farming income in I have assumed per your letters that continued to be involved in the farming operations along with the

The parties involved in the transfer meet the "related individual" relationship criterion.

If the assumptions mentioned above are accurate, the "the used, owned and farmed" criterion is satisfied and the lands meet the definition of "family farm" (section 14(1)), the transfer of Lot 4, Lot 3 and Lot 5 from to in joint tenancy are taxable transactions **exempt from PTT** under section 14(3)(a).

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you or your clients are accurate and complete. If upon auditing, is not found to be a family farm corporation, the proposed transactions might not be PTT exempt.

In the event the Act is amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the Property Transfer Tax, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the property transfer tax return submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance and Revenue Web site at www.gov.bc.ca/fin/ or by calling us in Victoria at **250-387-0604** or outside of Victoria by our toll free Enquiry BC number at

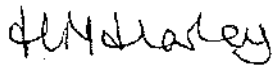
1 800 663 7867 and requesting a transfer to 387-0604 or email your questions to
PTTENQ@gov.bc.ca.

Please note: We advise you explore the option as to whether it will be possible to transfer the properties from _____ as Executor of the Estate to _____ (Lot 4) as principal residence, to _____ (Lot 3) as principal residence and to _____ (Lot 5), after which each owner will transfer into the names of _____ (Lot 3, 4 and 5) in joint tenancy and treat the transfers as family farm transfers.

Note that the transfers from _____ as Executor to all the other transferees does not qualify for a family farm exemption, as the main criterion (i.e. the deceased was farming at the time of the death) is not satisfied in your case.

Please consult with LTO to determine whether such transactions will be allowed for registration under the LTO's current policies and rules of registration of title, pursuant to an existing probated estate/will.

Yours truly,



Hilary Harley
Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance



June 30, 2011

Dear

RE: Property Transfer Tax Advance Tax Ruling

I am responding to your letter dated April 18, 2011 requesting a ruling with respect to the application of property transfer tax (PTT) to the transfer of strata unit title to your clients – the lessees of units of the former apartment complex at

We received the additional information requested on May 16, 2011 and payment for this ruling on June 23, 2011.

I. BACKGROUND

The request is made with respect to the property legally described as (the Property).

I understand the facts as follows:

The Property is owned by (the Corporation). Your clients hold registered leases to units in the Property's former complex. These leases have year terms, which commenced in The particulars of the leases are as follows:

-
-

The complex was operated as a co-operative with the lessees owning shares in the Corporation commensurate with their unit size. In the complex was destroyed by fire. The lessee shareholders directed the Corporation to rebuild the complex using the former building's floor plan but including an additional floor for new units that will be sold. On the new building's completion, it will be stratified and the fee simple title to its strata units will be transferred to the lessee who leased the corresponding unit in the former complex.

You advised the stratification process will involve the registration of the strata plan at the Land Title Office. It is assumed that prior to the strata plan registration, discharges of all leases, mortgages and judgements will be filed with the Land Title Office to release these encumbrances from the Property's title.

II. RULING REQUEST

You are requesting a ruling as to whether the transfer of fee simple title to the new strata units that correspond to:

- a. the former unit to
- b. the former unit to
- c. the former unit to

will be exempt from PTT because these transfers are the "merging of the leasehold/equitable interest held by beneficial owners ...to the equivalent residential strata lot units."

III. ANSWER

It is my ruling that the proposed transfers are taxable transactions that are not exempt from property transfer tax.

IV. LEGISLATION AND ANALYSIS

Legislation and Analysis

Property Transfer Tax Act (the Act)

The intent and scheme of the Act is to tax transfers of registered legal ownership in property without consideration of any beneficial interest in the property. PTT is due at the time an application to register a taxable transaction is made at the Land Title Office and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax. Under the Act, all transfers that are taxable transactions are subject to PTT, unless specifically exempt.

The Act's definition of "taxable transaction" means, in paragraph (a)(i), a transaction "purporting to transfer or grant, by any method including the disposition, an order of a court, including an order absolute of foreclosure, or by the operation of any enactment or law, an estate in fee simple referred to in section 23(2) of the *Land Title Act*."

The intent and scheme of the Act is to tax transfers of registered legal ownership in property without consideration of any beneficial interest in the property. This is true regardless of whether the trust is registered at the Land Title Office. A transfer of legal ownership is a taxable transaction and subject to PTT unless it qualifies for an exemption.

Sections 14(3)(c) and (d) of the Act provide an exemption for the transfer of a principle residence from a trustee to a beneficiary in certain circumstances. These exemptions require the following criteria be satisfied:

- the trust must be registered on title,
- the beneficiary must be a related individual of the trust's settlor, and
- if the trust was created during the settlor's lifetime, the land transferred was a recreational residence or the principle residence of either the settlor or the beneficiary for a continuous period of at least 6 months immediately before the date of the transfer, or
- if the trust is a testamentary trust, the land transferred was a recreational residence or the principle residence of the deceased immediately before the deceased's death, or the land transferred was the principle residence of the beneficiary for a continuous period of at least 6 months immediately before the deceased's death.

The Act defines a related individual to mean:

- a person's spouse, child, grandchild, greatgrandchild, parent, grandparent or greatgrandparent,
- the spouse of a person's child, grandchild or greatgrandchild, or
- the child, parent, grandparent or greatgrandparent of a person's spouse.

The definition of related individual does not include a provision allowing a person to be related to a corporation.

Analysis

The Corporation owns the Property's fee simple. Even though your clients own shares in the Corporation, they do not hold legal title to the Property. As lessees, your clients have a leasehold interest in the complex but they do not have a fee simple interest in the Property.

In the stratification process, all charges – including your clients' leases - on the Property's title will be discharged and the Corporation will remain on title as the Property's fee simple owner. After stratification, the Corporation will own the fee simple title to all the Property's individual strata units. The fee simple title to the units that corresponds to the former units leased by your clients will be transferred from the Corporation to your clients. These transfers of fee simple title are taxable transactions under paragraph (a)(i) of the PTTA's definition of "taxable transaction" because they are transfers of estates in fee simple referred to in section 23(2) of the *Land Title Act*. As such, these transfers are subject to PTT unless they qualify for an exemption under the Act.

Sections 14(3)(c) and (d) of the Act provide exemptions for the registration of taxable transactions from trustees to beneficiaries if:

- the trust is registered on title,
- the beneficiary is a related individual of the trust's settlor, and
- if the trust was created during the settlor's lifetime, the land transferred was a recreational residence or the principle residence of either the settlor or the beneficiary for a continuous period of at least 6 months immediately before the date of the transfer, or
- if the trust is a testamentary trust, the land transferred was a recreational residence or the principle residence of the deceased immediately before the deceased's death, or the land transferred was the principle residence of the beneficiary for a continuous period of at least 6 months immediately before the deceased's death.

The Act's definition of "related individual" does not include a provision allowing a person to be related to a corporation. As such, the Corporation is not a "related individual" of any of your clients even if they are shareholders in the Corporation. Furthermore, no trust naming your clients as beneficiaries is registered on the Property's title. Consequently, the transfers of fee simple title in the strata units from the Corporation to your clients are ineligible for exemptions under s.14(3)(c) and (d) of the Act and are subject to PTT.

As stated earlier, the intent and scheme of the Act is to tax transfers of registered legal ownership in property without consideration of any beneficial interest in the property. Even if your clients may have a beneficial interest in the strata unit through their leases or status as Corporation shareholders, these beneficial interests does not impact the Act's application to the transfer of legal interest to them.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you or your client are accurate and complete.

In the event the Act is amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the Property Transfer Tax, provided the transactions are completed in the manner described in the advance tax ruling request.

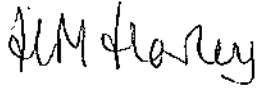
After registration, the transaction for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance Web site at www.gov.bc.ca/fin/ or by calling us in Victoria at 250-387-0604 or outside of Victoria by our toll

free Enquiry BC number at 1 800 663 7867 and requesting a transfer to 387-0604 or email your questions to PTTENQ@gov.bc.ca.

Yours truly,



Hilary Harley
Director Audit and Compliance
Property Taxation Branch



July 14, 2011

Re: Property Transfer Tax Advance Ruling

Dear

I am responding to your letter dated April 27, 2011 requesting a ruling as to whether or not property transfer tax (PTT) would be payable on the proposed transactions. We acknowledge the receipt of your payment on July 4, 2011.

I. BACKGROUND

I understand the facts of your request are as following:

1. The property to be transferred is legally described as

(the Property)

2. The property is currently registered in the name of (deceased) and
You have indicated in your application that you are in the process of transmitting
the estate of into the name of Following this process,
will be the sole registered owner of the property.
3. The property consists of acres of farm land and a residence that is used by one of
sons, that is There are other improvements on the property: i.e. an

4. The farming activities undertaken on the land include _____ two of the four children of _____ are actively involved in the farming activities along with _____ additional staff is hired to assist with the harvesting and storing the crops. The bulk of the farm activities are carried by _____
5. You are proposing to transfer the property from _____ as sole registered owner to herself and her four adult children in joint tenancy.

II. RULING REQUEST

You are requesting a ruling as to whether the proposed transaction is exempt from PTT.

III. RULING

It is my ruling that the proposed transaction is exempt from PTT.

IV. LEGISLATION AND ANALYSIS

A. Legislation

PTT is due at the time an application to register a taxable transaction is made at the Land Title Office (LTO) and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax. Under the *Property Transfer Tax Act* (PTTA), all transfers are taxable transactions, unless specifically exempt.

To be exempt from paying PTT:

1. The **land** transferred has to be classified under the *Assessment Act* as farm land and must be a "**family farm**" as defined in section 14(1) of the Act. "Family farm" means farm land that is used, owned and farmed by one individual and/or family members, or is used, owned and farmed by a family farm corporation.
2. The **transferor** cannot be transferring the property as a trustee.
3. The **transferee** must be a related individual, a sibling or spouse of a sibling of the transferor or under section 14(3)(a) also a sibling of the spouse of the shareholder.

Sections 1(1) and 14(1) of the Act define "related individual" to mean a Canadian citizen or permanent resident as defined in the *Immigration and Refugee Protection Act (Canada)*, who is:

- a person's spouse, child, grandchild, great-grandchild, parent, grandparent or great-grandparent, the spouse of a person's child, grandchild or great-grandchild, or
- the child, parent, grandparent or great-grandparent of a person's spouse.

Section 14(3)(a) exempts from PTT the transfer of a family farm from a transferor, who is not a trustee of a deceased's estate or of a trust settled during the lifetime of the settler, to a

transferee who is a related individual, a sibling or a spouse of a sibling of the transferor. The land needs to meet the strict definition of "family farm" as described in section 14(1).

B. Analysis

You are proposing to transfer the property from _____ (provided that the _____ estate has been already fully transmitted into _____ name) to _____ and all her four adult children in joint tenancy.

The property has been assessed as farm land under the *Assessment Act*, and, as per your letter, the lands are currently farmed by two of the four adult children of _____ and herself.

As per the documents submitted there is little evidence that _____ are actually farming; however the schedule of income provided for _____ shows her claiming farming income in 2011.

If the assumption that the "the used, owned and farmed" criterion is satisfied and the land meets the definition of "family farm" (section 14(1)), the transfer of the property from _____ to _____ and her four adult children (which you have not fully identified by name and we assumed are related to _____) in joint tenancy is a taxable transactions **exempt from PTT** under section 14(3)(a).

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you or your clients are accurate and complete. If upon auditing, facts are found to be different, the proposed transaction might not be PTT exempt.

In the event the Act is amended with respect to such transactions and the proposed transfer is not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the Property Transfer Tax, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transaction for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the property transfer tax return submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance and Revenue Web site at www.gov.bc.ca/fin/ or by calling us in Victoria at

250-387-0604 or outside of Victoria by our toll free Enquiry BC number at
1 800 663 7867 and requesting a transfer to **387-0604** or email your questions to
PTTENQ@gov.bc.ca.

Yours truly,



Hilary Harley
Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance



June 28, 2011

Dear

RE: Property Transfer Tax Advance Tax Ruling

I am responding to your letter dated April 27, 2011 requesting a ruling with respect to the application of property transfer tax (PTT) to the transfer of fee simple title in strata units to your clients – the lessees of the former apartment complex at

We received some of the additional information requested on May 26, 2011, and a request that the transfers be tax exempt because your clients are transferring ownership to themselves and should be deemed "related individuals".

On advice from this office that your timelines did not facilitate your collection and our subsequent analysis of the necessary documents for you amended your ruling request on June 21, 2011 to focus solely on the proposed strata unit transfer to the registered lessee of unit in the former complex. In this letter you asked whether the transfer to would be exempt from PTT because "the shares being converted to strata lots already constitute housing units to the owners through a mechanism of share and beneficial interest lease arrangements." You also stated that "there is no sale or acquisition of beneficial ownership and the transfer of title is effectively to the owners to themselves." We received payment for this ruling on June 23, 2011.

I. BACKGROUND

The request is made with respect to the property legally described as
(the Property).

leased unit in the former apartment complex on the Property, owned by
(the Corporation). The lease is an assignment of an earlier lease with a

year term that commenced in _____ lease assignment was registered at the Land Title Office in _____. The complex was operated as a co-operative with the lessees owning shares in the Corporation commensurate with their unit size.

In _____ the complex was destroyed by fire. The lessee shareholders directed the Corporation to rebuild the complex using the former building's floor plan but including an additional floor for new units that will be sold. On the new building's completion, it will be stratified and the fee simple title to its strata units will be transferred to the lessee who leased the corresponding unit in the former complex.

You advised the stratification process will occur as follows:

1. special resolutions approving the strata plan and related documentation will be passed by the Corporation's voting shareholders,
2. discharges of all leases, mortgages and judgements will be filed with the Land Title Office to release certain encumbrances from the Property's title,
3. the new strata plan and strata bylaws will be signed by the Corporation and various other signatories and filed in the Land Title Office together with ancillary filing documents, and
4. Form A Transfers will be filed to transfer each of the replacement units from the Corporation to each of the shareholder lessees.

II. RULING REQUEST

You are requesting a ruling as to whether the transfer of fee simple title to the new strata unit that corresponds to former unit _____ to _____ will qualify for the exemption under s.14(3)(b) of the *Property Transfer Tax Act* (the Act).

III. ANSWER

It is my ruling that the proposed transfer is a taxable transaction that is **not exempt from property transfer tax.**

IV. LEGISLATION AND ANALYSIS

Legislation and Analysis

Property Transfer Tax Act (the Act)

The intent and scheme of the Act is to tax transfers of registered legal ownership in property without consideration of any beneficial interest in the property. PTT is due at the time an application to register a taxable transaction is made at the Land Title Office and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax. Under the Act, all transfers that are taxable transactions are subject to PTT, unless specifically exempt.

The Act's definition of "taxable transaction" means, in paragraph (a)(i), a transaction "purporting to transfer or grant, by any method including the disposition, an order of a court, including an order absolute of foreclosure, or by the operation of any enactment or law, an estate in fee simple referred to in section 23(2) of the *Land Title Act*."

The PTTA provides exemptions for transfers of principle residences between related individuals in certain circumstances. In particular, s. 14(3)(b) of the PTTA provides an exemption for the registration of a taxable transaction if the transfer is to a transferee who is a related individual of the transferor, if the land transferred has been the principle residence of either the transferor or the transferee for a continuous period of at least 6 months immediately before the date of the transfer.

The Act defines a related individual to mean:

- a person's spouse, child, grandchild, greatgrandchild, parent, grandparent or greatgrandparent,
- the spouse of a person's child, grandchild or greatgrandchild, or
- the child, parent, grandparent or greatgrandparent of a person's spouse.

The definition of related individual does not include a provision allowing a person to be related to oneself or to a corporation.

Analysis

The Corporation owns the Property's fee simple. Even though _____ owns shares in the Corporation, she does not hold legal title to the Property. As a lessee, _____ had a leasehold interest in the former unit _____ but she does not have a fee simple interest in the Property.

In the stratification process, all charges – including _____ lease – on the Property's title will be discharged and the Corporation will remain on title as the Property's fee simple owner. After stratification, the Corporation will own the fee simple title to all the Property's individual strata units. The fee simple title to the unit that corresponds to the former unit _____ will be transferred from the Corporation to _____. This transfer of the fee simple title is a taxable transaction under paragraph (a)(i) of the PTTA's definition of "taxable transaction" because it is a transfer of estate in fee simple referred to in section 23(2) of the *Land Title Act*. As such, this transfer is subject to PTT unless it qualifies an exemption under the Act.

Section 14(3)(b) of the Act provides an exemption for the registration of a taxable transaction if the transfer is to a transferee who is a related individual of the transferor, if the land transferred has been the principle residence of either the transferor or the transferee for a continuous period of at least 6 months immediately before the date of the transfer.

The Act's definition of "related individual" does not include a provision allowing a person to be related to a corporation. As such, the Corporation is not a "related individual" of _____ even if she is a shareholder in the Corporation. Consequently, the transfer of fee simple title in the strata unit from the Corporation – the transferor – to _____ – the transferee – is ineligible for an exemption under s.14(3)(b) of the Act and is subject to PTT.

As stated earlier, the intent and scheme of the Act is to tax transfers of registered legal ownership in property without consideration of any beneficial interest in the property. Even if has a beneficial interest in the strata unit through her lease or status as a Corporation shareholder, this beneficial interest does not impact the Act's application to the transfer of the legal interest to her.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you or your client are accurate and complete.

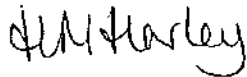
In the event the Act is amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the Property Transfer Tax, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transaction for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance Web site at www.gov.bc.ca/fin/ or by calling us in Victoria at 250-387-0604 or outside of Victoria by our toll free Enquiry BC number at 1 800 663 7867 and requesting a transfer to 387-0604 or email your questions to PTTENQ@gov.bc.ca.

Yours truly,



Hilary Harley
Director Audit and Compliance
Property Taxation Branch

July 20, 2011

Re: Property Transfer Tax Advance Ruling

To whom it may concern:

I am responding to your email dated May 17, 2011 requesting a ruling on behalf of your client, asking whether or not property transfer tax (PTT) would be payable on the proposed transactions. We acknowledge the receipt of your payment on June 15, 2011.

I. BACKGROUND

I understand the facts of your request are as following:

- In (the landlord) and (the tenant) entered into a lease agreement (the Lease) in regards to the lands legally described as:
- The Lease had a term of ending The area leased comprised of square meters for which the annual rent was The agreement stipulated that the amount can be revised every years.
- At the time of registration of the lease, PTT was paid on the transfer; the taxable fair market value including the value of the foundation of the building had already started to build on the leased land.
- Presently, the construction of the new building is complete and parties agreed to modify the terms of the lease as following:
 - a. The term of the lease is to be modified to extend with additional resulting in a term of The ending date of the lease is

- b. square meters of land are to be added to the leased premises.
- c. The rent is revised to reflect the increase in the rented premises. Thus, the rent is prorated and increases to for the remainder years months, starting with of the year term, at the end of which, as per the first lease agreement, the landlord and the tenant can renegotiate the amount of annual rent payable for the subsequent years.
- There is no indication in the lease or the lease modification agreements as to whether the will be reimbursed by the lessor for the value of the improvements erected on the demised premises. Because such statement is not included in any of the agreements, we assumed that the tenant will not be reimbursed.

II. RULING REQUEST

You are requesting a ruling as to the application of the PTT and the amount of tax payable on the proposed transfer.

III. RULING

We cannot comment on the amount of the PTT payable on the transaction, but solely on the application of the tax, and whether or not the transaction is taxable transaction.

It is my ruling that the proposed transaction is a taxable transaction for which PTT is payable on the fair market value as of the date of registration.

IV. LEGISLATION AND ANALYSIS

Legislation

Under the *Property Transfer Tax Act* (PTTA), all transfers are taxable transactions, unless specifically exempt. PTT is due at the time an application to register a taxable transaction is made at the Land Title Office (LTO) and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax.

Section 1 of the Act defines the term "lease agreement" to mean an agreement by which a leasehold estate is granted or assigned or by which an option to renew or extend the term of a lease is granted, including a lease modification agreement. A "lease modification" is defined as an agreement between a lessor and a lessee to extend the term of the lease.

Section 7(2) of the PTTA Reg. 74/88 outlines that the fair market value of the demised premises under a lease agreement does not include the value of the improvements made by the lessee for which the lessee is not or will not be reimbursed by the lessor.

Section 10 of the PTTA Reg. 74/88 stipulates that, when the term of a lease agreement is extended by a lease modification agreement, the lease modification agreement is a taxable transaction. Under subsection 2, the term of the lease modification agreement is determined to be the sum of 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 the number of years by which the lease agreement is extended by the lease modification agreement.

Section 10(5) of the Reg. 74/88 stipulates that 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; "P" will 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).

Analysis

As per the facts presented and documentation submitted, we determined that the lease modification agreement between the _____ and _____ is a taxable transaction for which PTT is payable for the term of the extension. As we assumed that the tenant will not be reimbursed for the building erected on the demised premises, we determined that, at the time of registration of the lease modification agreement, the fair market value will exclude the value of any improvements erected by the tenant. By using the percentages in Column 2 of Table 1 in the PTTA Reg. 74/88 the percentage of the fair market value taxable that corresponds to the extension is 60%.

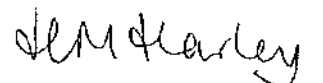
This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you or your clients are accurate and complete. In the event the Act is amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the Property Transfer Tax, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the property transfer tax return submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance and Revenue Web site at www.gov.bc.ca/fin/ or by calling us in Victoria at **250-387-0604** or outside of Victoria by our toll free Enquiry BC number at **1 800 663 7867** and requesting a transfer to **387-0604** or email your questions to **PTTENQ@gov.bc.ca**.

Yours truly,



Hilary Harley
Director, Audit and Compliance
Property Taxation Branch Ministry of Finance

Ministry of Finance

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January 5, 2012

Re: Property Transfer Tax Advance Ruling

Dear

I am responding to your letters dated May 13, 2011 and November 17, 2011, requesting a ruling with respect to exemption from property transfer tax ("PTT") under the *Property Transfer Tax Act* ("PTTA") for transfers proposed by your clients.

We received payment for this ruling on December 6, 2011.

1. BACKGROUND

I understand the facts of your request are as follows:

1. The four parcels in question ("the Property") are currently owned by and are legally described as:

2. is a corporation involved in farming activities. You have advised that the shareholders of are holding Class A and B common shares, and Class F preferred shares. For the purposes of this advance tax ruling, we are assuming that the **Class G preferred shares** referred to in note 5 of the

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financial statements you have provided for the period ended May 31, 2011 are also held by [redacted] and that these shares are not held by a corporation. All shareholders are Canadian citizens.

3. [redacted] is a corporation involved in farming activities. You have advised that the shareholders of [redacted] are [redacted] (holding Class A common shares, and Class F and G preferred shares), [redacted] (holding Class B common shares and Class G preferred shares), and [redacted] (holding Class H preferred shares). You have also advised that all the shareholders are Canadian citizens and are related individuals: [redacted] are spouses and are [redacted] parents and parents-in-law, respectively. For the purposes of this advance tax ruling, we are assuming that the **2nd series of Class H preferred shares**, and the **Class C, I and J common shares**, referred to in note 13 to the financial statements you have provided for the period ended June 30, 2011 are held by [redacted] or one of the other parties in this paragraph, and that these shares are not held by a corporation.
4. [redacted] is a corporation involved in farming activities and whose shareholders are [redacted]. You have advised that [redacted] has no other shareholders (including no corporation), and that all the shareholders are related individuals: [redacted] are spouses and are [redacted] parents and parents-in-law, respectively. All the individuals are Canadian citizens.
5. The parcels referred to in paragraphs 1(a) and 1(b) above have the following improvements: [redacted] which are occupied by farm employees of the proposed transferee,
6. The parcels referred to in paragraphs 1(c) and (d) above have the following improvements: [redacted] occupied by the son of the director and shareholder of the proposed transferee,
7. You have stated that the Property is presently used and farmed by [redacted] and his two sons, [redacted] and that there are no other employees engaged in farming activities on the Property. However, based on the information provided, in our opinion it appears that the Property is also presently used and farmed by the [redacted] corporations
8. The financial statements provided for the proposed transferees [redacted] and [redacted] and for the transferor [redacted] indicate that the principal activity of these corporations is farming, such that they each qualify as a "family farm corporation" under the PITA.

9. The first proposed transaction is to transfer the parcels referred to in paragraph 1(a) and (b) above through two steps, as follows:

- (a) From _____ to _____ and
- (b) From _____ to _____

10. The second proposed transaction is to transfer the parcels referred to in paragraph 1(c) and (d) above through two steps, as follows:

- (a) From _____ to _____ and
- (b) From _____ to _____

II. RULING REQUEST

You are requesting a ruling with respect to PTT exemptions for the proposed transactions.

III. RULING

It is my ruling that the proposed transfers are exempt from PTT.

IV. LEGISLATION AND ANALYSIS

A. Legislation and Analysis

PTT is due at the time an application to register a taxable transaction is made at the Land Title Office, and is based on the fair market value (FMV) of the land or interest in land transferred. The transferee is subject to the tax. Under the PTTA, all transfers are taxable transactions unless specifically exempt.

Transfers from _____ to _____

Section 14(3)(g) of the PTTA provides an exemption for the transfer of a family farm from a transferor that is a family farm corporation to a transferee, provided that the following criteria are met:

1. The **land transferred** has to be classified under the *Assessment Act* as farm land and must be a "**family farm**" as defined in section 14(1) of the PTTA. "Family farm" means farm land that is used, owned and farmed by one individual or by family members, or is used, owned and farmed by a family farm corporation.
2. The **transferor** must be a "**family farm corporation**" as defined in section 14(1) of the PTTA. "Family farm corporation" means a corporation of which the principal activity is farming farm land, and no shareholder is a corporation.
3. The **transferee** must be the **sole shareholder** of the family farm corporation, or the transferee must have one of the following **relationships with each other person who is a shareholder** of the family farm corporation:
 - a. Transferee is a related individual of that shareholder;
 - b. Transferee is a sibling of that shareholder;

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- c. Transferee is a sibling of a spouse of that shareholder; or
- d. Transferee is a spouse of a sibling of that shareholder.

Transfers from to and from to

Section 14(3)(f) of the PTTA provides an exemption for the transfer of a family farm from a transferor to a family farm corporation, provided that the following criteria are met:

1. The **land transferred** has to be classified under the *Assessment Act* as farm land and must be a "**family farm**" as defined in section 14(1) of the PTTA. "Family farm" means farm land that is used, owned and farmed by one individual or by family members, or is used, owned and farmed by a family farm corporation.
2. The **transferor** cannot be transferring the property as a trustee.
3. The **transferee** must be a "**family farm corporation**" as defined in section 14(1) of the PTTA. "Family farm corporation" means a corporation of which the principal activity is farming farm land, and no shareholder is a corporation.
4. Each of the **shareholders** of the transferee family farm corporation must be the transferor, a related individual of the transferor, a sibling of the transferor or a spouse of a sibling of the transferor.

Sections 1(1) and 14(1) of the PTTA define "related individual" to mean a Canadian citizen or permanent resident as defined in the *Immigration and Refugee Protection Act (Canada)*, who is:

- A person's spouse, child, grandchild, great-grandchild, parent, grandparent or great-grandparent, the spouse of a person's child, grandchild or great-grandchild, or
- The child, parent, grandparent or great-grandparent of a person's spouse.

Section 1(1) defines "spouse" to mean a person who is married to another person or is living and cohabiting in a marriage like relationship, including persons of the same gender, and has been living and cohabiting in that relationship for a continuous period of at least 2 years. Section 14(1) adds to the definition the requirement that the spouse is either a Canadian citizen or a permanent resident as defined in the *Immigration and Refugee Protection Act (Canada)*.

Section 14(1) defines "family member" to mean a Canadian citizen or permanent resident as defined in the *Immigration and Refugee Protection Act (Canada)*, who is:

- A related individual;
- A person's sibling, cousin, niece, nephew, aunt or uncle;
- The spouse of a person's sibling, cousin, niece, nephew, aunt or uncle, or
- The sibling, cousin, niece, nephew, aunt or uncle of a person's spouse.

Based solely on the documentation submitted, it appears that the legislative requirements for PTT exemption in respect of the proposed transfers have been met.

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This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you are accurate and complete. If upon auditing, facts are found to be different, the proposed transaction might not be PTT exempt.

In the event the PTTA is amended with respect to such transactions, and the proposed transfer is not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration of the transfers for which this advance tax ruling has been provided, the Administrator may review the transactions. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the PTT return submitted with the application for registration at the Land Title Office. Alternatively, if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance web site at www.gov.bc.ca/fin/ or by calling us in Victoria at 250-387-0604 or outside of Victoria by calling our toll-free Enquiry BC number at 1-800-663-7867 and requesting a transfer to 387-0604. You can also e-mail us your questions to PTTENQ@gov.bc.ca.

Yours truly,

Hilary Harley
Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance



July 27, 2011

Re: Property Transfer Tax Advance Ruling

Dear

I am responding to your letter dated June 29, 2011 requesting a ruling as to the application of the property transfer tax (PTT) on the proposed transactions. We acknowledge the receipt of your payment on July 22, 2011.

I. BACKGROUND

I understand the facts of your request are as following:

1. The parties who will be involved in the transfers are:

parties are related individuals and Canadian citizens; is
and father-in-law. is spouse.

The
father

2. The properties to be transferred are legally described as:

(the 1st Property)

(the 2nd Property)

(the 3rd Property)

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(the 4th Property)

3. The 1st and 2nd properties are currently owned by _____ and _____ in joint tenancy, while the 3rd and 4th properties are owned by _____ in joint tenancy.

The residential improvements on the 1st and 2nd properties are used to accommodate _____ farm workers. The residential improvement on the 3rd property has been used by _____ as their principal residence since _____. There are no improvements on the 4th property.

4. The proposed transactions are as following:

_____ will transfer his registered interest in the 1st property and 2nd property to _____ The 1st property has _____ while the 2nd property shows on the BC Assessment as currently having switched crops from _____ planted in _____

_____ will transfer his registered interest in the 3rd and 4th property to _____ in joint tenancy.

The 3rd property has a crop consisting of _____ while the 4th property was used in the past as _____. Currently, the 4th property shows on the BC Assessment roll as vacant. _____ have replaced the crop 1 _____. They have incurred some costs (around \$100) to switch crops. They have been advised by the BC Assessment that the deadline to prove the new crop is _____

5. Your clients have provided description of the farming activities they perform on each of the above mentioned properties assisted as well by farm workers.

II. RULING REQUEST

You are requesting a ruling as to whether the proposed transactions are exempt from PTT.

III. RULING

It is my ruling that the proposed transactions are exempt from PTT.

IV. LEGISLATION AND ANALYSIS

A. Legislation

PTT is due at the time an application to register a taxable transaction is made at the Land Title Office (LTO) and is based on the fair market value of the land or interest in land transferred. The

transferee is subject to the tax. Under the *Property Transfer Tax Act* (PTTA), all transfers are taxable transactions, unless specifically exempt.

To be exempt from paying PTT:

1. The **land** transferred has to be classified under the *Assessment Act* as farm land and must be a "**family farm**" as defined in section 14(1) of the Act. "Family farm" means farm land that is used, owned and farmed by one individual and/or family members, or is used, owned and farmed by a family farm corporation.
2. The **transferor** cannot be transferring the property as a trustee.
3. The **transferee** must be a related individual, a sibling or spouse of a sibling of the transferor or under section 14(3)(a) also a sibling of the spouse of the shareholder.

Sections 1(1) and 14(1) of the Act define "related individual" to mean a Canadian citizen or permanent resident as defined in the *Immigration and Refugee Protection Act (Canada)*, who is:

- a person's spouse, child, grandchild, great-grandchild, parent, grandparent or great-grandparent, the spouse of a person's child, grandchild or great-grandchild, or
- the child, parent, grandparent or great-grandparent of a person's spouse.

Section 14(3)(a) exempts from PTT the transfer of a family farm from a transferor, who is not a trustee of a deceased's estate or of a trust settled during the lifetime of the settler, to a transferee who is a related individual, a sibling or a spouse of a sibling of the transferor. The land needs to meet the strict definition of "family farm" as described in section 14(1).

B. Analysis

You are proposing to transfer _____ interest in the 1st and 2nd property to
The properties are assessed as farm land under the *Assessment Act*, and, as per your letter, the
lands are currently farmed by _____ and farm workers. The schedules of income
submitted for _____ show some farming income in _____

If the assumption that the "the used, owned and farmed" criterion is satisfied and the lands meet the definition of "family farm" (section 14(1)), the transfer of _____ interest in the 1st and 2nd properties are taxable transactions **exempt from PTT** under section 14(3)(a).

You are also proposing to transfer _____ interest in the 3rd and 4th property to
_____ in joint tenancy. The 3rd property was assessed by the BC Assessment as
both residential and farm land, while the 4th property was assessed as farm land. The schedule
of incomes submitted for _____ are dated _____ and not fully reflective of the current
farming situation on the two identified properties.

If upon audit, "the used, owned and farmed" criterion is satisfied and the lands meet the definition of "family farm" (section 14(1)), the transfer of interest in the 3rd and 4th properties to in joint tenancy are taxable transactions **exempt from PTT** under section 14(3)(a).

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you or your clients are accurate and complete. If upon auditing, facts are found to be different, the proposed transaction might not be PTT exempt.

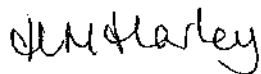
In the event the Act is amended with respect to such transactions and the proposed transfer is not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the Property Transfer Tax, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transaction for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the property transfer tax return submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance and Revenue Web site at www.gov.bc.ca/fin/ or by calling us in Victoria at **250-387-0604** or outside of Victoria by our toll free Enquiry BC number at **1 800 663 7867** and requesting a transfer to **387-0604** or email your questions to **PTTENQ@gov.bc.ca**.

Yours truly,



Hilary Harley
Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance



December 9, 2010

Re: Property Transfer Tax Advance Ruling

Dear

I am responding to your letter dated November 7, 2011, requesting a ruling with respect to exemption from property transfer tax for the proposed transfer made pursuant to sections 80 and 253 (1) of the *Strata Property Act*. We received payment for this ruling on November 17, 2011.

I. BACKGROUND

I understand the facts of your request are as follows:

1. The property in question is located in _____ British Columbia and is owned by _____ It is legally described as: _____
2. The first proposed transaction is to apply to the Registrar of Land Titles to amalgamate Strata Lot _____ with the common property of Strata Plan _____ by conveying Strata Lot _____ from _____ to _____
3. Once amalgamation of Strata Lot _____ with the common property of Strata Plan _____ is registered, the second proposed transaction will transfer the property back to _____ as Lot A.

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4. will then register a new phased Strata Plan on Lot A, separate and distinct from Strata Plan
5. You have indicated in your letter that both transfers will be made pursuant to sections 80 and 253(1) of the Strata Property Act.

II. RULING REQUEST

You are requesting a ruling as to whether the proposed transactions are exempt from property transfer tax (PTT).

III. RULING

The proposed amalgamation of Lot with the common property of Strata Plan is exempt from PTT. The second proposed transaction to , occurring upon completion of the amalgamation, will be exempt from PTT, provided that the fair market value of the new Lot A does not exceed the fair market value of the original Strata Lot and the unit entitlement of that lot to common property of Strata Plan

IV. LEGISLATION AND ANALYSIS

A. Legislation

PTT is due at the time an application to register a taxable transaction is made at the Land Title Office and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax. Under the *Property Transfer Tax Act* (PTTA), all transfers are taxable transactions unless specifically exempt.

Section 14 of the PTTA provides exemptions for certain transfers, provided that all of the criteria as described in each section and subsection, are strictly met.

Section 14(3) (p.3) provides an exemption for 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;

B. Analysis

Division 1 of Part 15 of the *Strata Property Act* sets the rules in regards to amendments of strata plans that lead to adding, consolidating or subdividing strata lots. Sections 80 and 253 of the *Strata Property Act* establish what is required to subdivide and/or dispose of common property. If the Registrar of Land Titles accepts that the two proposed transfers meet the requirements of Division 1 Part 15, or section 80 or 253 in combination with Division 1, Part 15, these transfers are eligible for an exemption under section 14(3)(p.3) of the PTTA.

However, section 14(3)(p.3) further requires that _____ have the same proportionate share in the fair market value in Lot A as they did prior to amalgamation of Lot _____ and the unit entitlement of that lot to common property of Strata Plan _____

If _____ receives a greater proportionate share of the fair market value in Lot A than was held in Lot _____ and the unit entitlement of that lot to common property of Strata Plan _____ the transfer will be subject to tax based on the increase in the proportion of fair market value that was received in accordance with section 3(3.2) of the PTTA.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you are accurate and complete. If upon auditing, facts are found to be different, the proposed transaction might not be PTT exempt.

In the event the Act is amended with respect to such transactions and the proposed transfer is not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the Property Transfer Tax, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transaction for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the property transfer tax return submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance and Revenue Web site at www.gov.bc.ca/fin/ or by calling us in Victoria at **250-387-0604** or outside of Victoria by our toll free Enquiry BC number at **1 800 663 7867** and requesting a transfer to **387-0604** or email your questions to **PTTENQ@gov.bc.ca**.

Yours truly,

Hilary Harley

Hilary Harley
Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance



January 9, 2012

Re: Property Transfer Tax Advance Ruling

Dear

I am responding to your letter dated November 7, 2011, requesting a ruling with respect to exemption from property transfer tax ("PTT") for transfers proposed by your clients, and We received payment for this ruling on December 6, 2011.

1. BACKGROUND

I understand the facts of your request are as follows:

1. The four properties in question are located in British Columbia and are owned by and
2. The properties owned by are legally described as:
3. The properties owned by are legally described as:

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4. The first proposed transaction is to apply to the Registrar of Land Titles to transfer title to each of the lots to _____, which will be registered as a trustee under the *Land Title Act*, for the purpose of consolidating the lots and developing a strata titled building on the newly consolidated lots (the "consolidated land"). An application will be made for an exemption from payment of PTT with respect to this transaction, pursuant to section 14(4)(k) of the *Property Transfer Tax Act* (the "PTTA").
5. The second proposed transaction is to transfer the consolidated land back to the original owners, _____ and _____ from the trustee

II. RULING REQUEST

You are requesting a ruling as to whether the transfer back of the consolidated land from the trustee to the original owners will qualify for a further PTT exemption. Specifically, you have asked whether the PTT exemption would be available if the transfer back is done prior to the building being complete and the strata plan being filed, or whether the strata plan must be filed first.

III. RULING

The proposed transfer of the consolidated land back to the original owners, _____ and _____ from the trustee _____ will be exempt from PTT, provided that each original owner's proportionate share of the fair market value of the land immediately following the transfer back to them does not exceed their proportionate share of the fair market value of the original parcels immediately before they were consolidated.

This exemption is applicable regardless of whether the transfer back to the original owners is done before the strata plan is filed, or after the filing. For further explanation, please refer to the third paragraph under IV.B.(Analysis) below.

IV. LEGISLATION AND ANALYSIS

A. Legislation

PTT is due at the time an application to register a taxable transaction is made at the Land Title Office, and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax. Under the PTTA, all transfers are taxable transactions unless specifically exempt.

Section 14 of the PTTA provides exemptions for certain transfers, provided that all of the criteria as described in each section and subsection are strictly met.

Section 14(4)(k) provides a PTT exemption for the transfer to a trustee registered as such under the *Land Title Act*, by two or more registered owners of adjacent parcels of land, in order to complete a subdivision plan. Section 14(4)(k.1) provides a PTT exemption for the transfer from the trustee back to the original owners, after registration of the subdivision plan. This latter exemption only applies if the original owner's proportionate share of the fair market value of the new parcels after the subdivision, calculated immediately after the

subdivision, is not greater than the original owner's proportionate share of the fair market value of the original parcels, calculated immediately before the subdivision.

B. Analysis

Part 7, Division 2 of the *Land Title Act* (LTA) sets out the requirements in relation to the subdivision of land. If the Registrar of Land Titles accepts that the proposed transaction meets the requirements of the LTA and the plan of subdivision is registered, a subsequent transfer of the consolidated land from _____ back to the original owners _____ and _____ will be eligible for a PTT exemption under section 14(4)(k.1) of the PTTA.

However, under section 14(4)(k.1)(ii) of the PTTA, if either _____ or _____ receive a greater proportionate share of the fair market value of the consolidated land than they had in the original 2 lots they owned, they will not be eligible for the PTT exemption and PTT will be payable by them based on their increase in the proportionate share of fair market value. This would be calculated in accordance with section 3(3.4) of the PTTA.

You have asked whether the timing of the strata plan filing will affect the entitlement to the PTT exemption for the transfer of the consolidated land back to the original owners. This exemption is applicable regardless of whether the transfer back from _____ to _____ and _____ is done before the strata plan is filed, or after the filing. However, please note that pursuant to section 18(6.2) of the PTTA, at any time within 24 months after the date of registration of the transfer back to the original owners, the transaction for which this advanced tax ruling has been provided may be subject to review by the Administrator. If _____ as trustee is still the registered owner of the consolidated land at the time of a review, the exemption under section 14(4)(k.1) would not be available and PTT would be payable by _____ as the transferee of the consolidated land.

This ruling is issued for the purposes of this transaction only, and with the understanding that all of the facts provided by you are accurate and complete. If upon auditing, facts are found to be different, the proposed transaction might not be PTT exempt.

In the event the PTTA is amended with respect to such transactions, and the proposed transfer is not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT, provided the transactions are completed in the manner described in the advance tax ruling request.

As noted above, after registration of the transfer for which this advance tax ruling has been provided, the Administrator may review the transaction. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the PTT return submitted with the application for registration at the Land Title Office. Alternatively, if you submit the application for registration electronically, please include the reference number in section G3 of the electronic tax return.

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Additional information may be obtained by accessing the Ministry of Finance web site and reviewing Tax Bulletin PTT 006 entitled "Exemptions for Transfers in the Course of Subdivisions" at http://www.sbr.gov.bc.ca/documents_library/bulletins/PTT_006.pdf, or by calling us in Victoria at 250-387-0604 or outside of Victoria by calling our toll-free Enquiry BC number at 1-800-663-7867 and requesting a transfer to 387-0604. You can also e-mail us your questions to PTTENQ@gov.bc.ca.

Yours truly,



Hilary Harley
Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance



January 19, 2012

Re: Property Transfer Tax Advance Ruling

Dear

I am responding to your letter dated January 6, 2012, requesting a ruling with respect to exemption from property transfer tax ("PTT") for transfers proposed by your client, We received payment for this ruling on January 13, 2012.

I. BACKGROUND

I understand the facts of your request are as follows:

1. The properties in question are three new strata lots located in British Columbia and currently registered in the name of "The Owners, Strata Plan a strata corporation under the Strata Property Act" (the "strata corporation"). They are legally described as:

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2. The three properties are strata lots which were recently created when subdivided property registered in its name, which consisted of strata lots and common property, to create a total of strata lots and common property. Specifically, it was part of the common property which was subdivided to create the three new strata lots.
3. The procedural steps involved in the subdivision and registration of the new strata plan resulted in the 3 new strata lots being registered in the name of the strata corporation.
4. The proposed transaction would transfer title to the three strata lots from the strata corporation to so that all of the strata lots are registered in that name, since the original strata lots and common property were originally owned by

II. RULING REQUEST

You are requesting a ruling as to whether the proposed transaction is exempt from property transfer tax (PTT).

III. RULING

The proposed transfer of the three new strata lots from the strata corporation to is exempt from PTT, provided that proportionate share of the fair market value of the lots immediately prior to the strata plan amendment does not exceed its proportionate share of the fair market value of the lots immediately after the strata plan amendment.

IV. LEGISLATION AND ANALYSIS

A. Legislation

PTT is due at the time an application to register a taxable transaction is made at the Land Title Office, and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax. Under the PTTA, all transfers are taxable transactions unless specifically exempt.

Section 14 of the PTTA provides exemptions for certain transfers, provided that all of the criteria as described in each section and subsection are strictly met.

Section 14(3)(p.3) provides a PTT exemption for 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.

B. Analysis

Division 1 of Part 15 of the *Strata Property Act* sets out the rules relating to amendments of strata plans that lead to adding, consolidating or subdividing strata lots. Sections 80 and 253 of the *Strata Property Act* establish what is required to subdivide and/or dispose of common property. Since the Registrar of Land Titles has accepted that the subdivision and registration of a new strata plan has met the requirements of Division 1 of Part 15, or section 80 or 253 in combination with Division 1, Part 15, then the subsequent transfers of the three new strata lots from the strata corporation to _____ will be eligible for an exemption under section 14(3)(p.3) of the PTTA.

However, section 14(3)(p.3) further requires that _____ have the same proportionate share in the fair market value of the three new strata lots after the amendment of the strata plan as they had in the property prior to the subdivision and registration of the new strata plan. If _____ receives a greater proportionate share of the fair market value in the three new strata lots than it held in the subdivided common property prior to the registration of the new strata plan, the transfer will be subject to tax based on the increase in the proportion of fair market value that was received in accordance with section 3(3.2) of the PTTA.

This ruling is issued for the purposes of this transaction only, and with the understanding that all of the facts provided by you are accurate and complete. If upon auditing, facts are found to be different, the proposed transaction might not be PTT exempt.

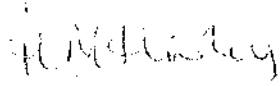
In the event the PTTA is amended with respect to such transactions, and the proposed transfer is not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT, provided the transactions are completed in the manner described in the advance tax ruling request.

As noted above, after registration of the transfer for which this advance tax ruling has been provided, the Administrator may review the transaction. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the PTT return submitted with the application for registration at the Land Title Office. Alternatively, if you submit the application for registration electronically, please include the reference number in section G3 of the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance web site and reviewing Tax Bulletin PTT 006 entitled "Exemptions for Transfers in the Course of Subdivisions" at http://www.sbr.gov.bc.ca/documents_library/bulletins/PTT_006.pdf or by calling us in Victoria at 250-387-0604 or outside of Victoria by calling our toll-free Enquiry BC number at 1-800-663-7867 and requesting a transfer to 387-0604. You can also e-mail us your questions to PTTENQ@gov.bc.ca.

Yours truly,


Hilary Harley
Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance



March 13, 2012

Re: Property Transfer Tax Advance Ruling

Dear

I am responding to your letter dated January 18, 2012 requesting a ruling as to whether or not property transfer tax (PTT) would be payable on the proposed transactions, and your subsequent letter of February 13, 2012 providing further information to support your request. We acknowledge the receipt of your payment on February 22, 2012.

I. BACKGROUND

I understand the facts of your request are as following:

1. The properties to be transferred are legally described as

(the Property)

2. The Property is currently registered in the name of

3. is planning to add his spouse, on title to the Property. Both are Canadian citizens.

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4. According to the 2012 assessment from BC Assessment, _____ of the Property has been assessed as farm/residential land under the *Assessment Act*, while _____ has been assessed as farm land.
5. The Property consists of a _____ Farming operations on the Property are conducted by _____ Seasonal employees are hired to assist in some tasks.
6. You have advised that the Property is not leased, nor is it used by any other party for any other purpose.

II. RULING REQUEST

You are requesting a ruling as to whether the proposed transaction is exempt from PTT.

III. RULING

It is my ruling that the proposed transaction is exempt from PTT.

IV. LEGISLATION AND ANALYSIS

A. Legislation

PTT is due at the time an application to register a taxable transaction is made at the Land Title Office (LTO) and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax. Under the *Property Transfer Tax Act* (the Act), all transfers are taxable transactions, unless specifically exempt.

To be exempt from paying PTT:

1. The land transferred has to be classified under the *Assessment Act* as farm land and must be a "family farm" as defined in section 14(1) of the Act. "Family farm" means farm land that is used, owned and farmed by one individual and/or family members, or is used, owned and farmed by a family farm corporation.
2. The transferor cannot be transferring the property as a trustee.
3. The transferee must be a related individual, a sibling or spouse of a sibling of the transferor or under section 14(3)(a) also a sibling of the spouse of the shareholder.

Sections 1(1) and 14(1) of the Act define "related individual" to mean a Canadian citizen or permanent resident as defined in the *Immigration and Refugee Protection Act* (Canada), who is:

- a person's spouse, child, grandchild, great-grandchild, parent, grandparent or great-grandparent, the spouse of a person's child, grandchild or great-grandchild, or
- the child, parent, grandparent or great-grandparent of a person's spouse.

Section 14(3)(a) exempts from PTT the transfer of a family farm from a transferor, who is not a trustee of a deceased's estate or of a trust settled during the lifetime of the settler, to a transferee who is a related individual, a sibling or a spouse of a sibling of the transferor. The land needs to meet the strict definition of "family farm" as described in section 14(1).

B. Analysis

According to your correspondence, several years. Currently both Property, with activities including

has been farming the Property for conduct farm operations on the

You have provided crop insurance information from inclusive, indicating that have been operating on the Property and You have also provided a copy of most recent personal income tax return submitted to the Canada Revenue Agency, which shows information regarding farming income for the taxation year.

You have advised that no one resides on the Property. You have also advised that a mobile home belonging to occupies the traditional residential site on the Property.

Based on the above, and our understanding that the mobile home situated on the Property is vacant, the "the used, owned and farmed" criterion is satisfied and the land meets the definition of "family farm" (section 14(1)). The transfer of an interest in the Property to wife is a taxable transaction **exempt from PTT** under section 14(3)(a) of the Act.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you are accurate and complete. If upon auditing, facts are found to be different, the proposed transaction might not be PTT exempt.

In the event the Act is amended with respect to such transactions and the proposed transfer is not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transaction for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

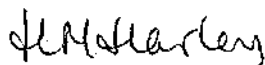
Please attach a copy of this ruling to the property transfer tax return submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance and Revenue Web site and reviewing Tax Bulletin PTT 008 entitled "Exemptions for Transferring a Family Farm" at:

http://www.sbr.gov.bc.ca/documents_library/bulletins/PTT_008.pdf

You may also call us in Victoria at **250-387-0604** or outside of Victoria by our toll free Enquiry BC number at **1 800 663 7867** and requesting a transfer to **387-0604** or email your questions to **PTTENQ@gov.bc.ca**.

Yours truly,



Hilary Harley
Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance



March 26, 2012

Re: Property Transfer Tax Advance Ruling #

Dear

I am responding to your letter dated January 4, 2012, and received in our office on January 19, 2012, requesting a ruling as to whether or not property transfer tax (PTT) would be payable on the proposed transactions. We acknowledge the receipt of your payment on February 29, 2012.

I. BACKGROUND

I understand the facts of your request are as following:

1. The properties to be transferred are legally described as

(collectively 'the Property').

2. and are currently registered in the name of and is registered in the names of as joint tenants. is registered in the names of as joint tenants.
3. According to 2012 BC Assessment Information, the Property consists of a total of approximately acres of farm land, a residence, a manufactured home, and outbuildings.
4. The Property is currently being farmed by and who have been farming on for many years. Their daughter also farms the property, and other family members assist from time to time.

II. RULING REQUEST

You are requesting a ruling as to whether the proposed transaction is exempt from PTT.

III. RULING

It is my ruling that the proposed transactions with respect to are exempt from PTT.

It is my ruling that the proposed transaction with respect to the property is not exempt from PTT.

IV. LEGISLATION AND ANALYSIS

A. Legislation

PTT is due at the time an application to register a taxable transaction is made at the Land Title Office (LTO) and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax. Under the *Property Transfer Tax Act* (the Act), all transfers are taxable transactions, unless specifically exempt.

Section 14(3)(a) exempts from PTT the transfer of a family farm from a transferor, who is not a trustee of a deceased's estate or of a trust settled during the lifetime of the settler, to a transferee who is a related individual, a sibling or a spouse of a sibling of the transferor. The land needs to meet the strict definition of "family farm" as described in section 14(1).

To be exempt from paying PTT:

1. The **land** transferred has to be classified under the *Assessment Act* as farm land and must be a "**family farm**" as defined in section 14(1) of the Act. "Family farm" means farm land that is used, owned and farmed by one individual and/or family members, or is used, owned and farmed by a family farm corporation.
2. The **transferor** cannot be transferring the property as a trustee.
3. The **transferee** must be a related individual, a sibling or spouse of a sibling of the transferor or under section 14(3)(a) also a sibling of the spouse of the shareholder.

Sections 1(1) and 14(1) of the Act define "related individual" to mean a Canadian citizen or permanent resident as defined in the *Immigration and Refugee Protection Act (Canada)*, who is:

- a person's spouse, child, grandchild, great-grandchild, parent, grandparent or great-grandparent, the spouse of a person's child, grandchild or great-grandchild, or
- the child, parent, grandparent or great-grandparent of a person's spouse.

B. Analysis

Your clients are proposing to transfer _____ to their daughters
_____ their son
and their granddaughter _____ who will hold equal shares as tenants-
in-common. The _____ parcel will be transferred to their daughter,
_____ who is already on title to the property as a joint tenant.

In 2012, _____ of the Property were assessed as farm property, while
and _____ were assessed as split farm/residential.

According to your letter, your clients are currently farming all of the Property along with their daughter, _____. Others are not paid to farm the Property, and your clients and _____ will continue to farm the Property following the transfers. You have provided your clients' Statement of Farming Activities (T2042), and Income Tax and Benefit Return (T1) for the 2010 taxation year, indicating that they have been operating _____ for that year.

You have advised that Sections 2 and 3 are used primarily for pasture, trees and hay, and that Lot A consists of lambing facilities, hay storage barns, winter feeding areas, hay fields, pasture areas and a paddock.

Your correspondence indicates that the _____ parcel consists of _____ and includes a manufactured home which is rented to _____ although there is not a lease agreement. _____ does not engage in any farming activities on the Property. Some portions of the _____ parcel are also rented to your clients' neighbours, _____ and to neighbor _____

Based on the above, the "the used, owned and farmed" criterion is satisfied for the Section 2, Section 3 and Lot A properties, as these properties meet the definition of "family farm" (section 14(1)). The proposed transfers of these properties are transactions **exempt from PTT** under section 14(3)(a) of the Act.

However, the proposed transfer of the _____ property **is not exempt from PTT** under section 14(3)(a) of the Act, since portions of that property are being rented to tenants who are not family members and who are farming the property. Therefore, this parcel does not fit within the definition of "family farm" for the purposes of the section 14(3)(a) exemption.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you are accurate and complete. If upon auditing, facts are found to be different, the proposed transaction might not be PTT exempt.

In the event the Act is amended with respect to such transactions and the proposed transfer is not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transaction for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

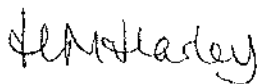
Please attach a copy of this ruling to the property transfer tax return submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance and Revenue Web site and reviewing Tax Bulletin PTT 008 entitled "Exemptions for Transferring a Family Farm" at:

http://www.sbr.gov.bc.ca/documents_library/bulletins/PTT_008.pdf

You may also call us in Victoria at **250-387-0604** or outside of Victoria by our toll free Enquiry BC number at **1 800 663 7867** and requesting a transfer to **387-0604** or email your questions to **PTTENQ@gov.bc.ca**.

Yours truly,



Hilary Harley
Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance



May 30, 2012

Re: Property Transfer Tax Advance Ruling #

Dear

I am responding to your correspondence dated March 12, 2012 requesting a ruling as to whether or not property transfer tax (PTT) would be payable on a proposed transfer of an interest in property from _____ to her son, _____ has also provided additional information under correspondence dated March 15 and April 24, 2012.

We acknowledge the receipt of your payment for this ruling on May 7, 2012.

I. BACKGROUND

I understand the facts of your request are as following:

1. The property to be transferred is legally described as:

2. The property is currently registered in the name of

3. According to 2012 BC Assessment information, the property is classified as farm and residential, and has an assessed value of _____. It consists of a total of _____ acres of farm land, a residence and farm buildings.

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4. plans to transfer an interest in the property to her son, so that they will hold title to the property as joint tenants.

II. RULING REQUEST

You are requesting a ruling as to whether the proposed transaction is exempt from PTT.

III. RULING

It is my ruling that the proposed transaction is exempt from PTT.

IV. LEGISLATION AND ANALYSIS

A. Legislation

PTT is due at the time an application to register a taxable transaction is made at the Land Title Office (LTO) and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax. Under the *Property Transfer Tax Act* (the Act), all transfers are taxable transactions, unless specifically exempt.

Section 14(3)(a) exempts from PTT the transfer of a family farm from a transferor, who is not a trustee of a deceased's estate or of a trust settled during the lifetime of the settler, to a transferee who is a related individual, a sibling or a spouse of a sibling of the transferor. The land needs to meet the strict definition of "family farm" as described in section 14(1).

To be exempt from paying PTT:

1. The **land** transferred has to be classified under the *Assessment Act* as farm land and must be a "**family farm**" as defined in section 14(1) of the Act. "Family farm" means farm land that is used, owned and farmed by one individual and/or family members, or is used, owned and farmed by a family farm corporation.
2. The **transferor** cannot be transferring the property as a trustee.
3. The **transferee** must be a related individual, a sibling or spouse of a sibling of the transferor or under section 14(3)(a) also a sibling of the spouse of the shareholder.

Sections 1(1) and 14(1) of the Act define "related individual" to mean a Canadian citizen or permanent resident as defined in the *Immigration and Refugee Protection Act (Canada)*, who is:

- a person's spouse, child, grandchild, great-grandchild, parent, grandparent or great-grandparent, the spouse of a person's child, grandchild or great-grandchild, or
- the child, parent, grandparent or great-grandparent of a person's spouse.

B. Analysis

Based on the information provided, the transfer of an interest in the property from _____ to _____ will be **exempt from PTT** since:

- the land is classified under the *Assessment Act* as farm for 2012;
- the property is a "family farm" as defined in section 14(1) of the Act, as it is used, owned and farmed by _____ has provided information indicating that she _____ She has also indicated that, while others have been hired to _____ this is more of an employee type relationship. These employees don't generate any income from _____ and are paid a fee for their services;
- _____ Statement of Farming Activities (T2042), and Income Tax and Benefit Return (T1) for the 2010 taxation year confirm that she is actively farming the property;
- the property is not being used by any other party for any other purposes, including rentals;
- _____ is not transferring an interest in the property as a trustee; and,
- _____ is a "related individual" of _____ as he is her son and is a Canadian citizen.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you are accurate and complete. If upon auditing, facts are found to be different, the proposed transaction might not be PTT exempt.

In the event the Act is amended with respect to such transactions and the proposed transfer is not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transaction for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for this ruling will

be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

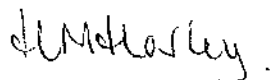
Please attach a copy of this ruling to the property transfer tax return submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance and Revenue Web site and reviewing Tax Bulletin PTT 008 entitled "Exemptions for Transferring a Family Farm" at:

http://www.sbr.gov.bc.ca/documents_library/bulletins/PTT_008.pdf

You may also call us in Victoria at **250-387-0604** or outside of Victoria by our toll free Enquiry BC number at **1 800 663 7867** and requesting a transfer to **387-0604** or email your questions to **PTTENQ@gov.bc.ca**.

Yours truly,



Hilary Harley
Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance



April 30, 2012

Re: Property Transfer Tax Advance Ruling

Dear

I am responding to your letter of March 15, 2012, requesting an advance tax ruling with respect to exemption from property transfer tax ("PTT") with respect to a proposed transaction involving _____ and _____ We received payment for this ruling on March 30, 2012.

I. BACKGROUND

I understand the facts of your request are as follows:

1. The property involved is located in _____ and is legally described as:

(the "Property")

2. The Property has several agreements registered on title.
3. The first lease ("**Original Lease**") is between the lessor _____ and the lessee _____. It was registered in the Land Title Office (LTO) on _____ (LTO Registration _____). The initial term of the Original Lease was _____ commencing on _____ and expiring on _____. The Original Lease included an option to renew for a further _____ year term which would commence on _____ and expire on _____.
4. A further agreement ("**Assignment and Amendment Agreement**") dated _____ between _____ and _____ was registered in the LTO on _____ (LTO Registration _____). Under the Assignment and _____.

Amendment Agreement, assigned its interest under the Original Lease to
and also agreed to amend the Original Lease so that its term would
expire with an option to renew for a further year term expiring on

5. On the option to renew the lease until was exercised.
6. On or about changed its name to
7. When the term of the lease as provided for under the Assignment and Amendment Agreement expired on and agreed to permit continued occupancy of the Property until However, this agreement was not registered in the LTO.
8. and now wish to register a "Second Amendment Agreement" in the LTO. This agreement would confirm the parties' agreement under paragraph 7 above. It would have an effective date of and would amend the Original Lease so that its term is commencing on and expiring on
In effect, this will extend lease of the Property until
There are no options to renew or extend the lease for any further term. There are no other significant amendments to the Original Lease apart from extending its term.

II. RULING REQUEST

You are requesting a ruling as to the application of the PTT to the proposed registration of the Second Amendment Agreement.

III. RULING

The proposed registration of the Second Amendment Agreement is exempt from PTT.

IV. LEGISLATION AND ANALYSIS

Legislation

Under the *Property Transfer Tax Act* (PTTA), all transfers are taxable transactions, unless specifically exempt. The tax is due at the time an application to register a taxable transaction is made at the LTO and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax.

Section 1 of the PTТА defines the term "lease agreement" to mean an agreement by which a leasehold estate is granted or assigned or by which an option to renew or extend the term of a lease is granted, including a lease modification agreement. A "lease modification" is defined as an agreement between a lessor and a lessee to extend the term of the lease.

Under section 1(1) of the PTTA, a "taxable transaction" includes a transaction extending the term of a lease agreement by a lease modification agreement.

Section 10(1) of the *Property Transfer Tax Regulation* ("PTT Regulation") stipulates that, when the term of a lease agreement is extended by a lease modification agreement, the lease modification agreement is a taxable transaction. Under section 10(2), the term of the lease modification agreement is determined to be the sum of 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 the number of years by which the lease agreement is extended by the lease modification agreement.

Under section 9(1) of the PTT Regulation, subject to section 10 and subsections (2) and (4), the "term" of a lease agreement is calculated by adding: (a) the number of years for which a lessee has the right to occupy the leased premises, and (b) the maximum number of years not counted under (a) that, by exercise of rights or options to renew or extend the lease agreement, the lessee may occupy the leased premises.

Section 10(6) of the PTT Regulation provides that no tax is payable on a lease modification agreement if its term is 30 years or less.

Analysis

As per the facts presented and documentation submitted, we determined that the registration of the Second Amendment Agreement between and is exempt from PTT.

Applying the calculations set out in section 9 of the PTT Regulation, the term of the lease agreement is calculated from the date that the lessee, SRI, had the right to occupy the Property. This date is when the Original Lease was assigned to from and therefore the term of the lease agreement is years.

The Second Amendment Agreement is a "lease modification agreement" in accordance with section 1(1) of the PTTA, as it is an agreement that extends the term of the Original Lease and does not make any other substantial amendments to the Original Lease other than to extend its term. Pursuant to section 10(2) of the PTT Regulation, the term of the Second Amendment Agreement is the sum of the term of the lease agreement years), plus the number of years by which the lease agreement is extended by the lease modification agreement. The Second Amendment Agreement extends lease of the Property by years to years.

Therefore, the term of the lease modification agreement for the Property is years and registration of the Second Amendment Agreement is exempt from PTT pursuant to section 10(6) of the PTT Regulation.

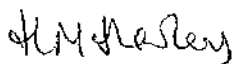
This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you or your clients are accurate and complete. In the event the PTTA or PTT Regulation are amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the property transfer tax return submitted with the application for registration at the LTO, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance and Revenue Web site at www.gov.bc.ca/fin/ or by calling us in Victoria at **250-387-0604** or outside of Victoria by our toll free Enquiry BC number at **1 800 663 7867** and requesting a transfer to **387-0604** or email your questions to **PTTENQ@gov.bc.ca**.

Yours truly,



Hilary Harley
Director, Audit and Compliance
Property Taxation Branch Ministry of Finance



April 30, 2012

Re: Property Transfer Tax Advance Ruling

Dear

I am responding to your letter of March 26, 2012, requesting an advance tax ruling on exemption from property transfer tax ("PTT") for transfers proposed by your clients,

with respect to
payment in full for this ruling on April 18, 2012.

We received

I. BACKGROUND

I understand the facts of your request are as follows:

1. The properties in question (the "Property") are adjacent parcels of land located in BC and are legally described as follows:

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2. Lot 29 is currently registered in the name of Callamar Investments Ltd. ("Callamar").
3. is currently registered in the name of
4. The first proposed transaction would be to apply to the Registrar of Land Titles to transfer title to the Property from to you. as trustee for for the purpose of amalgamating and and completing a plan of subdivision to create new residential building lots. You will be registered as a trustee under the *Land Title Act* (LTA).
5. The second proposed transaction would be for the trustee, following filing of the subdivision plan, to transfer the Property back to the original owners
6. You have provided 2012 BC Assessment information showing that the assessments of the Property are as follows:
Therefore, the total assessed value of the Property prior to subdivision is
7. You have advised that the proportionate shares of the total fair market value of the Property prior to the subdivision are as follows:
8. You have also advised that, based on proposed sale prices for the new lots created by the subdivision, the total market value for the Property after the subdivision will be and that the proportionate shares of this value held by will be the same after the subdivision as they were prior to subdivision of the Property.

II. RULING REQUEST

You are requesting a ruling as to whether the proposed transfers of the Property to the trustee, and the subsequent transfers to are exempt from property transfer tax (PTT).

In your correspondence, you have also noted that the remainder of will be transferred to the for use as a park, and that the roadways, sidewalks and services under the roadways will be transferred to the Ministry of Transportation. You have confirmed that you are not requesting a ruling on these transfers.

III. RULING

It is my ruling that the proposed transfers to the trustee will be exempt from PTT.

The transfers from the trustee to _____ will also be exempt from PTT, provided that the information you have provided is accurate and each original owner's proportionate share of the fair market value of the land immediately following the transfer back to them does not exceed their proportionate share of the fair market value of the original parcels immediately before they were amalgamated through creation of the subdivision.

IV. LEGISLATION AND ANALYSIS

Legislation

PTT is due at the time an application to register a taxable transaction is made at the Land Title Office, and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax. Under the *Property Transfer Tax Act* ("PTTA"), all transfers are taxable transactions unless specifically exempt.

Section 14 of the PTТА provides exemptions for certain transfers, provided that all of the criteria as described in each section and subsection are strictly met.

Section 14(4)(k) provides a PTT exemption for the transfer to a trustee registered as such under the LTA, by two or more registered owners of adjacent parcels of land, in order to complete a subdivision plan.

Section 14(4)(k.1) provides a PTT exemption for the transfer from the trustee back to the original owners, after filing of the subdivision plan. This latter exemption only applies if the original owners' proportionate shares of the fair market value of the new parcels created by the subdivision, calculated immediately after the subdivision, are not greater than their proportionate share of the fair market value of the original parcels, calculated immediately before the subdivision.

Analysis

The criteria for exemption under section 14(4)(k) of the PTТА will be met, and the transfer of the Property from _____ to you as trustee will be exempt from PTT, as long as you are registered under the LTA as a trustee, adjacent parcels are being transferred to you to facilitate their subdivision, and all of the new parcels created by the subdivision are transferred back to the original owners from you as trustee after the subdivision plan is registered.

Part 7, Division 2 of the LTA sets out the requirements in relation to the subdivision of land. If the Registrar of Land Titles accepts that the proposed transaction meets the requirements of the LTA and the plan of subdivision is registered, a subsequent transfer of the Property from you as trustee back to the original owners, _____ will also be eligible for a PTT exemption under section 14(4)(k.1) as long as neither _____ receive a greater proportionate share of the fair market value of the Property than they had in the original parcels. If this is not the case, they will not be eligible for the PTT exemption and PTT will be payable by _____

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them based on their increase in the proportionate share of fair market value. This would be calculated in accordance with section 3(3.4) of the PTTA.

This ruling is issued for the purposes of the proposed transactions only, and with the understanding that all of the facts provided by you are accurate and complete. If upon auditing, facts are found to be different, the proposed transactions might not be PTT exempt.

In the event the PTTA is amended with respect to such transactions, and the proposed transfer is not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT, provided the transactions are completed in the manner described in the advance tax ruling request.

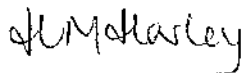
As noted above, after registration of the transfer for which this advance tax ruling has been provided, the Administrator may review the transaction. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the PTT return submitted with the application for registration at the Land Title Office. Alternatively, if you submit the application for registration electronically, please include the reference number in section G3 of the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance web site and reviewing Tax Bulletin PTT 009 entitled "Exemptions for Transfers in the Course of Subdivisions" at http://www.sbr.gov.bc.ca/documents_library/bulletins/PTT_006.pdf or by calling us in Victoria at **250-387-0604** or outside of Victoria by calling our toll-free Enquiry BC number at **1-800-663-7867** and requesting a transfer to 387-0604.

You can also e-mail us your questions to PTTENQ@gov.bc.ca.

Yours truly,



Hilary Harley
Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance



May 30, 2012

Re: Property Transfer Tax Advance Ruling

Dear

I am responding to your correspondence dated April 25, 2012 requesting a ruling as to whether or not property transfer tax (PTT) would be payable for the proposed transfer of interests in property from _____ to herself, her daughter and her son.

We acknowledge the receipt of your payment for this ruling on May 9, 2012.

1. BACKGROUND

I understand the facts of your request are as following:

1. The property to be transferred is located in _____ and is legally described as:

("the Property")

2. The Property is currently registered in the name of _____
3. _____ plans to transfer the Property to her son, _____ her daughter, _____ and herself as joint tenants. This will implement an obligation in a Trust Agreement which will be executed by _____

on the same date upon which the property transfer occurs.

4. The unexecuted Trust Agreement you have provided indicates that _____ and _____ will each hold an undivided 1/3 interest in the Property in trust for _____ for as long as she is alive. You have advised that the Trust Agreement is *not* going to be registered in the Land Title Office (LTO). While the LTO registration will show _____ as joint tenants, the Trust Agreement provides that in fact the Property will be held by them as tenants in common so that if either _____ predecease _____ or pass away without having severed the joint tenancy, there will be no right of survivorship and the interest will form part of their estate.

5. You have advised that the Property is _____ principal residence.

6. You have provided copies of _____ credit card transactions from August 2011 to March 2012, which reflect her travel _____
You have also provided our office with copies of utility bills for the Property for the period June 2011 to April 2012.
7. The 2012 assessment of the Property by BC Assessment indicates that the property is _____ in size and contains a single family dwelling.
The improvements have been classified as property used for residential purposes.
The total assessed value of the Property is _____

II. RULING REQUEST

You are requesting a ruling as to whether the proposed transaction is exempt from PTT.

III. RULING

It is my ruling that the proposed transaction is *exempt from PTT.*

IV. LEGISLATION AND ANALYSIS

A. Legislation

PTT is due at the time an application to register a taxable transaction is made at the Land Title Office (LTO) and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax. Under the *Property Transfer Tax Act* (the Act), all transfers are taxable transactions, unless specifically exempt.

The Act provides an exemption for the transfer of a principal residence between related individuals in certain circumstances. In particular, s. 14(3)(b) of the Act provides an exemption for the registration of a taxable transaction if the transfer is to a transferee who is a related individual of the transferor, and the land transferred has been the principal residence of either the transferor or the transferee for a continuous period of at least 6 months immediately before the date of the transfer.

Section 14(1) of the Act defines "principal residence" to mean 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.

Sections 1(1) and 14(1) of the Act define "related individual" to mean a Canadian citizen or permanent resident as defined in the *Immigration and Refugee Protection Act (Canada)*, who is:

- a person's spouse, child, grandchild, great-grandchild, parent, grandparent or great-grandparent, the spouse of a person's child, grandchild or great-grandchild, or
- the child, parent, grandparent or great-grandparent of a person's spouse.

B. Analysis

Based on the information provided, transfer of the Property from _____ to _____ and herself as joint tenants will be exempt from PTT.

For the purposes of this ruling, we are assuming that _____ are all Canadian citizens or permanent residents as required under the definition of "related individual" in section 1(1) and 14(1) of the Act. If upon auditing, facts are found to be different, the proposed transaction might not be PTT exempt.

Based on the information provided, it appears that the Property is a "principal residence" as defined in section 14(1) of the Act, and that the tax exemption in section 14(3)(b) applies to the proposed transfer, for the following reasons:

- The credit card statements, utility bills and other information provided indicate that [redacted] usually resides in and uses the property as her home, and that she has done so for a continuous period of 6 months immediately prior to the date of transfer. She is paying for utilities and property taxes at the property, keeps her possessions there, [redacted] and the property is available for her use at any time. The credit card statements provide evidence that she is periodically travelling [redacted] but is returning to her home [redacted] frequently. Based on the information provided, [redacted] absences from the property are for health reasons and do not alter the fact that it is her principal residence;
- The 2012 BC Assessment information, and other information provided by you, confirms that the improvements on the property are not designed and used to accommodate 3 or more families. The improvement on the land is a single family dwelling, in which [redacted] and her son [redacted] reside;
- The 2012 BC Assessment information confirms that all the improvements are classified under section 19 of the *Assessment Act* as property used for residential purposes, and that the land is not larger than 0.5 hectares in area; and
- The transferees, [redacted] are related individuals of the transferor,

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you are accurate and complete. If upon auditing, facts are found to be different, the proposed transaction might not be PTT exempt.

In the event the Act is amended with respect to such transactions and the proposed transfer is not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transaction for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the property transfer tax return submitted with the application for registration at the Land Title Office, or if you submit the application for

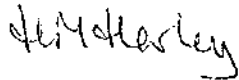
registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance and Revenue Web site and reviewing Tax Bulletin PTT 008 entitled "Exemptions for the Transfer of a Principal Residence" at:

http://www.sbr.gov.bc.ca/documents_library/bulletins/PTT_005.pdf

You may also call us in Victoria at **250-387-0604** or outside of Victoria by our toll free Enquiry BC number at **1 800 663 7867** and requesting a transfer to **387-0604** or email your questions to **PTTENQ@gov.bc.ca**.

Yours truly,



Hilary Harley
Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance



April 30, 2012

Re: Property Transfer Tax Advance Ruling

Dear

I am responding to your letter of March 30, 2012, requesting an advance tax ruling with respect to exemption from property transfer tax ("PTT") for transfers proposed by your client, We received payment for this ruling on April 11, 2012.

I. BACKGROUND

I understand the facts of your request are as follows:

1. The properties in question (the "Property") are 3 parcels located in and legally described as follows:

Ministry of Finance

Property Taxation Branch
1802 Douglas Street- 4th floor
Victoria, BC V8T 4K6
PH: 250 387 - 0602
FAX: 250 953 - 3094

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2. The Property is currently registered in the names of _____ and _____ as joint tenants.
3. The Property consists of _____ acres of farm land and a residence that is used by the son _____ and daughter-in-law _____ of _____. There are other improvements consisting of farm buildings on the Property.
4. The Property is used as an active _____ farming operation carried on by _____. There are no unrelated persons carrying on the farming operations on the Property, and the Property is not used for any other activities other than farming.
5. Two of the lots comprising the Property have been assessed by BC Assessment for 2012 as farm land. One of the lots has been assessed as split farm/residential land.
6. _____ is a company incorporated under the BC *Business Corporations Act*. The shareholders of the company are _____ and their son and daughter-in-law, _____. Currently, the Central Securities Register for _____ show no other shareholders.
7. _____ and their son and daughter-in-law _____ are all Canadian citizens.
8. You are proposing to transfer the Property from _____ to _____.

In addition to the facts you have outlined in your correspondence, we note that according to BC Assessment information dated September 2, 2011, _____ acres of one of the parcels comprising the Property (PID _____) is leased to _____. We are assuming for the purposes of this ruling that these individuals fall within the definition of "family member" in the *Property Transfer Tax Act* (PTTA). If they do not fall within this definition, the PTT exemption in section 14(3)(f) as described below is not available with respect to the transfer of this parcel.

II. RULING REQUEST

You are requesting a ruling as to whether the proposed transfers of the Property are exempt from property transfer tax (PTT).

III. RULING

It is my ruling that the proposed transactions are exempt from PTT.

Ministry of Finance

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IV. LEGISLATION AND ANALYSIS

Legislation

PTT is due at the time an application to register a taxable transaction is made at the Land Title Office, and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax. Under the PTTA, all transfers are taxable transactions unless specifically exempt.

Section 14(3)(f) of the PTTA provides an exemption for the transfer of a family farm from a transferor to a family farm corporation, provided that certain eligibility criteria are met.

For the transfers you have proposed to be exempt from PTT:

1. The land transferred has to be classified under the *Assessment Act* as farm land and must be a **"family farm"** as defined in section 14(1) of the Act. "Family farm" means farm land that is used, owned and farmed by one individual and/or family members, or is used, owned and farmed by a family farm corporation.
2. The **transferor** cannot be transferring the property as a trustee.
3. The **transferee** is a family farm corporation and each shareholder of the family farm corporation is the transferor, a related individual, a sibling or spouse of a sibling of the transferor under section 14(3)(f).

Sections 1(1) and 14(1) of the PTTA define "related individual" to mean a Canadian citizen or permanent resident as defined in the *Immigration and Refugee Protection Act (Canada)*, who is:

- a person's spouse, child, grandchild, great-grandchild, parent, grandparent or great-grandparent, the spouse of a person's child, grandchild or great-grandchild, or
- the child, parent, grandparent or great-grandparent of a person's spouse.

Section 1(1) defines "spouse" to mean a person who is married to another person or is living and cohabiting in a marriage-like relationship, including persons of the same gender, and has been living and cohabiting in that relationship for a continuous period of at least 2 years. Section 14(1) adds to this definition the requirement that the spouse is either a Canadian citizen or a permanent resident as defined in the *Immigration and Refugee Protection Act (Canada)*.

Section 14(1) defines "family member" to mean a Canadian citizen or permanent resident as defined in the *Immigration and Refugee Protection Act (Canada)*, who is:

- a related individual
- a person's sibling, cousin, niece, nephew, aunt or uncle
- the spouse of a person's sibling, cousin, niece, nephew, aunt or uncle, or
- the sibling, cousin, niece, nephew, aunt or uncle of a person's spouse.

Section 14(1) also defines "family farm corporation" as a corporation of which the principal activity is farming the farm land, and no shareholder is a corporation.

Analysis

The proposed transfer of the Property from _____ to _____ is exempt from PTT under section 14(3)(f) of the PTTA, for the following reasons:

- The Property is classified under the *Assessment Act* as farm land for the 2012 assessment year.
- The Property is a "family farm" as defined in section 14(1) of the PTTA, as it is owned by the transferors _____ and it is being used and farmed by them and their family members, as defined in section 14(1) of the PTTA, through _____
- _____ are not transferring the Property as trustees.
- _____ is a "family farm corporation" as defined in section 14(1) of the PTTA. The financial statements for the company for the year ended March 31, 2011, and its 2011 T2 Corporation Income Tax Return, confirm that the company's principal activity is operation of an active _____ farm. The Central Securities Register information provided by you also indicates that there are no corporations which are shareholders of _____
- The Central Securities Register information also confirms that there are no other shareholders of _____ other than the transferors, and their son and daughter-in-law _____ who are related individuals as defined in sections 1(1) and 14(1) of the PTTA. You have confirmed that all of these individuals are Canadian citizens.

This ruling is issued for the purposes of this transaction only, and with the understanding that all of the facts provided by you are accurate and complete. If upon auditing, facts are found to be different, the proposed transaction might not be PTT exempt.

In the event the PTTA is amended with respect to such transactions, and the proposed transfer is not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT, provided the transactions are completed in the manner described in the advance tax ruling request.

As noted above, after registration of the transfer for which this advance tax ruling has been provided, the Administrator may review the transaction. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the PTT return submitted with the application for registration at the Land Title Office. Alternatively, if you submit the application for registration electronically, please include the reference number in section G3 of the electronic tax return.

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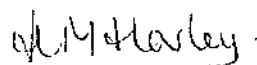
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Additional information may be obtained by accessing the Ministry of Finance web site and reviewing Tax Bulletin PTT 009 entitled "Exemptions for Transfers to and from a Family Farm Corporation" at http://www.sbr.gov.bc.ca/documents_library/bulletins/PTT_009.pdf or by calling us in Victoria at 250-387-0604 or outside of Victoria by calling our toll-free Enquiry BC number at 1-800-663-7867 and requesting a transfer to 387-0604.

You can also e-mail us your questions to PTTENQ@gov.bc.ca.

Yours truly,



Hilary Harley
Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance



May 29, 2012

Re: Property Transfer Tax Advance Ruling

Dear

I am responding to your letter of March 29, 2012, requesting an advance tax ruling regarding exemption from property transfer tax ("PTT") for a proposed lease agreement between your client, _____ and _____

We received payment for this ruling on April 17, 2012, and a copy of the proposed lease on May 1, 2012.

I. BACKGROUND

I understand the facts of your request are as follows:

1. The property involved is located in _____ and is legally described as:

(the "Property")

2. The Property has several agreements registered on title.
3. The first agreement is a lease ("**Original Lease**") between _____ as lessee, and _____ as lessors, and _____ as guarantor. It was registered in the Land Title Office (LTO) on _____ (LTO Registration _____). The initial term of the Original Lease was _____ years, commencing on _____ and ending on _____. The Original Lease included an option to renew for 2 further terms of _____ years each.
4. A second agreement between the parties ("**Lease Modification Agreement #1**") dated _____ was registered in the LTO on _____ (LTO Registration _____). Under this agreement, the parties amended the Original Lease to provide

for 2 further renewal periods of years each, commencing on and . They also agreed to release the guarantor from all obligations under the Original Lease.

5. A third agreement between the parties ("**Lease Modification Agreement #2**") dated _____ was registered in the LTO on _____ (LTO Registration # _____). Under this agreement, the parties amended the Original Lease to provide for 2 further renewal periods of _____ years each, commencing on _____ and _____.
6. A fourth agreement between the parties ("**Lease Modification Agreement #3**") dated _____ was registered in the LTO on _____ (LTO Registration # _____). Under this agreement, the parties amended the Original Lease to provide for one further renewal period of _____ years, commencing on _____.
7. A fifth agreement between the parties ("**Lease Modification Agreement #4**") dated _____ was registered in the LTO on _____ (LTO Registration # _____). Under this agreement, the parties amended the Original Lease to provide for one further renewal period of _____ years, commencing on _____.
8. _____ now wish to register a lease agreement (the "**Proposed Lease**") with an 18 month term commencing on _____ and ending on _____. The Proposed Lease would also include an option to renew for a further term of 5 years, such that it will have a possible term including renewals of 6 years and 6 months. You have advised that _____ leases other premises in the vicinity of the Property and, for business reasons, wishes to align all of its leases so that they renew at the same time. You have also advised that the Original Lease no longer meets the needs of the parties.

II. RULING REQUEST

You are requesting a ruling as to the application of the PTT to the proposed registration of the Second Amendment Agreement.

III. RULING

The registration of the Proposed Lease is ***exempt from PTT.***

IV. LEGISLATION AND ANALYSIS

Legislation

Under the *Property Transfer Tax Act* (PTTA), all transfers that are taxable transactions are subject to PTT, unless specifically exempt. The tax is due at the time an application to register a taxable transaction is made at the LTO and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax.

Section 1(1) of the PTTA defines "taxable transaction" as 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...*

(iii) *a right to occupy land under a lease agreement...*

(e) *between a lessor and a less of land such that, following the transaction, that less 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...*

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...*

Section 1(1) of the PTTA defines "lease agreement" as:

(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.*

That section also defines "lease modification agreement" as "*an agreement between a lessor and a lessee that extends the term of the lease*".

Therefore, under section 1(1) of the PTTA, a "taxable transaction" includes registration of a lease agreement, and of an agreement providing an option to renew or extend the term of a lease, including a lease modification agreement.

Section 14(4)(o) of the PTTA provides an exemption for the registration of a taxable transaction if the transaction is 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".

Section 10(6) of the Property Transfer Tax Regulation ("PTT Regulation") provides that no tax is payable on a lease modification agreement if its term is 30 years or less.

The PTT Regulation sets out the methods for calculating the terms of lease agreements and lease modification agreements.

Under section 9(1) of the PTT Regulation, the term of a lease agreement is calculated from the date the application is made to register the lease in the LTO, and consists of the unexpired portion of the lease as follows:

- (a) The number of years for which the lessee has the right to occupy the demised premises under the lease, plus
- (b) The maximum number of years that, by the exercise of options to renew the lease, that the lessee may occupy the demised premises.

Under section 10(2), the term of a lease modification agreement is determined by calculating:

- (a) the term of the original lease agreement, before extension by the lease modification agreement, as determined under section 9 (1), from the date the lease agreement was first executed, plus
- (b) the number of years by which the lease agreement is extended by the lease modification agreement.

Analysis

As per the facts presented and documentation submitted, we determined that the registration of the Proposed Lease between _____ is exempt from PTT.

The Proposed Lease is a "lease agreement", not a "lease modification agreement", as defined in the PTTA and according to Property Taxation Branch policy, since:

- it is an agreement that grants a leasehold estate and options to renew or extend the term of the lease, and
- it does not make reference to the Original Lease.

Therefore, the term of the Proposed Lease is calculated under section 9(1) of the PTT Regulation, and will consist of the unexpired portion of the lease from the date the application is made to register it in the LTO, plus the maximum number of years that, by exercising options to renew, Boboli may occupy the Property. Since the Proposed Lease provides for a term of 18 months, with an option to renew for a further term of 5 years, the term of the Proposed Lease if registered on the date its term is to commence, will be 6 years and 6 months.

Since the term of the Proposed Lease will not exceed 30 years, the exemption in section 14(4)(c) of the PTTA is applicable and no PTT will be payable upon registration of the Proposed Lease in the LTO.

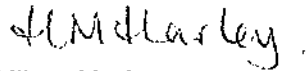
This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you or your clients are accurate and complete. In the event the PTTA or PTT Regulation are amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the property transfer tax return submitted with the application for registration at the LTO, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance and Revenue Web site at www.gov.bc.ca/fin/ or by calling us in Victoria at **250-387-0604** or outside of Victoria by our toll free Enquiry BC number at **1 800 663 7867** and requesting a transfer to **387-0604** or email your questions to **PTTENQ@gov.bc.ca**.

Yours truly,



Hilary Harley
Director, Audit and Compliance
Property Taxation Branch Ministry of Finance



November 13, 2012

Re: Property Transfer Tax Advance Ruling (Strata Plan – transfer of common property)

Dear

I am responding to your e-mail of October 10, 2012, requesting a ruling with respect to exemption from property transfer tax for a proposed transfer of strata plan common property. We received payment for this ruling on October 15, 2012.

I. BACKGROUND

I understand the facts of your request are as follows:

1. Strata Plan is located in Strata Lots 1 and 2 are currently owned by as joint tenants.
Strata Lots 1 and 2 are legally described:

2. intend to subdivide those parts of the common property surrounding each of Strata Lot 1 and 2, pursuant to section 253 of the *Strata Property Act*, so that they may be consolidated with each of those strata lots. To facilitate this, the

common property must be transferred to _____ from The Owners, Strata Plan _____ and the strata plan must be amended by Explanatory Plan.

3. You have advised that each of _____ currently own 50% of the common property as indicated in the legal description for each of Strata Lots 1 and 2.

II. RULING REQUEST

You are requesting a ruling as to whether the proposed transactions are exempt from property transfer tax (PTT).

III. RULING

The proposed transfers from The Owners, Strata Plan _____ to _____ will be **exempt from PTT**, as long as the requirements under section 14(3)(p.3) of the *Property Transfer Tax Act* (PTTA) are met as described below.

IV. LEGISLATION AND ANALYSIS

A. Legislation

PTT is due at the time an application to register a taxable transaction is made at the Land Title Office (LTO) and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax. Under the PTTA, all transfers are taxable transactions unless specifically exempt.

Section 14 of the PTTA provides exemptions for certain transfers, provided that all of the criteria as described in each section are strictly met.

Section 14(3) (p.3) provides an exemption for 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.

If a transferee's proportionate share of the fair market value of the parcels involved in the strata plan amendment increases as a result of the amendment, the increase in value is taxable under section 3(3.21) of the PTTA. That section sets out the formula for determining the fair market value of the increase in proportionate share, for the purposes of calculating the PTT. PTT is assessed and payable on the net increase in the transferee's proportionate share of the fair market value of the parcels involved in the strata plan amendment.

B. Analysis

In order to be eligible for a PTT exemption under section 14(3)(p.3) of the PTTA, the following requirements must be met:

1. The transfer must be a transfer to facilitate an amendment to a strata plan under Division 1 of Part 15 of the *Strata Property Act* (SPA), or Division 1 of Part 15 of the SPA in combination with either or both of section 80 or section 253 of the SPA. Division 1 of Part 15 of the SPA sets out the rules in regards to the amendment of strata plans that lead to adding, consolidating or subdividing strata lots. Sections 80 and 253 of the *Strata Property Act* establish what is required to subdivide and/or dispose of common property.

If the Registrar of Land Titles accepts that transfers proposed by meet the requirements of Division I Part 15, or section 80 or 253 in combination with Division 1, Part 15, these transfers are eligible for an exemption under section 14(3)(p.3) of the PTTA.

2. Section 14(3)(p.3) further requires that have the same proportionate share in the fair market value of the newly-consolidated lots after amendment of the strata plan, as they had in Strata Lots 1 and 2, and the common property of Strata Plan prior to the amendment of the strata plan.

Your letter and the LTO title searches indicate that currently own Strata Lots 1 and 2 as joint tenants, and that currently they each own 50% of the common property of Strata Plan If the transfer of common property proceeds as you have described, then proportionate share of the fair market value of the newly-consolidated parcels immediately following the strata plan amendment will not exceed their proportionate share of the fair market value of Strata Lots 1 and 2, and the common property surrounding those strata lots, immediately prior to the strata plan amendment, and the transfers will be exempt. If this is not the case, the transfers will be subject to tax based on the increase in the proportion of fair market value that was received by in accordance with section 3(3.2) of the PTTA.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you are accurate and complete. If upon auditing, facts are found to be different, the proposed transaction might not be PTT exempt.

In the event the PTTA is amended with respect to such transactions and the proposed transfer is not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transaction for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

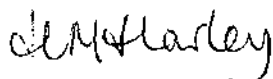
Please attach a copy of this ruling to the property transfer tax return submitted with the application for registration at the LTO, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by reviewing the Ministry of Finance Tax Bulletin entitled "Exemptions for Transfers in the Course of Subdivisions" at:

http://www.sbr.gov.bc.ca/documents_library/bulletins/PTT_006.pdf

or by calling us in Victoria at **250-387-0604** or outside of Victoria by our toll free Enquiry BC number at **1 800 663 7867** and requesting a transfer to **387-0604** or email your questions to **PTTENQ@gov.bc.ca**.

Yours truly,



Hilary Harley
Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance



February 4, 2014

Re: Property Transfer Tax Advance Ruling

Dear

I am responding to your November 15, 2013 email, requesting an advance tax ruling (ATR) in regards to the application of the *Property Transfer Tax Act (PTTA)* and the *Property Transfer Tax Regulation (the PTT Regulation)* to the merging of a registered lease to a fee simple ownership. We received payment in full for this ruling on January 15, 2014.

I. BACKGROUND

I understand the facts of your request are as follows:

1. Society is the lessee of a property (the "Property") located at which is legally described as:
2. The commencement date of the lease between Corporation and Society was The term of the lease is years.
3. Society is not a "registered charity" as defined by the *Income Tax Act* (Canada).
4. The lease was registered in the Land Titles Office on

5. The lease stipulates that the sum of _____ as rent for the term, was payable by _____ Society one month before the month when the construction of the housing project was substantially complete.
6. Ministry of Finance records indicate that Property Transfer Tax (PTT) in the amount of _____ was paid on a declared value of _____
7. The currently existing improvements were constructed after commencement of the lease, but an exact construction completion date is unknown. The _____ BC Assessment Roll includes a full value for the improvements.

The assumptions made with regard to your request are as follows:

1. The value of the rent set in the lease was intended to fairly represent the fmv of the land.
2. The tax paid on the registration of the lease was based on the declared value of the land only.

II. RULING REQUEST

You are requesting a ruling as to the PTT that would be payable if the fee simple interest on the Property was transferred to the lessee of the existing lease (merging the registered lease to a fee simple ownership).

III. RULING

The proposed transaction is **not exempt from** PTT. PTT will be payable on the fmv of the improvements at the time of registration of the fee simple ownership.

IV. LEGISLATION AND ANALYSIS

Legislation

PTT is due at the time an application to register a taxable transaction is made in the Land Titles Office, and is based on the fmv of the land or interest in the land transferred. The transferee is subject to the tax.

The definition of "fair market value" as defined in section 1(1) of the PTTA is "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 ..."

The definition of "land" in section 29 of the *Interpretation Act* is used for the determination of what the fmv of each taxable transaction includes when filed in the Land Titles Office. "Land" includes any interest in land, including any right, title or estate in it of any tenure, with all buildings and houses, unless there are words to exclude buildings and houses, or to restrict the meaning.

Under the PTTA all transfers are taxable transactions unless specifically exempt. Section 1(1) of the PTTA defines "taxable transaction" as 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..."

Section 14 of the PTTA provides exemptions for certain transfers, provided that all of the criteria as described in each section are strictly met. Section 14(4)(b) provides an exemption for "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..." You have stated (in your November 15, 2013 email) that the lessee does not have "charitable status" with the Canada Revenue Agency.

To prevent double taxation (i.e. in this case paying PTT twice on the land), a discount is applied to take into account PTT that has already been paid on the land and/or on those improvements which existed when the lease was registered. Improvements that are built after a lease is registered are not eligible for discount because PTT was not paid upon lease registration. PTT is therefore payable on the full fmv of these improvements.

Analysis

As per the facts presented, and the assumptions made, we determined that the proposed transaction is **not exempt from PTT.**

PTT will be payable, by the transferee, at the time of registration of the fee simple interest on the Property to the lessee of the existing lease, based on the fmv of the improvements.

It has been assumed, as stated above, that PTT was paid on 100% of the land value at the date the lease was registered in the Land Titles Office. It has also been assumed that the value of the rent set in the lease was intended to fairly represent the fmv of the land at that date.

PTT has not been paid on the improvements, as they did not exist at the time of the lease's registration; therefore, at the registration date of the merging of the registered lease to a fee simple ownership, PTT would be payable **on 100% of the fmv for the improvements only.**

The rate of tax payable is as per Section 3 (1) of the Act

"(a) 1% of the first \$200 000 of the fair market value of the taxable transaction, and

(b) 2% of the remaining fair market value of the taxable transaction."

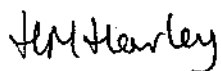
This ruling is issued for the purposes of this transaction only, and with the understanding that all of the facts provided by you or your clients are accurate and complete. In the event the PTTA or the PTT Regulation are amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the property transfer tax return submitted with the application for registration at the Land Titles Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance and Revenue website at www.gov.bc.ca/fin/ or by calling us in Victoria at **250-387-0604** or outside of Victoria by our toll free Enquiry BC number at **1-800-663-7867** and requesting a transfer to **387-0604** or email your questions to **PTTENQ@gov.bc.ca**.

Yours truly,



Hilary Harley
Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance



January 8, 2014

Re: Property Transfer Tax Advance Ruling

Dear

I am responding to your letter of December 6, 2013, requesting confirmation of the advance property transfer tax (PTT) ruling sent to on May 30, 2012. I understand that your company is now acting for on this matter, and would like to confirm that ruling will not be affected by recent changes to the proposed lease modification involving We received payment for this ruling on December 13, 2013.

I. BACKGROUND

I understand the following significant facts have not changed since the original ruling

1. currently leases property (the "Property"), located in from
The Property is comprised of parcels.
and are legally described as follows:

2. The Property has several agreements registered on title.
3. By leases dated _____ (**"Original Leases,"**
 leased the _____ to _____
 , and to _____ The lease of
 was assigned to _____ as of _____
4. By leases dated _____ and _____ (**"Original Leases,"**
 the _____ were leased by _____ to _____
5. On _____ the Original Leases for the _____ and the _____
 were surrendered pursuant to another lease (**"Renewal Lease"**)
 which was entered into between _____ and _____ The Renewal Lease was for
 the Property in its entirety _____
 It provided that the Original Leases were renewed, and their
 terms extended _____ It also provided for a right of renewal for a further
 term _____ expiring on _____ Therefore, under the Renewal Lease,
 acquired a right to occupy the Property for up to _____ years in total.
6. Two agreements between _____ and _____ dated _____ modified the
 Renewal Lease. The first of these agreements (**"First
 Modification"**) provided that the Renewal Lease was surrendered only with respect to
 the _____ for the purpose of renewing the Renewal Lease for these
 premises. The second agreement (**"First Modification"**)
 modified the Renewal Lease only in respect of the _____
 However, neither of these agreements extended the term of the Renewal Lease for the
 or the _____
7. Two further agreements between the parties were made on _____ making further
 modifications to the Renewal Lease. The first agreement relates only to the
 (**"Second Modification"**), while the
 second is with respect to the _____ **Premises**
 (**"Second Modification"**). These agreements make modifications relating to calculation
 of rent for the balance of the Renewal Lease term. (Note: The new version of the Third
 Modification of Renewal Lease (**"Second Modification"**) will
 now be referred to as **Premises Lease (2002)"**). The _____
 (**"Premises Second Modification"**) will now be referred to as
Premises Lease (2002)".
8. An application will be made for subdivision of the Property, to alter the lot lines as
 follows:

9. You have advised that once the portions of land are subdivided and consolidated, the and the : will not change the square footage in any material respect.

10. and now propose to enter into an agreement that would make further modifications to the renewal lease ("**Third Modification of Renewal Lease**"). This agreement deems the to include ("**Reconfigured Portion 1**") and exclude ("**Reconfigured Portion 2**"). It will also deem the to include ("**Reconfigured Portion 2**") and exclude ("**Reconfigured Portion 1**"). It provides that the square footage area of the and will not change in any material respect. have also become parties to the agreement, as the lenders of to consent to the changes in configuration of the Property and confirm these changes will not contravene the terms of the lending arrangements between them and The Third Modification of Renewal Lease does not change the term of the lease as provided for under the Renewal Lease.

II. RULING REQUEST

You are requesting confirmation that ruling , which found that the registration of the Third Modification of Renewal Lease was not a taxable transaction, will not be impacted by the proposed new wording of the Lease.

III. RULING

The revised Third Modification of Renewal Lease will not change the finding of ruling that the proposed registration of the Renewal Lease is **not a taxable transaction under the PTTA.**

IV. LEGISLATION AND ANALYSIS

Legislation

Under the *Property Transfer Tax Act* (PTTA), all transfers are taxable transactions, unless specifically exempt. The tax is due at the time an application to register a taxable transaction is made at the Land Title Office and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax.

Section 1 of the PTTA defines the term "taxable transaction" to include the following lease transactions:

- a transaction purporting to transfer or grant a right to occupy land under a lease agreement;
- a transaction extending the term of a lease agreement by a lease modification agreement;
- a transaction 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; and
- a transaction involving 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.

Section 1 of the PTTA defines the term "lease agreement" to mean an agreement by which a leasehold estate is granted or assigned or by which an option to renew or extend the term of a lease is granted, including a lease modification agreement. A "lease modification" is defined as an agreement between a lessor and a lessee to extend the term of the lease.

Section 10(1) of the *Property Transfer Tax Regulation* ("PTT Regulation") stipulates that, when the term of a lease agreement is extended by a lease modification agreement, the lease modification agreement is a taxable transaction. Under section 10(2), the term of the lease modification agreement is determined to be the sum of 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 the number of years by which the lease agreement is extended by the lease modification agreement.

Under section 9(1) of the PTT Regulation, subject to section 10 and subsections (2) and (4), the "term" of a lease agreement is calculated by adding: (a) the number of years for which a lessee has the right to occupy the leased premises, and (b) the maximum number of years not counted under (a) that, by exercise of rights or options to renew or extend the lease agreement, the lessee may occupy the leased premises.

Section 10(6) of the PTT Regulation provides that no tax is payable on a lease modification agreement if its term is 30 years or less.

Analysis

As per the facts presented and documentation submitted for both rulings: _____ and _____, we determined that **PTT will not be payable** in relation to registration of the Third Modification of Renewal Lease between _____ and _____.

In ruling it was determined that since the Third Modification of Renewal Lease was neither a lease agreement nor a lease modification agreement as defined in the PTTA, it would not be a taxable transaction. Our review of the revised version of the Third Modification of Renewal Lease provided for this ruling determined that the revisions do not alter the tax implications of the Renewal Lease. As a result, the revised Third Modification of Renewal Lease provided for this ruling is also **not a taxable transaction under the PTTA**. PTT will not be payable when the Renewal Lease is registered in the Land Title Office.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you or your clients are accurate and complete. In the event the PTTA or PTT Regulation are amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the property transfer tax return submitted with the application for registration at the LTO, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance and Revenue Web site at www.gov.bc.ca/fin/ or by calling us in Victoria at **250-387-0604** or outside of Victoria by our toll free Enquiry BC number at **1 800 663 7867** and requesting a transfer to **387-0604** or email your questions to **PTTENQ@gov.bc.ca**.

Yours truly,



Leslie Guthrie
A/Director, Audit and Compliance
Property Taxation Branch Ministry of Finance



August 29, 2014

Re: Property Transfer Tax Advance Ruling

Dear

I am responding to your letter of February 6, 2014 requesting an advance tax ruling on the application of the Property Transfer Tax (PTT) to a proposed lease modification involving
We received payment for this ruling on
March 13, 2014.

I. BACKGROUND

I understand the facts are as follows:

1. is the registered owner of the following properties,
legally described as:

(collectively, the "Properties").

2. proposes to lease the Properties from
for a term of commencing under Lease I.
A short-form lease ("Short Form Lease I") based on Lease I and with the same
term, would be registered at the Land Title Office (LTO).
3. proposes to also enter into a lease agreement with for the
Properties under Lease II on for a term of
commencing on A short-form lease ("Short Form Lease II") based on
Lease II and with the Lease II term, would be registered at the LTO
once more than six months have passed after the registration of Short Form Lease I.

4. None of the shareholders or directors of _____ are related personally or corporately to the shareholders or directors of _____

II. RULING REQUEST

You are requesting a ruling as to whether PTT will be payable on the proposed registration of Short Form Lease I, and the subsequent registration of Short Form Lease II, more than six months after Short Form Lease I has been registered.

III. RULING

It is my ruling that the proposed registration of Short Form Lease I will be exempt from PTT, but that the proposed registration of Short Form Lease II will not be exempt from PTT.

IV. LEGISLATION AND ANALYSIS

Legislation

Under the *Property Transfer Tax Act* (PTTA) all transfers are taxable transactions, unless specifically exempt. PTT is due at the time an application to register a taxable transaction is made at the LTO and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax.

With respect to leases section 1(1) of the PTTA defines "taxable transaction" as 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,*
 - ...
 - (iii) *a right to occupy land under a lease agreement, or*
 - ...
- (c) *extending the term of a lease agreement by a lease modification agreement,*
 - ...

Section 1 of the PTTA defines "lease agreement" and "lease modification agreement" as:

"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.*

Section 10(1) of the *Property Transfer Tax Regulation* ("PTT Regulation") provides that, where the term of a lease agreement is extended by a lease modification agreement registered under the *Land Title Act* (LTA) on or after March 23, 1987, the lease modification agreement is a taxable transaction.

Section 14(4)(o) of the PTTA provides that if a taxable transaction entitles the transferee, on compliance with the *Land Title Act* to registration at the LTO, that transferee is exempt from PTT if the taxable transaction is 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.

Under section 10(2) of the PTT Regulation, the "term" of a lease modification agreement is the sum of the term of the original lease agreement and the amount by which that term is extended by the lease modification agreement. Section 10(6) of the PTT Regulation provides that no tax is payable on a lease modification agreement if its term is 30 years or less.

Section 10(5) of the PTT Regulation provides that section 14 applies for the calculation of fmv of lease modification agreements with terms that exceed 30 years. Section 14 stipulates that fmv shall be the amount determined in accordance with the following formula:

$VSI \times P$

where VSI = the fmv, as per paragraph (a) of "fair market value" in section 1(1) of the PTTA, of the fee simple interest in all the demised premises; and

P = the percentage in Column 2 of Table 1 that corresponds to the term of the lease agreement in Column 1 (in this case, the additional term that will be added to the lease by the lease modification agreement).

Section 9(4) of the PTT Regulation states that for a lease agreement 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.

Analysis

As per the facts presented and documentation submitted, we determined that the proposed registration of Short Form Lease I will be exempt from PTT under section 14(4)(o) of the PTTA, because its term is less than 30 years. The proposed registration of Short Form Lease II is a taxable transaction for which there is no exemption. PTT will therefore be applied to the additional term added by the lease modification agreement, at a rate of 60% of fmv.

Lease II fits the definition of a lease modification agreement, as per section 1(1) of the PTTA, as it extends the term of the lease agreement Lease I) between and Lease I grants the lessee the right to occupy land under a lease agreement, while Lease II extends the term of that right without providing material changes to the right of to occupy the land.

As a lease modification agreement, Lease II is captured under paragraph (c) of the definition of taxable transaction, in section 1(1) of the PTTA: a transaction whereby a lease modification agreement extends the term of a lease agreement.

An exemption under section 14(4)(o) of the PTTA for: "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;" will not apply because
modification agreement.

Lease II is a lease

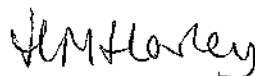
This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you or your clients are accurate and complete. In the event the PTTA or PTT Regulation are amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the property transfer tax return submitted with the application for registration at the LTO, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance web site at www.gov.bc.ca/fin/ or by calling us in Victoria at **250-387-0604**, or outside of Victoria by our toll-free Enquiry BC number at **1-800-663-7867** and requesting a transfer to **387-0604**, or email your questions to **PTTENQ@gov.bc.ca**.

Yours truly,



Hilary Harley
Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance

be payable on the subsequent transfer of title, once the subdivision is approved and registered, from the joint ownership of _____ to their individual ownership, with _____ holding title to a _____ acre parcel, and _____ holding title to the remaining _____ acre parcel.

In addition, you are requesting a ruling on whether PTT, if payable in the proposed transactions, would be payable on the fair market value (fmv) of the land only, or also on the improvements existing on the Property.

III. RULING

It is my ruling that the first proposed transfer of the Property from _____ to the names of _____ and _____ in joint ownership, will not be exempt from PTT. PTT will be payable on the fmv of the land and improvements.

The second proposed transfer of the subdivided Property, from the joint ownership of _____ to individual ownership of the two parcels, will be exempt from PTT provided that the proportionate share of the fmv of the land immediately following the transfer, for each individual, does not exceed their proportionate share of the fmv of the original parcel calculated immediately before the subdivision.

IV. LEGISLATION AND ANALYSIS

A. Legislation

Under the *Property Transfer Tax Act* (PTTA), all transfers are taxable transactions, unless specifically exempt. PTT is due at the time an application to register a taxable transaction is made at the Land Title Office (LTO), and is based on the fmv of the land or interest in land transferred. The transferee is subject to the tax.

Section 14 of the PTTA provides exemptions for certain transfers, provided that all of the criteria as described in each section and subsection are strictly met.

Section 14(3)(a) (i) provides an exemption from PTT for the transfer of property from a transferor, who is not a trustee, to a transferee who is a related individual if the land transferred is a family farm.

Section 1(1) defines "transferor" as "a person who transfers land to a transferee under a taxable transaction".

Section 1(1) defines "transferee" as "a person to whom land is transferred under a taxable transaction ...".

Section 14(3) (j) provides an exemption from PTT in transactions whereby the original parcel is subdivided into smaller parcels, and the transferee of all or some of the newly-created smaller parcels was one of the registered owners of the original parcel immediately before its subdivision. In addition, the transferee's proportionate share in the fmv of the newly-created parcels, calculated immediately after the subdivision, must not exceed the transferee's proportionate share in the fmv of the original parcel immediately before the subdivision.

Under the *Interpretation Act*, land means any interest in land, including any right, title or estate in it of any tenure, with buildings and houses, unless there are words to exclude buildings and houses or to restrict the meaning. Because there is no limiting definition in the PTTA, tax is payable on the fmv of the land, plus all improvements on that land at the time of registration.

B. Analysis

As per the facts presented **PTT will be payable** on the first proposed transfer (from the Company to _____ and _____ in joint ownership). The transfer does not meet the criteria for exemption under section 14(3)(a) (i), as the Property does not have farm land classification, and you have confirmed that the Property is not a family farm.

The proposed transaction will transfer land and improvements from one entity (the Company) to a separate entity (_____ and _____ in joint ownership); therefore it will be taxable, regardless of who the shareholders are before and after the transfer. PTT will be payable on the fmv of the land and improvements.

The second proposed transfer, from _____ (in joint ownership), to subdivided parcels **will be exempt from PTT** provided that neither of the original owners receives a greater proportionate share in the fmv of the Property than they had in the original parcel, calculated immediately before the subdivision. If PTT is payable, it is to be calculated in accordance with section 3(3.2) of the PTTA, on the land and improvements.

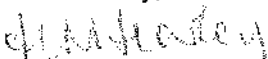
This ruling is issued for the purposes of this transaction only, and with the understanding that all of the facts provided by you are accurate and complete. In the event the PTTA or the PTT Regulation are amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advance tax ruling has been provided may be subject to review by the Administrator. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the property transfer tax return submitted with the application for registration at the LTO, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance website at: www.gov.bc.ca/fin/ or by calling us in Victoria at **250-387-0604** or outside of Victoria by our toll-free Enquiry BC number at **1-800-663-7867** and requesting a transfer to **387-0604**, or email your questions to PTTENQ@gov.bc.ca.

Yours truly,



Hilary Harley
Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance

Ministry of Finance

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September 15, 2014

Dear

Re: Property Transfer Tax Advance Ruling

I am responding to your letter dated May 8, 2014 requesting an advance tax ruling on the application of the Property Transfer Tax (PTT) for the transfer proposed by your clients. Payment for this ruling was received on June 6, 2014, and the requested information was received on August 28, 2014.

I. BACKGROUND

I understand the facts of your request are as follows:

1. The property to be transferred (the "Property") is located in _____ and is legally described as: _____
2. The Property is currently registered in the names of: _____
3. The information you have provided from BC Assessment indicates that the property is comprised of _____ farm-classed acres, and a residential improvement.
4. The Property is farmed by _____ for the production of _____
5. You are proposing to transfer _____ interest in the Property to _____

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6. The principal activity of _____ is farming. Its _____ interest will not change as a result of the proposed transfer.
7. The residents of the Property include _____ his son _____ and family members. You have described the relationship of each of the family members residing on the Property to that of _____. As per your indications, these family members qualify as related individuals as defined in the *Property Transfer Tax Act* (PTTA).
8. You have confirmed there are no trusts on the Property, and no leases related to the Property.
9. You have confirmed that no business activity, other than farming, is being conducted on the land and/or improvements. The Property is also being used as an office for the company.
10. You have provided information regarding _____ from the Central Securities Register, and financial statements for the period ending December 31, 2013. You have also provided statements of farming income from the personal income tax returns submitted to Canada Revenue Agency by _____ for 2013. The information indicates that _____ carries out _____ production activities, and that _____ is the sole shareholder of the company.

II. RULING REQUEST

You are requesting a ruling as to whether the proposed transfer of the Property will be exempt from PTT based on the facts as per above.

III. RULING

It is my ruling that the proposed transfer, of _____ interest in the Property, to _____ will be exempt from PTT.

IV. LEGISLATION AND ANALYSIS

Legislation

PTT is due at the time an application to register a taxable transaction is made at the Land Title Office (LTO), and is based on the fair market value (fmv) of the land or interest in the land transferred. The transferee is subject to the tax. Under the *Property Transfer Tax Act* (PTTA), all transfers are taxable transactions unless specifically exempt.

Section 14 of the PTTA provides exemptions for certain transfers, provided that all of the criteria as described in each section and subsection are strictly met.

Section 14(3)(a) of the PTTA provides an exemption for 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.*

The land transferred has to be classified under the *Assessment Act* as farm land, and must be a "family farm" as defined in section 14(1) of the PTTA. "Family farm" means farm land that: "is used, owned and farmed by one individual or by family members," or "is used, owned and farmed by a family farm corporation."

1. Sections 1(1) and 14(1) of the PTTA define "**related individual**" to mean a Canadian citizen or permanent resident as defined in the *Immigration and Refugee Protection Act (Canada)*, who is:
- A person's spouse, child, grandchild, greatgrandchild, parent, grandparent or greatgrandparent,
 - the spouse of a person's child, grandchild or greatgrandchild, or
 - the child, parent, grandparent or greatgrandparent of a person's spouse.

Analysis

Based on the facts presented, the proposed transfer of _____ interest in the Property to _____ will be exempt from PTT. The legislative requirements for PTT exemption in respect to the proposed transfer will have been met. The 2014 BC Assessment Roll Report confirms the Property is classified as farm land. The Property is a family farm which is used, owned and farmed by family members. The transferor is not a trustee, and the transferee is a related individual. You have confirmed that all of the individuals that reside on the Property are Canadian citizens.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you or your clients are accurate and complete. In the event the PTTA is amended with respect to such transactions, and the proposed transfer is not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transaction for which this advance tax ruling has been provided may be subject to review by the Administrator. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the PTT return submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance web site at www.gov.bc.ca/fin or by calling us in Victoria at **250-387-0604**, or outside of Victoria by calling

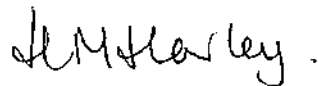
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our toll-free Enquiry BC number at 1-800-663-7867 and requesting a transfer to 387-0604, or email your questions to PTTENQ@gov.bc.ca.

Yours truly,



Hilary Harley
Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance



August 6, 2014

Re: Property Transfer Tax Advance Ruling

Dear

I am responding to your letter of May 8, 2014, requesting an advance tax ruling on the application of the Property Transfer Tax (PTT) to the transfers you are proposing. We received payment for this ruling on June 20, 2014.

I. BACKGROUND

I understand the facts of your request are as follows:

1. The property to be transferred (the "Property") is legally described as:

2. _____ is the registered owner of the fee simple interest in the Property. _____ is a fully owned subsidiary of _____, as per the definition in the *BC Business Corporations Act* [S.B.C., 2002].

3. _____ is the registered owner of a leasehold interest in the Property pursuant to a lease registered on title in _____ (the Head Lease – _____). The Head Lease was renewed in _____, and subsequently modified by a number of lease modifications. It expires on _____.

4. _____ (the "Sub-Tenants") jointly hold a sublease interest in the Property, registered on title in _____, and subsequently assigned in _____. It expires on _____. The Sub-Tenants are bona fide third parties, unrelated to and acting at arms' length from both _____. Rent owed by the Sub-Tenants to _____ in accordance with the sublease, was prepaid at the time of registration.

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5. When registered in _____ the original sub-tenant under the sublease paid property transfer tax on the fair market value of the sublease, calculated in accordance with the *Property Transfer Tax Regulation*. The current sub-tenants also paid property transfer tax on the fair market value of the sublease, upon assignment in _____
6. The proposed concurrent transfers are: _____ will transfer the fee simple interest in the Property to _____ (an affiliate, as per the *Business Corporations Act*, of _____); _____ will transfer the leasehold interest to _____

II. RULING REQUEST

You are requesting a ruling on whether PTT will be payable on the transfer of the fee simple interest in the Property from _____ to _____ and on the transfer of the leasehold interest in the Property from _____ to _____

III. RULING

It is my ruling that the proposed transfer, of the fee simple interest in the Property from _____ to _____, **will not be exempt from PTT**. PTT will be payable on the fair market value of the land and improvements at the time of registration. The proposed transfer, of the leasehold interest in the Property held by _____ to _____, **will be exempt from PTT**.

IV. LEGISLATION AND ANALYSIS

Legislation

PTT is due at the time an application to register a taxable transaction is made at the Land Title Office (LTO) and is based on the fair market value of the land or interest in the land transferred. The transferee is subject to the tax.

Under the *Property Transfer Tax Act* (PTTA), all transfers are taxable transactions unless specifically exempt. Section 1 (1) of the PTTA defines a "taxable transaction" as 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 [...]*
- (iii) *a right to occupy land under a lease agreement ...*
- (c) *extending the term of a lease agreement by a lease modification agreement.*

Section 1 (1) of the PTTA defines "lease agreement" as:

- (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.*

Section 14 of the PTTA provides exemptions for certain transfers, provided that all of the criteria as described in each section are strictly met. Section 14 (4) (o) of the PTTA provides an

exemption for the registration of a taxable transaction if the transaction is "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".

The PTT Regulation sets out the method for calculating the terms of lease agreements. Under section 9 (1) of the PTT Regulation, the term of a lease agreement is calculated from the date the application is made to register the lease in the LTO, and consists of the unexpired portion of the lease as follows:

- (a) The number of years for which the lessee has the right to occupy the demised premises under the lease, plus
- (b) The maximum number of years that, by the exercise of options to renew the lease, that the lessee may occupy the demised premises.

With respect to a lease with a term of greater than 30 years remaining as at the date of registration of that lease agreement, section 10 (5) of the PTT Regulation stipulates that:

- Where the term of the lease modification agreement exceeds 30 years, the fair market value is calculated according with the following formula: $VSI \times P$
 - where *VSI* = the fair market value, determined under paragraph (a) of "fair market value" in section 1 of the PTTA, of the fee simple interest in all the demised premises; and
 - *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.

With respect to prepaid leases, section 12 of the PTT Regulation stipulates that the fair market value of a lease agreement shall be the amount of the rent where:

- 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
- the lessor and the lessee deal with each other at arm's length.

Section 14 (4) (v) provides an exemption from PTT when the following requirements are met:

(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.*

Analysis

As per the facts presented the transfer of the leasehold interest in the Property (held by to **will be exempt from PTT**). The transaction, as proposed, is taxable as per the definition of taxable transaction in section 1 (1) of the PTTA; however, it will be exempt under section 14 (4) (v) of the PTTA provided that tax is paid on the fee simple transfer. The proposed

transfer of the leasehold interest will be concurrent to the transfer of the same land, in fee simple, and the lessee and the transferee are the same person.

With respect to the transfer of the fee simple interest in the Property held by _____ to _____ as per the facts presented, the transfer **will be taxable** as there is no specific exemption under the PTTA for this taxable transaction.

The subleased interest in the Property (which does not expire until _____, for which rent owed by the Sub-Tenants to _____ was prepaid at the time of registration, affects the fair market value of the fee simple interest in the Property. You will be required to determine the value of that effect. PTT will be payable on the fair market value of the fee simple interest transferred in the proposed transaction, at the rate of 1% of the first \$200,000 of the fair market value of the taxable transaction, and 2% of the remaining fair market value of the taxable transaction.

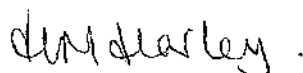
This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you or your clients are accurate and complete. As such this ruling is not transferable to other transactions and is for the confidential use of the client only. In the event the PTTA or PTT Regulation are amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the property transfer tax return submitted with the application for registration at the LTO, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance website at: www.gov.bc.ca/fin/ or by calling us in Victoria at 250-387-0604 or outside of Victoria by our toll-free Enquiry BC number at 1-800-663-7867 and requesting a transfer to 387-0604, or email your questions to PTTENQ@gov.bc.ca.

Yours truly,



Hilary Harley
Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance



December 18, 2014

Re: Property Transfer Tax Advance Ruling

Dear

I am responding to your email dated October 31, 2014, requesting an advance tax ruling on the application of the property transfer tax ("PTT") for transfers proposed by your clients, which we received on November 18, 2014. Thank you for the payment in full for this ruling,

I. BACKGROUND

I understand the facts of your request are as follows:

1. The properties in question (the "Property") are strata lots within Strata Plan located in BC and are legally described as:

2. Strata Lot A and Strata Lot D comprise two of the four strata lots that constitute Strata Plan

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3. There is a covered parking stall ("Strata Lot A Parking") that is appurtenant to and forms part of Strata Lot A, within a garage on the surface of Strata Plan
4. There is a surface parking stall ("Strata Lot D Parking") that is appurtenant to and forms part of Strata Lot D, within the common property of Strata Plan
5. _____ as the owner of Strata Lot A, and _____ as the owners of Strata Lot D propose to exchange their respective parking spaces (Strata Lot A Parking, and Strata Lot D Parking).
6. In order to exchange parking spaces, Strata Lot A and Lot D will be consolidated into a single, new strata lot and then re-subdivided into two new strata lots with the exchanged parking spaces.
7. In the first proposed transaction, _____ will apply to the BC Land Title Office (LTO) to transfer the ownership of Strata Lot D to _____ as trustees (collectively the "Trustees"). The Trustees will hold Strata Lot D, in trust, for _____
8. In the second proposed transaction, _____ will apply to LTO to transfer the ownership of Lot A to the Trustees. The Trustees will hold Strata Lot A, in trust, for _____
9. The third proposed transaction will be to apply to LTO to consolidate Lots A and D into one title, in the name of the Trustees, thereby creating Strata Lot E (a new lot). The Trustees will hold Strata Lot E, in trust, for _____
10. The fourth proposed transaction will be to apply to the LTO for the subdivision of Strata Lot E into a new Strata Lot F and a new Strata Lot G. The Trustees will hold, in trust, Strata Lot F for _____ and Strata Lot G, for _____
11. In the fifth proposed transaction the Trustees will apply to the LTO to transfer Lot G to _____
12. In the sixth proposed transaction, the Trustees will apply to the LTO to transfer Lot F to _____
13. A Parking Exchange Agreement (effective _____ between _____ stipulates that _____ will be paid _____ for the exchange of parking stalls.

II. RULING REQUEST

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You are requesting a ruling as to whether the following proposed transfers will be exempt from property transfer tax (PTT):

- transfer of Strata Lot A and Lot D (into one title) to _____ as trustees;
- transfer to consolidate Lot A and Lot D into new lot (E), in the name of the Trustees;
- transfer to subdivide Strata Lot E into new Strata Lot (F), and new Strata Lot G;
- transfer of subdivided Lot F from the Trustees to _____ and,
- transfer of subdivided Lot G from the Trustees to _____

III. RULING

It is my ruling that the first and second proposed transfers (of Lots A and D, to the Trustees) **will be exempt from PTT** because the transfers will be for the purpose of the subdivision plan being filed with the LTO.

The third proposed transfer (the consolidation of Lot A and Lot D) into new Lot E prior to the subdivision of the strata lots, **will be exempt from PTT** because the transfer will be for the purpose of the subdivision plan being filed with the LTO.

The fourth proposed transfer, by the Trustees (for the subdivision of Lot E into Lots F and G) **will be exempt from PTT** because the transfer will be for the purpose of the subdivision plan being filed with the LTO.

The fifth proposed transfer, of Lot F, from the Trustees to _____ **will be exempt from PTT** because the transfer will be for the purpose of the subdivision plan being filed with the LTO.

The sixth proposed transfer, of Lot G, from the Trustees to _____ **will be exempt from PTT** because the transfer will be for the purpose of the subdivision plan being filed with the LTO.

_____ will be **exempt from PTT** provided that the proportionate share of the fair market value (fmv) of their respective property, immediately following the transfers for consolidation and subsequent subdivision of Strata Lots A and D, does not exceed their proportionate shares of the fmv of the original lots, calculated immediately before the consolidation and subdivision.

IV. LEGISLATION AND ANALYSIS

Legislation

PTT is due at the time an application to register a taxable transaction is made at the LTO, and is based on the fmv of the land or interest in land transferred. The transferee is subject to the tax. Under the *Property Transfer Tax Act* ("PTTA") all transfers are taxable transactions unless specifically exempt.

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Section 14 of the PTTA provides exemptions for certain transfers, provided that all of the criteria as described in each section and subsection are strictly met. Section 14(4)(k) provides a PTT exemption for the transfer to a trustee (registered as such under the LTA) of adjacent parcels of land held by two or more registered owners in order to complete a subdivision plan, and for the transfer of all the parcels created under the plan, back to the original owners after registration of the plan of subdivision.

Section 14(4)(k.1) provides a PTT exemption for the transfer from the trustee back to the original owners, after filing of the subdivision plan. This latter exemption only applies if the original owners' proportionate shares of the fmV of the new parcels created by the subdivision, calculated immediately after the subdivision, are not greater than their proportionate shares of the fmV of the original parcels, calculated immediately before the subdivision.

Section 18 (6.2) of the PTTA requires that where an exemption has been applied for under section 14 (4) (k) or (k.1), a notice of assessment must be issued by the Administrator of the PTT (Administrator) within 24 months after the date of the last of the transfers to the trustee to facilitate the subdivision. As per section 18 (3) of the PTTA, the notice of assessment must state the following:

- the determination of the fmV made by the Administrator,
- the total amount of tax payable,
- the amount of tax paid (if any),
- the balance owing or overpaid, and
- the date of the notice of assessment.

Analysis

With respect to the transfers of Strata Lot A and Strata Lot D to the Trustee, in order to facilitate a parking exchange between two adjacent strata owners, the criteria for exemption under section 14(4)(k) will be met.

The proposed transfers of the Property from _____ and from _____ (acting collectively as trustee), to the Trustees in order to complete a consolidation and subsequent subdivision, will be exempt from PTT.

This will be the case, as long as: _____ are registered under the LTA as a trustee; adjacent parcels are being transferred to the Trustees to facilitate their subdivision; and, all of the new parcels created by the subdivision are transferred back to the original owners from the trustee after the subdivision plan is registered.

Part 7, Division 2 of the LTA sets out the requirements with respect to the subdivision of land. If the Registrar of Land Titles accepts that the proposed transaction meets the requirements of the

LTA, and the plan of subdivision is registered, a subsequent transfer of the Property from the Trustees back to the original owners will also be eligible for a PTT exemption under section 14(4)(k.1). This will be the case as long as neither of the original owners receives a greater proportionate share of the fmV value of the Property than they had in the original parcels.

will receive a greater proportionate share of the fmV of the Property than they had in their original parcel (the covered parking stall for which they paid). PTT will therefore be payable by on the fmV of this increased proportionate share. This would be calculated in accordance with section 3(3.4) of the PTTA.

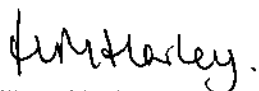
This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you or your clients are accurate and complete. In the event the PTTA is amended with respect to such transactions, and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advance tax ruling has been provided may be subject to review by the Administrator. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the PTT return submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance web site at www.gov.bc.ca/fin or by calling us in Victoria at **250-387-0604**, or outside of Victoria by calling our toll-free Enquiry BC number at **1-800-663-7867** and requesting a transfer to **387-0604**, or email your questions to **PTTENQ@gov.bc.ca**.

Yours truly,



Hilary Harley
Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance



January 19, 2015

Re: Property Transfer Tax Advance Ruling

Dear

I am responding to your email dated December 3, 2014, requesting an advance tax ruling on the application of the property transfer tax ("PTT") for transfers proposed by your client,

Thank you for the payment in full for this ruling, which we received on December 11, 2014.

I. BACKGROUND

I understand the facts of your request are as follows:

1. The property to be transferred (the "Property") is legally described as:

2. The registered owner of the Property is currently

3. The proposed transfer of the Property would be from
to

4. entered into a lease agreement with on
with a term commencement date of . The lease
agreement provides for the right of renewal for four successive periods of years
each. The lease was registered as on

Ministry of Finance

Property Taxation Branch
1802 Douglas Street- 4th floor
Victoria, BC V8T 4K6
PII: 250 387 - 0602
FAX: 250 953 - 3094
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5. _____ has undergone the following _____ amalgamations:

6. _____ has undergone the following _____ extra-provincial
registrations:

Ministry of Finance

Property Taxation Branch
1802 Douglas Street- 4th floor
Victoria, BC V8T 4K6
PH: 250 387 - 0602
FAX: 250 953 - 3094
Page 2 of 5

II. RULING REQUEST

You are requesting a ruling as to whether the proposed transfer of the Property, from
to
will be exempt from property transfer tax
(PTT).

III. RULING

It is my ruling that the proposed transfer will be exempt from PTT because the amalgamation was effected under Division 3 of Part 9 of the *Business Corporations Act (Canada)*, or under similar provisions of an enactment of Canada or of a province, and the continuing corporation has filed a certificate of amalgamation with the administrator.

IV. LEGISLATION AND ANALYSIS

Legislation

PTT is due at the time an application to register a taxable transaction is made at the Land Title Office (LTO), and is based on the fair market value (fmv) of the land or interest in land transferred. The transferee is subject to the tax. Under the *Property Transfer Tax Act* ("PTTA") all transfers are taxable transactions unless specifically exempt.

The definition of taxable transactions in section 1 of the PTТА includes (in section (f)): "... an application under section 191 of the *Land Title Act* in respect of an amalgamation referred to in section 191 (4) of that Act ..."

The PTТА provides an exemption in some situations where a transfer of land is required due to the amalgamation of companies. Under section 14(4)(u), an exemption is provided if:

- "the companies were amalgamated 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
- 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;"

Analysis

PTT is a registration tax, payable by the transferee, when a taxable transaction is registered at the LTO. The transferee is responsible, unless specifically exempt, for the payment of PTT when they: acquire a registered interest in a property; gain a greater registered interest in a property; or, become a registered holder of a lease, a life estate or a right to purchase that is registered against a property.

You have provided the following documents in support of your request for a PTT ruling:

- Lease Agreement between _____ and _____ dated _____

The documentation provided indicates that the transfer of the Property from _____ to _____ is a taxable transaction which will be exempt from PTT.

The transfer of the leasehold interest, if completed in the manner described in this advance tax ruling, will be eligible for an exemption from PTT under section 14(4)(u) of the PTTA. Eligibility under this section requires that the corporation that held title or registered rights to use or occupy the property continue doing so as the amalgamated company. The predecessor corporations that held title or registered rights to use or occupy the property must continue into the amalgamated corporation and all of the property, interests, rights and liabilities of the predecessor corporations must become those of the amalgamated corporation.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you or your clients are accurate and

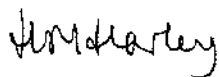
complete. In the event the PTTA is amended with respect to such transactions, and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advance tax ruling has been provided may be subject to review by the Administrator. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the PTT return submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance web site at www.gov.bc.ca/fin or by calling us in Victoria at **250-387-0604**, or outside of Victoria by calling our toll-free Enquiry BC number at **1-800-663-7867** and requesting a transfer to **387-0604**, or email your questions to **PTTENQ@gov.bc.ca**.

Yours truly,



Hilary Harley
Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance



February 19, 2015

Re: Property Transfer Tax Advance Ruling

Dear

I am responding to your request of February 13, 2015 for an advance property transfer tax ruling on behalf of your clients,

We received payment for this ruling on February 19, 2015.

I. BACKGROUND

I understand the facts are as follows:

1. The two properties in question are legally described as:

("the Lands ")

2. The Lands are currently registered in the Land Title Office ("LTO") in the names of
3. In _____ were to be incorporated in the province of BC to allow the purchase of assets and undertakings of _____ **("the Purchased Business")** from _____ The purchase included the lands on which the business operated and which were owned by _____

4. The Closing Date of the transaction was set for _____ The parties entered into an Asset Purchase Agreement in _____ It was in the Asset Purchase Agreement, that _____ was granted the right to assign its rights acquired under the agreement in whole or in part, to any other person or persons. Pursuant to this entitlement, on _____ prior to the closing date, _____ entered into an Assignment Agreement with _____ in which all the rights and interest with respect to the prospective bought Lands were assigned to _____
5. On the closing date, _____ and _____ entered into a Lease Agreement for the Lands, and _____ is identified as the "Landlord", where _____ as the "Tenant".
6. You have also provided a copy of correspondence dated _____ that confirms the parties' intention, prior even to incorporation, to have the assets split between _____ and _____ with _____ becoming the owner of the Lands purchased from _____. As further evidence of intention, you forwarded a draft balance sheet of _____ as of October 31, 2014, which shows the Lands as being owned by the _____
7. You have mentioned that the Lease Agreements between the parties will never be registered.
8. In order to correct the error, you are proposing that _____ will transfer their interest in the Lands to _____ such that _____ will hold fee simple interest, as originally intended.
9. Our records indicate that when the transfer to _____ was registered in _____ PTT in the amount of _____ and _____ was paid, based on a declared fair market value of _____ and _____ respectively .

II. RULING REQUEST

You are requesting a ruling regarding the application of PTT to the proposed transfer.

III. RULING

The proposed transfer is a "correcting transaction" as defined in section 3.1(1) of the PTTA. The PTT that was paid by your clients when the "original transaction" was registered in the LTO on _____ will be **applied to the correcting transaction**. If the PTT paid on the original transaction is not correct, a Notice of Assessment will be issued for the additional PTT due, or a refund will be issued.

IV. LEGISLATION AND ANALYSIS

Legislation

Under the *Property Transfer Tax Act* ("PTTA"), all transfers are taxable transactions, unless specifically exempt. Under section 2 of the PTTA, the tax is due at the time an application to

register a taxable transaction is made at the LTO and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax.

Section 14(4)(t) of the PTTA provides that if a taxable transaction entitled the transferee, on compliance with the *Land Title Act*, to registration in a Land Title Office, that transferee is exempt from payment of PTT if the transfer is for the purpose of reconveying land that was either:

- Transferred in error, or
- In respect of which an error was made in the description or survey under which title to the land was registered.

Therefore an exemption from PTT is only available under this provision for a transfer that, as a step toward correcting a conveyancing error, returns title back to the state in which it existed immediately before the erroneous transfer was made (i.e., the property is transferred back to the original owner).

Section 3.1 of the PTTA applies to tax payable on the registration of a correcting transaction. A **“correcting transaction”** is defined in section 3.1(1) of the PTTA as “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”.

Section 3.1(1) defines **“original transaction”** as “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”.

Section 3.1(3) of the PTTA provides that when a correcting transaction is registered, the amount of PTT paid by the transferee in respect of the original transaction is deemed to be tax paid by that person for the correcting transaction. The PTT is deemed to have been paid by the transferee on the date the correcting transaction is registered. This means that if PTT has already been paid on the original transaction, it will be applied to the correcting transaction.

Under section 18 of the PTTA, the administrator may make a determination of the fair market value or tax owing and, if it is determined that the correct amount of tax was not paid in respect of the original transaction, a Notice of Assessment will be issued indicating the PTT owing or overpaid.

For the purposes of a correcting transaction, section 3.1(2) of the PTTA provides that the fair market value of a correcting transaction is deemed to be the fair market value of the property as declared at the time the original transaction was registered.

Analysis

Based on the facts as you have stated them and the documents you have provided, it appears that the _____ transfer to _____ was made in error since the wrong ownership was registered. Section 14(4)(t) is not applicable in this case since you are not proposing a transfer that would return title back to the state in which it existed immediately before the erroneous transfer was made (i.e., you are not proposing that the property is transferred back to the individuals that were the owners of the Lands immediately before the registration).

Section 3.1 of the PTTA applies in this case. The transfer is an "original transaction" as defined in section 3.1(1) of the PTTA. The proposed transfer of Lands from s.21 to is a "correcting transaction" as defined in section 3.1(1) of the PTTA, which is a taxable transaction for which no exemption is available. However, while this transfer will not be exempt from PTT, our records indicate that PTT was remitted in respect to the original transaction. Pursuant to section 3.1(3) of the PTTA, this amount will be **applied to the correcting transaction** and tax will be deemed to have been paid by your clients at the date of registration of the original transaction.

Upon registration of the correcting transaction in the LTO, you must file a General PTT Return and attach a copy of this ruling to the return. However, **do not remit the tax** since the tax paid on the original transaction will be applied to the correcting transaction. If the PTT paid on the original transaction is not correct, a Notice of Assessment will be issued.

Alternatively, if you submit the application for registration electronically, please include the reference number of this ruling on the electronic tax return. For instructions on completing the electronic form, please refer to the Ministry of Finance Tax Bulletin "PTT 011". Please note that, since you have obtained a ruling, you will not need to include the attachments listed in the Tax Bulletin.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you or your clients are accurate and complete. In the event the PTTA or PTT Regulation are amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT, provided the transactions are completed in the manner described in the advance tax ruling request. After registration, the transactions for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Additional information may be obtained by accessing the Ministry of Finance Website at **www.gov.bc.ca/fin/** or by calling us in Victoria at **250-387-0604** or outside of Victoria by our toll free Enquiry BC number at **1 800 663 7867** and requesting a transfer to **387-0604** or email your questions to **PTTENQ@gov.bc.ca**.

Yours truly,

Hilary Harley
Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance



April 24, 2015

Re: Property Transfer Tax Advance Ruling

Dear

I am responding to your correspondence of April 2, 2015, requesting an advance property transfer tax ("PTT") ruling on behalf of your clients,

("the Six Owners"). We received payment for
this ruling on April 24, 2015.

I. BACKGROUND

I understand the facts are as follows:

1. The Property in question is legally described as:

("the missed PID")

2. Lot _____ of the Property is currently registered in the Land Title Office ("LTO") into the names of _____
("the Current Four Owners").

3. In _____ the "Six Owners" purchased the Property. The Contract of Purchase and Sale was for the Property that was supposed to include both _____
The Contract was not properly drafted and it indicated solely in one instance, i.e., in the heading of the Contract of Purchase and Sale Addendum that both _____
are part of the purchase price.

4. When the transfer was registered at the LTO on _____, the Form A transferred solely _____ and its correspondent PID. Title to the Property was registered in the names of the "Six Owners" as joint tenants. At the time of registration the fair market value of _____ was declared and the amount of _____ was paid in PTT.
5. In _____ was transferred from the "Six Owners" to the "Current Four Owners" and an exemption for the transfer of principal residence under the *Property Transfer Tax Act (PTTA)* was applied for. The Current Four Owners received this exemption.
6. You have recently discovered that the _____ was not registered on title, an error that dates back to _____ which stayed with the owners since then.
7. You are proposing to add the missed _____ and the corresponding PID on title into the name of the "Current Four Owners".

II. RULING REQUEST

You are requesting a ruling regarding the application of PTT to the proposed transfer.

III. RULING

The proposed transfer is a "correcting transaction" as defined in section 3.1(1) of the PTTA. The PTT, paid by your clients when the original transaction was registered in the LTO on _____ will be applied to the correcting transaction. If the PTT paid on the original transaction is not correct, a Notice of Assessment will be issued for the additional PTT due, or a refund will be issued.

IV. LEGISLATION AND ANALYSIS

Legislation

Under the *PTTA* all transfers are taxable transactions, unless specifically exempt. Under section 2 of the *PTTA*, the tax is due at the time an application to register a taxable transaction is made at the LTO and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax.

Section 14(4)(t) of the *PTTA* provides that if a taxable transaction entitled the transferee, on compliance with the *Land Title Act*, to registration in a Land Title Office, that transferee is exempt from payment of PTT if the transfer is for the purpose of reconveying land that was either:

- Transferred in error, or
- In respect of which an error was made in the description or survey under which title to the land was registered.

Therefore an exemption from PTT is only available under this provision for a transfer that, as a step toward correcting a conveyancing error, returns title back to the state in which it existed immediately before the erroneous transfer was made (i.e., the property is transferred back to the original owner).

Section 3.1 of the *PTTA* applies to tax payable on the registration of a correcting transaction. A

“correcting transaction” is defined in section 3.1(1) of the *PTTA* as “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”.

Section 3.1(1) defines **“original transaction”** as “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”.

Section 3.1(3) of the *PTTA* provides that when a correcting transaction is registered, the amount of PTT paid by the transferee in respect of the original transaction is deemed to be tax paid by that person for the correcting transaction. The PTT is deemed to have been paid by the transferee on the date the correcting transaction is registered. This means that if PTT has already been paid on the original transaction, it will be applied to the correcting transaction.

Under section 18 of the *PTTA*, the Administrator may make a determination of the fair market value or tax owing and, if it is determined that the correct amount of tax was not paid in respect of the original transaction, a Notice of Assessment will be issued indicating the PTT owing or overpaid.

For the purposes of a correcting transaction, section 3.1(2) of the *PTTA* provides that the fair market value of a correcting transaction is deemed to be the fair market value of the property as declared at the time the original transaction was registered.

Analysis

Based on the facts as you have stated them and the documents you have provided, it appears that the _____ included in the purchase price also the value of the _____ particularly because the existent improvement straddled the lots. Section 14(4)(t) is not applicable in this case since you are not proposing a transfer that would return title back to the state in which it existed immediately before the erroneous transfer was made (i.e., you are not proposing that the property is transferred back to the individuals that were the owners of the Property immediately before the _____ registration).

Section 3.1 of the *PTTA* applies in this case. The _____ transfer is an “original transaction” as defined in section 3.1(1) of the *PTTA*. The proposed transfer of adding the _____ on title is a “correcting transaction” as defined in section 3.1(1) of the *PTTA*, which is a taxable transaction for which no exemption is available. However, while this transfer will not be exempt from PTT, our records indicate that PTT in the amount of _____ was paid by the Six Owners in respect of the original transaction in _____. Pursuant to section 3.1(3) of the *PTTA*, this amount will be **applied to the correcting transaction** and tax will be deemed to have been paid by your clients at the date of registration of the original transaction.

To clarify the application of the PTT, we are advising you to add the missed lot into the names of the Current Four Owners, which themselves are deemed to have paid the tax at the time they transferred the Property into their names in _____.

Upon registration of the correcting transaction at the LTO, you must file a General PTT Return and attach a copy of this ruling to the return. However, **do not remit the tax** since the tax paid on the original transaction from s.22 _____ will be applied to the correcting transaction. If the PTT paid on the original transaction is not correct, a Notice of Assessment will be issued.

Alternatively, if you submit the application for registration electronically, please include the reference number of this ruling on the electronic tax return. For instructions on completing the

Ministry of Finance

Property Taxation Branch
1802 Douglas Street- 4th floor
Victoria, BC V8T 4K6
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FAX: 250 953 - 3094

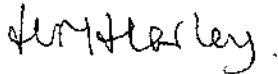
electronic form, please refer to the Ministry of Finance Tax Bulletin "PTT 011". Please note that, since you have obtained a ruling, you will not need to include the attachments listed in the Tax Bulletin.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you or your clients are accurate and complete. In the event the *PTTA* or *PTT Regulation* are amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Additional information may be obtained by accessing the Ministry of Finance and Revenue Web site at www.gov.bc.ca/fin/ or by calling us in Victoria at **250-387-3328** or outside of Victoria by our toll free Enquiry BC number at **1 800 663 7867** and requesting a transfer to **387-3328** or email your questions to **PTTENQ@gov.bc.ca**.

Yours truly,



Hilary Harley
Director, Audit and Compliance
Property Taxation Branch Ministry of Finance



May 27, 2015

Re: Property Transfer Tax Advance Ruling

Dear

I am responding to your letter dated April 14, 2015 requesting a ruling with respect to exemption from property transfer tax ("PTT") under the *Property Transfer Tax Act* ("PTTA") for transfers proposed by your clients, . We received payment for this ruling on May 25, 2015.

I. BACKGROUND

I understand the facts of your request are as follows:

1. The property to be transferred (the "Property") is located in and is currently owned by (the "Corporation"); It is legally described as:
2. You are proposing to transfer the Property to
 - a. as to an undivided 8/10th interest and
 - b. as to an undivided 2/10th interest.
3. You have provided information regarding the Corporation from the Central Securities Register, a statement of farming activities and financial statements. You have confirmed

4. The information you have provided from BC Assessment indicates that the Property is comprised of _____ acres, and there is no residential improvement on the land. You have confirmed there are no leases on the land.
5. You have advised that the Property is currently being used to grow _____ and BC Assessment search shows that the previous use of the land was for _____
6. You have indicated that the Property is being farmed by _____
do activities such as: _____
You have indicated that there aren't any non-farming activities conducted on the land.
7. All the parties involved in the transfer are related Canadian individuals.

II. RULING REQUEST

You are requesting a ruling with respect to PTT exemptions for the proposed transaction.

III. RULING

It is my ruling that the proposed transfer **is not exempt from PTT**.

IV. LEGISLATION AND ANALYSIS

A. Legislation and Analysis

PTT is due at the time an application to register a taxable transaction is made at the Land Title Office, and is based on the fair market value (FMV) of the land or interest in land transferred. The transferee is subject to the tax. Under the PTTA, all transfers are taxable transactions unless specifically exempt.

Sections 1(1) and 14(1) of the PTTA define "related individual" to mean a Canadian citizen or permanent resident as defined in the Immigration and Refugee Protection Act (Canada), who is:

- A person's spouse, child, grandchild, great-grandchild, parent, grandparent or great-grandparent, the spouse of a person's child, grandchild or great-grandchild, or
- The child, parent, grandparent or great-grandparent of a person's spouse.

Section 14(1) defines "family member" to mean a Canadian citizen or permanent resident as defined in the Immigration and Refugee Protection Act (Canada), who is:

- A related individual;
- A person's sibling, cousin, niece, nephew, aunt or uncle;
- The spouse of a person's sibling, cousin, niece, nephew, aunt or uncle, or
- The sibling, cousin, niece, nephew, aunt or uncle of a person's spouse.

The same section defines the term "family farm" to mean 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" is defined in section 14(1) as a corporation of which

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

Section 14(3)(g) of the PTTA provides an exemption for the transfer of a family farm from a transferor that is a family farm corporation to a transferee, provided that the following criteria are met:

1. The **land transferred** has to be classified under the *Assessment Act* as farm land and must be a "**family farm**" as defined in section 14(1) of the PTTA. "Family farm" means farm land that is **used, owned** and **farmed** by one individual or by family members, or is **used, owned** and **farmed** by a family farm corporation.
2. The **transferor** must be a "**family farm corporation**" as defined in section 14(1) of the PTTA. "
3. The **transferee** must be the **sole shareholder** of the family farm corporation, or the transferee must have one of the following **relationships with each other person who is a shareholder** of the family farm corporation:
 - a. Transferee is a related individual of that shareholder;
 - b. Transferee is a sibling of that shareholder;
 - c. Transferee is a sibling of a spouse of that shareholder; or
 - d. Transferee is a spouse of a sibling of that shareholder.

Based solely upon the information you have provided, it appears that the legislative requirements for PTT exemption in respect to the proposed transfer **have not been met**. Although the Property is farm land which is used, and farmed by family members, the farm is owned by a corporation which does not meet the family farm corporation definition. is not a family farm corporation as defined in the PTTA because there are shareholders who are corporations.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you are accurate and complete. If upon auditing, facts are found to be different, the proposed transaction might not be PTT exempt.

In the event the PTTA is amended with respect to such transactions, and the proposed transfer is not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration of the transfers for which this advance tax ruling has been provided, the Administrator may review the transactions. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the PTT return submitted with the application for registration at the Land Title Office. Alternatively, if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance website and reviewing Tax Bulletin PTT 008 entitled "Exemptions for Transfers to and from a Family Farm Corporation" at:

http://www.sbr.gov.bc.ca/documents_library/bulletins/PTT_009.pdf

You may also call us in Victoria at **250-387-0604** or outside of Victoria by calling our toll-free Enquiry BC number at **1-800-663-7867** and requesting a transfer to 387-0604. You can also e-mail us your questions to **PTTENQ@gov.bc.ca**.

Yours truly,

Hilary Harley
Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance



Re: Property Transfer Tax Advance Ruling

Dear

I am responding to your correspondence of July 6, 2015, requesting an advance property transfer tax ("PTT") ruling on behalf of your clients,

We received payment for this ruling on July 14, 2015.

I. BACKGROUND

I understand the facts are as follows:

1. The Property in question is legally described as:

2. In purchased the above mentioned property which initially was to be registered into their personal names. At the time the papers were drafted the purchasers instructed the legal representative to register the property into the name of their Company.

Since the law office acted in previous transactions on behalf of the purchasers, they assumed that the company in question was

The purchasers were vague in pronouncing the name of the intended transferee to be registered on title; the purchasers did not reiterate the intention and the similarity in the name of their two companies led to the error in registration. The company the purchasers were referring to in their instructions was of which are sole shareholders. The registration error was not signaled until the purchasers of the property received a letter from the Municipality under the name of which was not meant to be the owner of the new property.

3. In a subsequent review of the error, the purchasers sent proof of their intention. One such document is the bank receipt for payment for the property made from the account registered in the name of the company Furthermore, in addition to has other shareholders, and these were not involved in the transaction.

This very fact is indicative of the fact that the property was acquired solely by the sole shareholders of This is confirmed by the proof that the Statement of Adjustment and the Purchase Contract was solely negotiated and signed by

4. You are proposing to **correct the error and transfer the property into the name of the intended company, namely**

II. RULING REQUEST

You are requesting a ruling regarding the application of PTT to the proposed transfer.

III. RULING

The proposed transfer is a "correcting transaction" as defined in section 3.1(1) of the PTTA. The PTT, paid by your clients when the original transaction was registered in the LTO will be **applied to the correcting transaction**. If the PTT paid on the original transaction is not correct, a Notice of Assessment will be issued for the additional PTT due, or a refund will be issued.

IV. LEGISLATION AND ANALYSIS

Legislation

Under the *PTTA* all transfers are taxable transactions, unless specifically exempt. Under section 2 of the *PTTA*, the tax is due at the time an application to register a taxable transaction is made at the LTO and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax.

Section 14(4)(t) of the *PTTA* provides that if a taxable transaction entitled the transferee, on compliance with the *Land Title Act*, to registration in a land title office, that transferee is exempt from payment of PTT if the transfer is for the purpose of reconveying land that was either:

- Transferred in error, or
- In respect of which an error was made in the description or survey under which title to the land was registered.

Therefore an exemption from PTT is only available under this provision for a transfer that, as a step toward correcting a conveyancing error, returns title back to the state in which it existed immediately before the erroneous transfer was made (i.e., the property is transferred back to the original owner).

Section 3.1 of the PTTA applies to tax payable on the registration of a correcting transaction. A "**correcting transaction**" is defined in section 3.1(1) of the PTTA as "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".

Section 3.1(1) defines "**original transaction**" as "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".

Section 3.1(3) of the *PTTA* provides that when a correcting transaction is registered, the amount of PTT paid by the transferee in respect of the original transaction is deemed to be tax paid by that person for the correcting transaction. The PTT is deemed to have been paid by the transferee on the date the correcting transaction is registered. This means that if PTT has already been paid on the original transaction, it will be applied to the correcting transaction.

Under section 18 of the *PTTA*, the Administrator may make a determination of the fair market value or tax owing and, if it is determined that the correct amount of tax was not paid in respect of the original transaction, a Notice of Assessment will be issued indicating the PTT owing or overpaid.

For the purposes of a correcting transaction, section 3.1(2) of the *PTTA* provides that the fair market value of a correcting transaction is deemed to be the fair market value of the property as declared at the time the original transaction was registered.

Analysis

Based on the facts as you have stated them and the documents you have provided, it appears that the _____ transaction was erroneously registered in the name of the _____

Section 14(4)(t) is not applicable in this case since you are not proposing a transfer that would return title back to the state in which it existed immediately before the erroneous transfer was made (i.e., you are not proposing that the property is transferred back to the individuals that were the owners of the Property immediately before the _____ purchasing transaction).

Section 3.1 of the *PTTA* applies in this case. The _____ transfer is an "original transaction" as defined in section 3.1(1) of the *PTTA*. The proposed transfer of registering the title in the name of the intended transferee, _____ is a "correcting transaction" as defined in section 3.1(1) of the *PTTA*, which is a taxable transaction for which no exemption is available. However, while this transfer will not be exempt from PTT, our records indicate that PTT was paid in respect of the original transaction. Pursuant to section 3.1(3) of the *PTTA*, this amount will be **applied to the correcting transaction** and tax will be deemed to have been paid by your clients at the date of registration of the original transaction.

Upon registration of the correcting transaction at the LTO, you must file a General PTT Return and attach a copy of this ruling to the return. However, **do not remit the tax** since the tax paid on the original transaction will be applied to the correcting transaction. If the PTT paid on the original transaction is not correct, a Notice of Assessment will be issued.

Alternatively, if you submit the application for registration electronically, please include the reference number of this ruling on the electronic tax return. For instructions on completing the electronic form, please refer to the Ministry of Finance Tax Bulletin "PTT 011". Please note that, since you have obtained a ruling, you will not need to include the attachments listed in the Tax Bulletin.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you or your clients are accurate and complete. In the event the *PTTA* or *PTT Regulation* are amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Additional information may be obtained by accessing the Ministry of Finance and Revenue Web site at www.gov.bc.ca/fin/ or by calling us in Victoria at **250-387-3328** or outside of Victoria by our toll free Enquiry BC number at **1 800 663 7867** and requesting a transfer to **387-3328** or email your questions to **PTTENQ@gov.bc.ca**.

Yours truly,

Hilary Harley
Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance



March 23, 2016

Re: Property Transfer Tax Ruling

I am responding to your letter dated September 2015 requesting a ruling with respect to exemption from property transfer tax ("PTT") under the *Property Transfer Tax Act* ("PTTA") for transfers proposed by your client. We received the information required to complete the ATR and the payment for this ruling on March 2, 2016.

I. BACKGROUND

I understand the facts of your request as follows:

1. The property, which has farm status granted by BC Assessment and is farmed by _____ is legally described as:

("the Property")

2. The property is owned by the _____ ("the corporation") which was registered extraprovincially under the *Business Corporation Act* in British Columbia on _____ under the number _____.
3. _____ is the sole shareholder of the corporation; the director of the corporation is _____. Both _____ are involved in the farming activities and the operation of the farm and they both live on the property. You have submitted an explanation letter in which you noted that the management of the farming operations and the farming has been done through the corporation. You have also indicated that the corporation has done several farm related investments and continues to do that in order to develop the land further and expand in the farm activities.
4. The income statement you submitted show minimal income resulting from farming but prove to a certain extent the future intention for a more extensive farming, therefore conservatively speaking qualifying the corporation as "farm corporation" for PTT purposes.
5. _____ are Canadian citizens and are related individual, their relationship being that of father and son.

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6. In order to be able to obtain more financing you propose to transfer the title of the property from _____ to the main shareholder,

II. RULING REQUEST

You are requesting a ruling with respect to the PTT application to the proposed transactions.

III. RULING

It is my ruling that based on the evidence submitted the proposed transfer is likely exempt from PTT.

IV. LEGISLATION AND ANALYSIS

A. Legislation

Section 1(1) of the PTTA defines "taxable transaction" as a transaction:

- (a) purporting to transfer or grant, by any method including 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* [...]

Section 14 of the PTTA provides exemptions for certain transfers, provided that all of the criteria as described in each section and subsection are strictly met.

Sections 1(1) and 14(1) of the PTTA define "related individual" to mean a Canadian citizen or permanent resident as defined in the *Immigration and Refugee Protection Act* (Canada), who is:

- A person's spouse, child, grandchild, great-grandchild, parent, grandparent or great-grandparent, the spouse of a person's child, grandchild or great-grandchild, or
- The child, parent, grandparent or great-grandparent of a person's spouse.

Section 14(1) defines the term "family farm" to mean 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 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;

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- (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;

Section 14(3) of the PTTA states:

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

- (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;

B. Analysis

PTT is a registration tax, payable by the transferee, when a taxable transaction is registered at the Land Title Office (LTO). The transferee is responsible, unless specifically exempt, for the payment of PTT when they acquire a registered interest in a property, gain a greater registered interest in a property or become a registered holder of a lease, a life estate or a right to purchase that is registered against a property.

As per the documentation submitted, and based on sections 14(1) and 14(3)(g) of the PTTA, the transfer of the farm land from the corporation to the current sole shareholder of the corporation, will likely be exempt from PTT.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you or your clients are accurate and complete. In the event the PTTA or PTT Regulation are amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT, provided the transactions are completed in the manner described in the advanced tax ruling request.

After registration, the transactions for which this advance tax ruling has been provided may be subject to review by the Administrator. Information provided for this ruling will be verified against

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the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the PTT return submitted with the application for registration at the LTO, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance web site at www.gov.bc.ca/fin or by calling us in Victoria at 250-387-0604, or outside of Victoria by our toll free Enquiry BC number at 1-800-663-7867 and requesting a transfer to 387-0604, or email your questions to PTTENQ@gov.bc.ca.

Yours truly,

Hilary Harley
Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance

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March 4, 2016

Re: Property Transfer Tax Ruling

Dear

I am responding to your letter dated January 19, 2016 requesting a ruling with respect to exemption from property transfer tax ("PTT") under the *Property Transfer Tax Act* ("PTTA") for transfers proposed by your clients,
We received payment for this ruling on March 2, 2016.

I. BACKGROUND

I understand the facts of your request as follows:

1. The two properties to be transferred are located on _____
_____ is the Executor of the Estate of _____ deceased for the property
identified as Lot A;

_____ is the registered owner of Lot B;

2. You are proposing to execute two transfers of Lot A
a. From _____ as Executor to _____ as
beneficiary of the Estate.
b. From _____ to _____ and
_____ as joint tenants.

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You are also proposing to transfer Lot B from _____ to _____
and _____ as joint tenants.

3. For Lot A, you have provided a statement of assets, liabilities and distributions for the deceased, _____. You have also provided the last will testament and affidavit establishing the deceased's son, _____ as the Executor and beneficiary of the Estate. At the time of death of _____ Lot A was classed residential property and not farm land. You have indicated that at that time Lot A was used by the deceased as their principal residence; the will attests to that fact as well. There was no farm activity performed on that parcel at the time the deceased used and owned the property and prior to his death.
4. For Lot A, BC Assessment indicates that the property is comprised of _____ acres with residential improvements on the land. You have confirmed there are no leases on the land.
5. For Lot B, BC Assessment indicates that the property is comprised of _____ acres with residential improvements on the land. You have confirmed there are no leases on the land.
6. Both Lot A and Lot B are currently classified as farm land under the Assessment Act, based on the 2016 BC Assessment. You have advised that both Lot A and Lot B are currently being used to _____

Lot A and Lot B are being farmed by _____
temporary pickers are hired in the summer months.
7. All the parties involved in the transfer are related Canadian individuals.

II. RULING REQUEST

You are requesting a ruling with respect to PTT application for the proposed transactions.

III. RULING

It is my ruling that the first proposed transfer for Lot A is **partially exempt from PTT**. The second transfer for Lot A **will be exempt from PTT**.

Additionally, it is my ruling that the proposed transfer for Lot B **will be exempt from PTT**.

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IV. LEGISLATION AND ANALYSIS

A. Legislation

Section 1(1) of the PTTA defines “taxable transaction” as a transaction:

- (a) purporting to transfer or grant, by any method including 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*, ...

Section 14 of the PTTA provides exemptions for certain transfers, provided that all of the criteria as described in each section and subsection are strictly met.

Section 14(3) of the PTTA states:

If a taxable transaction entitles the transferee, on compliance with the *Land Title Act*, to registration in a land title office, the 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...

[...]

- (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;

Sections 1(1) and 14(1) of the PTTA define “related individual” to mean a Canadian citizen or permanent resident as defined in the *Immigration and Refugee Protection Act* (Canada), who is:

- A person's spouse, child, grandchild, great-grandchild, parent, grandparent or great-grandparent, the spouse of a person's child, grandchild or great-grandchild, or
- The child, parent, grandparent or great-grandparent of a person's spouse.

Section 14(1) defines “family member” to mean a Canadian citizen or permanent resident as defined in the *Immigration and Refugee Protection Act* (Canada), who is:

- A related individual;

- A person's sibling, cousin, niece, nephew, aunt or uncle;
- The spouse of a person's sibling, cousin, niece, nephew, aunt or uncle, or
- The sibling, cousin, niece, nephew, aunt or uncle of a person's spouse.

Section 14(1) defines the term "family farm" to mean 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 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;

Section 14(1) defines the term "principal residence" to mean 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

B. Analysis

PTT is a registration tax, payable by the transferee, when a taxable transaction is registered at the Land Title Office (LTO). The transferee is responsible, unless specifically exempt, for the payment of PTT when they acquire a registered interest in a property, gain a greater registered interest in a property or become a registered holder of a lease, a life estate or a right to purchase that is registered against a property.

As per the documentation submitted, the transfer of Lot A, the Estate of deceased, to the beneficiary, is a taxable transaction which will be partially exempt from PTT. Based on section 14(1) and 14(3)(c) of the PTTA, 0.5 ha of Lot A will be exempt. The PTT on the excess land will be calculated **based on the fair market value at the time of registration in accordance with the property class, as indicated by BC Assessment, at the time of death of**, i.e., residential.

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The transfer of Lot A from _____ as sole owner, to _____ and _____ as joint tenants, is a taxable transaction which will be exempt from PTT under section 14(3)(a)(i).

The transfer of Lot B from _____ as sole owner, to _____ and _____ as joint tenants, is a taxable transaction which will be exempt from PTT under section 14(3)(a)(i).

The proposed transfers seem to satisfy the PTT exemption requirement that the family farm must be transferred to related individuals.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you or your clients are accurate and complete. In the event the PTTA or PTT Regulation are amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT, provided the transactions are completed in the manner described in the advanced tax ruling request.

After registration, the transactions for which this advance tax ruling has been provided may be subject to review by the Administrator. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the PTT return submitted with the application for registration at the LTO, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance web site at www.gov.bc.ca/fin or by calling us in Victoria at 250-387-0604, or outside of Victoria by our toll free Enquiry BC number at 1-800-663-7867 and requesting a transfer to 387-0604, or email your questions to PTTENQ@gov.bc.ca.

Yours truly,

Hilary Harley
Director, Audit and Compliance
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May 4, 2016

Re: Property Transfer Tax Ruling

Dear

I am responding to your letter dated April 4, 2016 requesting a ruling with respect to exemption from property transfer tax ("PTT") under the *Property Transfer Tax Act* ("PTTA") for transfers proposed by your clients, _____ and _____.

We received payment for this ruling on April 19, 2016.

I. BACKGROUND

I understand the facts of your request as follows:

1. The two properties to be transferred are located in _____ BC.
_____ are each the legal and beneficial owner of an undivided one-half interest
in the following two adjacent properties:

2. _____ have agreed to subdivide current Lot 1 and Lot 2 into two new lots having the legal descriptions:

3. Following the subdivision, you are proposing to transfer the entire legal and beneficial interest in New Lot 1 to You are also proposing to transfer the entire legal and beneficial interest in New Lot 2 to
4. Both Lot 1 and Lot 2 are located within the Agricultural Land Reserve, and were owned and operated together as a farm by the previous owner. Both and operate separate agricultural businesses.
5. You have indicated that and jointly acquired Lot 1 and Lot 2 with the intention of subdividing the lots in order to create two new parcels, each lot owned entirely by and by New Lot 1 and New Lot 2 would allow each of owners to carry on their respective agricultural businesses in accordance with their original intentions.

II. RULING REQUEST

You are requesting a ruling with respect to PTT application. The current section 14(3)(j) provides an exemption solely for the subdivision of a **single original parcel**. This has been explained also in phone conversations you had with the Property Transfer Tax office. Thus, I will not explain further the application of this current section as you agreed that it is less likely it will apply to your clients' scenario.

Nonetheless, we have also indicated that the current PTTA provisions 14(4)(k)-(k.1), although more expensive for your clients to structure, offer a potential exemption for the PTT should all the criteria outlined in the legislation are met.

III. RULING

It is my ruling that the transfers, if done under section 14(3)(j) are not exempt from PTT. Should the transfers be executed following the conditions in section 14(4)(k)-(k.1), an exemption applies provided there is no increase in the proportionate share in the fair market value post-subdivision as compared to the proportionate share in the fair market value pre-subdivision for each of the two owners. Should there be an increase in proportionate share post-subdivision, tax will be calculated and payable as outlined in sections 3 (3.3)-(3.5) of the PTTA.



IV. LEGISLATION AND ANALYSIS

A. Legislation and Analysis

PTT is a registration tax, payable by the transferee, when a taxable transaction is registered at the Land Title Office. The transferee is responsible, unless specifically exempt, for the payment of PTT when they acquire a registered interest in a property, gain a greater registered interest in a property or become a registered holder of a lease, a life estate or a right to purchase that is registered against a property.

Section 1(1) of the PTTA defines "taxable transaction" as a transaction:

- (a) purporting to transfer or grant, by any method including 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*, ...

Section 14(3) of the PTTA states:

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

- (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;

Section 14(4) states that:

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:

- (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;

If the current owners, _____ will use a trustee to facilitate the subdivision and their proportionate interest in the fair market value of the newly created lots, is not greater than their proportionate share of the fair market value of the original parcels, the PTT exemption requirements are met; hence an exemption of PTT applies.

Nonetheless, it is our understanding that the properties are within the Agricultural Land Reserve. If the properties cannot be consolidated into a single parcel in order to be subdivided to create New Lot 1 and New Lot 2 the transfers do not qualify for a PTT exemption under the current PTTA subdivision provisions.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you or your clients are accurate and complete. In the event the PTTA or PTT Regulation are amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT, provided the transactions are completed in the manner described in the advanced tax ruling request.

After registration, the transactions for which this advance tax ruling has been provided may be subject to review by the Administrator. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the property tax return submitted with the application for registration at the LTO, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

**Ministry of
Finance**

Property Transfer Tax Office
Property Taxation Branch
Revenue Programs Division

Mailing Address
PO Box 9427 Stn Prov Govt
Victoria BC V8W 9V1

Telephone: 250 387-0604
Facsimile: 250 953-3094
Website: www.sbr.gov.bc.ca



Additional information may be obtained by accessing the Ministry of Finance web site at www.gov.bc.ca/fin or by calling us in Victoria at 250-387-0604, or outside of Victoria by our toll free Enquiry BC number at 1-800-663-7867 and requesting a transfer to 387-0604, or email your questions to PTTENQ@gov.bc.ca.

Yours truly,

Hilary Harley
Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance



July 23, 2014

Re: Property Transfer Tax Advance Ruling

Dear

I am responding to your letter dated April 29, 2014, requesting a ruling as to whether or not property transfer tax (PTT) would be payable on the transactions proposed by your client. We confirm receipt of the full payment for the ruling on May 8, 2014.

I. BACKGROUND

I understand the facts of your request are as follows:

1. The properties (the "Property") to be transferred are legally described as:

2. (the "Settlor") created the Alter Ego Trust (the "Trust"),
dated , and registered with the Land Title Office (LTO) under

3. All the property contributed to the Trust was contributed by the Settlor and the Settlor is the settlor of the Trust for purposes of the *Property Transfer Tax Act* (PTTA).

4. The original trust agreement was amended and the Trust terms as amended were restated in the Restated Trust Agreement, dated (the "Restated Trust Agreement"), and registered with the LTO under The amendments did not directly or indirectly change the beneficiaries of the Trust. was appointed as the trustee of the Trust, registered with the LTO under This did not result in a change in the beneficiaries of the Trust.

5. The Settlor died on _____ A separate document (the _____ Deed"), which forms part of the "Restated Trust Agreement" states, that on the 180th day after the Settlor's death, the Trustee is to divide the then assets of the Trust into separate fixed interest subtrusts for the children and grandchildren of the Settlor.
6. As per the _____ Deed" each of the two subtrusts that hold the Property, that are currently registered in the name of the Trustee of the Trust, will be registered with the LTO as a notation on title pursuant to s. 180 (10) (b) of the *Land Title Act*.
7. The subtrust that holds PID _____ will be registered as the _____
The subtrust that holds PID _____ will be registered as the _____
8. The notation on title to be registered with the LTO, for each of the two properties, will consist of the Trustee's Statutory Declaration (as per draft provided) attached to the Land Title and Survey Authority Form 17 (Fee Simple). The beneficiaries and the terms of the Trust will not change, as a consequence of or in relation to, the proposed registration of the notation on title with the LTO.

II. RULING REQUEST

You are requesting a ruling as to whether the proposed registration with the LTO of a notation on title for the two separate subtrusts, that hold the Property in the Trust, will be exempt from PTT based on the facts as per above.

III. RULING

It is my ruling that the proposed registration with the LTO, of a notation on title for the separate subtrusts that hold the Property in the Trust, **is not a taxable transaction under the PTTA**.

IV. LEGISLATION AND ANALYSIS

A. Legislation

PTT is due at the time an application to register a taxable transaction is made at the LTO and is based on the fair market value of the land or interest in the land transferred. The transferee is subject to the tax. Under the PTTA all transfers are taxable transactions unless specifically exempt.

Section 1(1) of the PTTA defines "taxable transaction" as 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*, ..."

Section 14 of the PTTA provides exemptions for certain transfers, provided that all of the criteria as described in each section and subsection are strictly met.

B. Analysis

PTT is a registration tax, payable by the transferee, when a taxable transaction is registered at the LTO. The transferee is responsible, unless specifically exempt, for the payment of PTT when they: acquire a registered interest in a property; gain a greater registered interest in a property; or, become a registered holder of a lease, a life estate or a right to purchase that is registered against a property.

As per the facts presented, there will be no tax payable for the proposed transaction: the registration with the LTO of a notation on title for two separate subtrusts (each holding property) that form part of the Trust. There will be no changes in beneficiaries as a result of the proposed transaction, the trustee will remain the same, and there will be no modifications to the terms of the trust or to the powers of the trustee. For administrative purposes only please submit a PTT Return and claim exemption code 00.

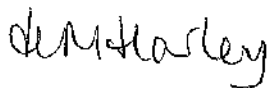
This ruling is issued for the purposes of this transaction only, and with the understanding that all of the facts provided by you or your clients are accurate and complete. In the event the PTTA or PTT Regulation are amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the property transfer tax return submitted with the application for registration at the LTO, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance web site at www.gov.bc.ca/fin or by calling us in Victoria at 250-387-0604 or outside of Victoria by our toll free Enquiry BC number at 1-800-663-7867 and requesting a transfer to 387-0604, or email your questions to PTTENQ@gov.bc.ca.

Yours truly,



Hillary Harley
Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance



August 8, 2014

Re: Property Transfer Tax Advance Ruling

Dear

I am responding to your letter dated July 3, 2014, requesting a ruling as to whether or not property transfer tax (PTT) would be payable on the transaction proposed by your client. We confirm receipt of the full payment for the ruling on July 14, 2014.

I. BACKGROUND

I understand the facts of your request are as follows:

1. The property (the "Property") to be transferred is legally described as:
2. The Property is currently registered in the name of _____ a Canadian citizen.
3. _____ is the executor of the estate of the deceased, his wife
4. _____ is the sole beneficiary of the property.
5. The property has been assessed as farm/residential land under the Assessment Act, based on the 2014 BC Assessment.
6. The property is farmed solely by the deceased's brother,
7. The property is used solely for the production of crops: _____ and as the primary residence of _____ There are no other business activities occurring on the property.
8. There are no leases (registered or unregistered) on the property between _____ the deceased or any third party.

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9. There are no trusts on the property.

10. The Executor proposes to transfer the property from the estate to the name of the sole beneficiary,

II. RULING REQUEST

You are requesting a ruling as to whether the proposed transfer of the property to the name of the sole beneficiary, will be exempt from PTT based on the facts as per above.

III. RULING

It is my ruling that the proposed transfer of the property in the estate of the deceased, from the name of _____ as executor, to the name of _____ as the sole beneficiary, **will be exempt from PTT.**

IV. LEGISLATION AND ANALYSIS

A. Legislation

PTT is due at the time an application to register a taxable transaction is made at the Land Title Office, and is based on the fair market value (fmv) of the land or interest in the land transferred. The transferee is subject to the tax. Under the *Property Transfer Tax Act* (PTTA) all transfers are taxable transactions unless specifically exempt.

Section 1(1) of the PTTA defines "taxable transaction" as 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, ...*

Section 14 of the PTTA provides exemptions for certain transfers, provided that all of the criteria as described in each section and subsection are strictly met.

Section 14 (3) (c.2) provides an exemption for 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."

Section 1 (1) of the PTTA, includes "a person's spouse" in the definition of related individual.

Family farm is defined in section 14 (1) of the PTTA as 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; ...

A family member is defined in section 14 (1) of the PTTA as: "a Canadian citizen or a permanent resident, as defined in the *Immigration and Refugee Protection Act* (Canada), 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.

B. Analysis

PTT is a registration tax, payable by the transferee, when a taxable transaction is registered at the Land Title Office. The transferee is responsible, unless specifically exempt, for the payment of PTT when they: acquire a registered interest in a property; gain a greater registered interest in a property; or, become a registered holder of a lease, a life estate or a right to purchase that is registered against a property.

As per the facts presented, the transfer of the Property from (spouse of the deceased and executor of her estate) to himself, as the sole beneficiary of the Property, will be exempt from PTT.

The Property is: classified under the *Assessment Act* as farm /residential land; a family farm on which the farm land is "used, owned and farmed by one individual or by family members"; and, is used solely for the production of crops.

Immediately before the deceased's death, the Property (owned by the deceased), was used and farmed by a family member (her brother). There are no leases (registered or unregistered) on the property between the deceased or any third party. There are no trusts on the property, and no business activities other than the production of crops.

You have provided a copy of _____ Statement of Farming Activities from his income tax return filed with the Canada Revenue Agency. You have advised that _____ is the only one who farms the land, and that _____ is the only resident on the Property.

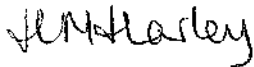
This ruling is issued for the purposes of this transaction only, and with the understanding that all of the facts provided by you or your clients are accurate and complete. In the event the PTTA or PTT Regulation are amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the property transfer tax return submitted with the application for registration at the LTO, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance web site at www.gov.bc.ca/fin or by calling us in Victoria at 250-387-0604 or outside of Victoria by our toll free Enquiry BC number at 1-800-663-7867 and requesting a transfer to 387-0604, or email your questions to PTTENQ@gov.bc.ca.

Yours truly,



Hilary Harley
Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance



August 13, 2014.

Re: Property Transfer Tax Advance Ruling

Dear

I am responding to your email dated July 7, 2014, requesting an advance tax ruling on the application of the property transfer tax ("PTT") for transfers proposed by your clients, and Thank you for the payment in full for this ruling, which we received on July 18, 2014.

I. BACKGROUND

I understand the facts of your request are as follows:

1. The properties in question (the "Property") are adjacent parcels of land located in the BC and are legally described as follows:
2. Lot 9 is currently registered in the names of _____ and _____ as joint tenants.
3. Lot 10 is currently registered in the names of _____ and _____ as joint tenants.
4. The first proposed transaction would be to apply to the Registrar of Land Titles to transfer the titles to Lot 9 and Lot 10 to _____, who will act as trustee

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for and in the consolidation and subsequent subdivision of the
lots. will be registered as a trustee under the *Land Title Act*
(LTA).

5. The second proposed transaction would be to apply to the Registrar of Land Titles to consolidate Lots 9 and 10 into one title, in the name of as trustee.
6. In the third proposed transaction acting as trustee, will file a strata plan for the subdivision of the consolidated lot into five strata lots.
7. In the fourth proposed transaction will, once the five strata lots have been created, apply to the Registrar of Land Titles to transfer the titles of the lots back to and in proportion to the fair market value of their original lot ownership.

II. RULING REQUEST

You are requesting a ruling as to whether the proposed transfers of the Property to the trustee the consolidation of the two lots into one, the subdivision of the Property into five strata lots, and the subsequent transfers back to and will be exempt from property transfer tax (PTT).

III. RULING

It is my ruling that the first proposed transfer, of Lot 9 and Lot 10 to (acting as trustee), **will be exempt from PTT** because the transfer will be for the purpose of the subdivision plan being filed with the Land Title Office.

The second proposed transfer, to consolidate Lots 9 and 10 into one title prior to the subdivision of the lot into five strata lots, **will be exempt from PTT** because the transfer will be for the purpose of the subdivision plan being filed with the Land Title Office.

The third proposed transaction, of a subdivision plan from (acting as trustee) **will be exempt from PTT** because the transfer will be for the purpose of the subdivision plan being filed with the Land Title Office.

The fourth proposed transfer from (acting as trustee), of the five subdivided lots to and will be **exempt from PTT** provided that the proportionate share of the fair market value of the property immediately following the transfer back to and does not exceed their proportionate shares of the fair market value of the original lots, calculated immediately before the subdivision.

IV. LEGISLATION AND ANALYSIS

Legislation

PTT is due at the time an application to register a taxable transaction is made at the Land Title Office, and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax. Under the *Property Transfer Tax Act* ("PTTA") all transfers are taxable transactions unless specifically exempt.

Section 14 of the PTТА provides exemptions for certain transfers, provided that all of the criteria as described in each section and subsection are strictly met.

Section 14(4)(k) provides a PTT exemption for the transfer to a trustee (registered as such under the LTA) of adjacent parcels of land held by two or more registered owners in order to complete a subdivision plan, and for the transfer of all the parcels created under the plan, back to the original owners after registration of the plan of subdivision.

Section 14(4)(k.1) provides a PTT exemption for the transfer from the trustee back to the original owners, after filing of the subdivision plan. This latter exemption only applies if the original owners' proportionate shares of the fair market value of the new parcels created by the subdivision, calculated immediately after the subdivision, are not greater than their proportionate shares of the fair market value of the original parcels, calculated immediately before the subdivision.

Section 18 (6.2) of the PTТА requires that where an exemption has been applied for under section 14 (4) (k) or (k.1), a notice of assessment must be issued by the Administrator of the PTT (Administrator) within 24 months after the date of the last of the transfers to the trustee to facilitate the subdivision. As per section 18 (3) of the PTТА, the notice of assessment must state the following:

- the determination of the fair market value made by the Administrator,
- the total amount of tax payable,
- the amount of tax paid (if any),
- the balance owing or overpaid, and
- the date of the notice of assessment.

Section 23.1 (1) of the PTТА provides that 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.

Analysis

With respect to the transfer of Lot 9 and Lot 10 to the trustee, the criteria for exemption under section 14(4)(k) of the PTТА will be met and the transfer of the Property from _____ and _____ to _____ acting as trustee, will be exempt from

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PTT. This will be the case, as long as: is registered under the LTA as a trustee; adjacent parcels are being transferred to as trustee to facilitate their subdivision; and, all of the new parcels created by the subdivision are transferred back to the original owners from the trustee after the subdivision plan is registered.

Part 7, Division 2 of the LTA sets out the requirements with respect to the subdivision of land. If the Registrar of Land Titles accepts that the proposed transaction meets the requirements of the LTA, and the plan of subdivision is registered, a subsequent transfer of the Property from the trustee, back to the original owners will also be eligible for a PTT exemption under section 14(4)(k.1). This will be the case as long as neither of the original owners receives a greater proportionate share of the fair market value of the Property than they had in the original parcels. If this is not the case, they will not be eligible for the PTT exemption and PTT will be payable by them based on their increase in the proportionate share of fair market value. This would be calculated in accordance with section 3(3.4) of the PTTA.

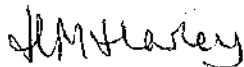
This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided by you or your clients are accurate and complete. In the event the PTTA is amended with respect to such transactions, and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advance tax ruling has been provided may be subject to review by the Administrator. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the PTT return submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance web site at www.gov.bc.ca/fin or by calling us in Victoria at 250-387-0604, or outside of Victoria by calling our toll-free Enquiry BC number at 1-800-663-7867 and requesting a transfer to 387-0604, or email your questions to PTTENQ@gov.bc.ca.

Yours truly,



Hilary Harley
Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance

Ministry of Finance

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Page 4 of 4



November 25, 2014

Re: Property Transfer Tax Advance Ruling #1311

Dear

I am responding to your letter dated September 4, 2014 requesting a ruling as to whether or not property transfer tax (PTT) would be payable on the transaction proposed by your client. We confirm receipt of the full payment for the ruling on October 10, 2014.

I. BACKGROUND

I understand the facts of your request are as follows:

1. The property (the "Property") to be transferred is legally described as:

2. The Property was owned solely by _____ until her death on _____
Mrs. Gerke resided on the property (as the only resident) for a continuous period of at least six months prior to her death. She was a Canadian citizen.

3. The Property is currently registered in the name of _____ a
Canadian citizen. _____ is the executor of the estate of the deceased.

4. The beneficiaries of the estate are _____ children:
a. They are all Canadian citizens.

5. The property has been assessed as farm/residential land under the Assessment Act, based on the 2014 BC Assessment.

6. The property is farmed solely by _____ operates _____ A
 retail operation, _____ were amalgamated on _____ the
 amalgamated company continues under the name of _____
7. Prior to her death, _____ was the sole shareholder of the companies. All of the shares
 in the amalgamated company _____ now form part of her estate. As executor of
 estate, _____ holds all shares of _____ on behalf of the beneficiaries.
8. The property is used solely for:
 _____ There are no other business
 activities occurring on the land and/or improvements. The operations _____ were
 previously conducted by _____ and her late husband. They are currently undertaken
 by _____ son,
9. Prior to the amalgamation of the two companies _____ leased the property from
 and later from her estate, for annual rent payments of _____ and _____ for an annual rent
 payment of _____ There are no lease agreements. The rents are now being charged to
 the amalgamated company:
10. There are no trusts on the property.
11. The Executor proposes to transfer the property from the estate to the names of the
 beneficiaries:

II. RULING REQUEST

You are requesting a ruling as to whether the proposed transfer of the property to the names of the beneficiaries will be exempt from PTT, based on the facts as per above.

III. RULING

It is my ruling that the proposed transfer of the property in the estate of the deceased from the name of _____ as executor, to the names of the beneficiaries
will be exempt from PTT.

IV. LEGISLATION AND ANALYSIS

A. Legislation

PTT is due at the time an application to register a taxable transaction is made at the Land Title Office, and is based on the fair market value (fmv) of the land or interest in the land transferred. The transferee is subject to the tax. Under the *Property Transfer Tax Act* (PTTA) all transfers are taxable transactions unless specifically exempt.

Section 1(1) of the PTTA defines "taxable transaction" as 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, ...

Section 14 of the PTTA provides exemptions for certain transfers, provided that all of the criteria as described in each section and subsection are strictly met.

Section 14 (3) (c.2) provides an exemption for 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.

Section 1 (1) of the PTTA, includes "a person's child" in the definition of related individual.

Family farm is defined in section 14 (1) of the PTTA as 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. ...

Farm land is defined in section 14 (1) of the PTTA as: "land classified under the Assessment Act as farm land".

A family member is defined in section 14 (1) of the PTTA as: "a Canadian citizen or a permanent resident, as defined in the *Immigration and Refugee Protection Act (Canada)*, 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.

B. Analysis

PTT is a registration tax, payable by the transferee, when a taxable transaction is registered at the Land Title Office. The transferee is responsible, unless specifically exempt, for the payment of PTT when they: acquire a registered interest in a property; gain a greater registered interest in a property; or, become a registered holder of a lease, a life estate or a right to purchase that is registered against a property.

You have provided the following in support of your request for a PTT ruling:

- Land Title Survey Authority report identifying _____ as the executor and registered owner of the Property;
- copy of _____ will;
- copy of _____ 2013 financial statement;
- copy of _____ financial statement (ending July 31, 2014);
- copy of 2013 personal tax return filed by the executor for the estate of _____;
- copy of Central Securities Register for _____ (Oct 1, 2014);
- BCA 2013 Assessment Roll Report for the Property.

As per the documentation presented the transfer of the Property from _____ (executor of the estate) to the beneficiaries of the Property, is a taxable transaction which will be exempt from PTT.

Immediately before her death _____ owned the Property (her family farm) which she used and farmed, along with her son, through a family farm corporation. The Property is classified as farm land, as per the *Assessment Act*. At the time of her death she owned 100% of the issued shares of the corporation.

You have advised that two unregistered leases on the property exist: one between _____ and _____ and one between _____ and _____ and that there are no lease agreements. _____ were amalgamated on _____ the amalgamated company continues under the name of _____. There are no trusts on the property, and no business activities other than the production and sale of crops.

The proposed transfer of the Property, from the executor to the beneficiaries of the estate (_____, children), would satisfy the PTT exemption requirement that the family farm must be transferred to related individuals of the deceased, a sibling of the deceased, or a spouse of a sibling of the deceased.

This ruling is issued for the purposes of this transaction only, and with the understanding that all of the facts provided by you or your clients are accurate and complete. In the event the PTTA or



December 12, 2014

Re: Property Transfer Tax Advance Ruling

Dear

I am responding to your letter dated October 16, 2014 requesting a ruling as to whether property transfer tax (PTT) would be payable on the transaction proposed by your client. We confirm receipt of the full payment for the ruling on November 13, 2014.

I. BACKGROUND

I understand the facts of your request are as follows:

1. The properties (the "Property") to be transferred are legally described as:

2. _____ registered land owners) have farmed on _____ property in _____ for many decades. They have farmed and owned the above-described properties as a partnership.
3. On _____ the assets of the partnership were transferred to a family farm corporation that has been using the Property in its farming operations since that time. The shareholders are: _____ shareholders). All six individuals are Canadian citizens.
4. When the assets of the partnership were transferred to _____, the Property was not transferred to the family farm corporation, but instead became the subject of an unregistered trust agreement (the "Trust"), dated _____.
5. As per the terms of the Trust, the _____ registered land owners are holding the Property in trust for _____, which has been using the Property in farming operations since _____.
6. The property has been assessed as farm/residential land under the Assessment Act, based on 2014 BC Assessment Notices.
7. The Property is farmed and managed by the _____ shareholders. They all reside on the Property.
8. The Property is used for the production of: _____.
9. _____ The Property, nor any part of it, is used for purposes other than residential and/or farming. There are no improvements on the Property being rented for residential use.
9. There are no lease agreements (either registered or unregistered) on the Property or for the improvements on the Property, or for the management of the farm.
10. There are no trusts on the property, other than the unregistered trust which holds the Property.

II. RULING REQUEST

You are requesting a ruling as to whether the proposed transfer of the Property, from the registered land owners, to the name of _____ (a family farm corporation), will be exempt from PTT, based on the facts as per above.

III. RULING

It is my ruling that the proposed transfer of the Property from the _____ registered land owners (being held in the Trust), to _____ **will be exempt from PTT.**

IV. LEGISLATION AND ANALYSIS

A. Legislation

PTT is due at the time an application to register a taxable transaction is made at the Land Title Office, and is based on the fair market value (fmv) of the land or interest in the land transferred. The transferee is subject to the tax. Under the *Property Transfer Tax Act* (PTTA) all transfers are taxable transactions unless specifically exempt.

Section 1(1) of the PTTA defines "taxable transaction" as 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, ...*

Section 14 of the PTTA provides exemptions for certain transfers, provided that all of the criteria as described in each section and subsection are strictly met.

Section 14 (3) (f) provides an exemption for 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;*

Family farm is defined in section 14 (1) of the PTTA as 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,*

Farm land is defined in section 14 (1) of the PTTA as: "land classified under the Assessment Act as farm land".

A family member is defined in section 14 (1) of the PTTA, as: "a Canadian citizen or a permanent resident, as defined in the *Immigration and Refugee Protection Act* (Canada), 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.

A family farm corporation as defined in section 14(1) of the PTTA, "means a corporation of which the principal activity is farming farm land, and no shareholder is a corporation."

A related individual is defined in sections 1(1) and 14(1) of the PTTA, as: "a Canadian citizen or permanent resident as defined in the *Immigration and Refugee Protection Act* (Canada), who is:

- (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.

B. Analysis

PTT is a registration tax, payable by the transferee, when a taxable transaction is registered at the Land Title Office (LTO). The transferee is responsible, unless specifically exempt, for the payment of PTT when they: acquire a registered interest in a property; gain a greater registered interest in a property; or, become a registered holder of a lease, a life estate or a right to purchase that is registered against a property.

You have provided the following in support of your request for a PTT ruling:

- copy of current Central Securities Register;
- copy of unregistered Trust Agreement (dated _____ between _____ and _____)
- copy of _____ financial statement (for year ending July 31, 2014);
- copies of Canada Revenue Agency T4 statements (2013) for remuneration paid from _____ to: _____

As per the documentation presented the transfer of the Property from the Quist registered land owners (held in the Trust), is a taxable transaction which will be exempt from PTT.

You have advised that _____ is a family farm corporation that uses the Property in its operations as a family farm. The _____ shareholders (all family members) are the only shareholders. None of the shareholders is a corporation. All six individuals are Canadian citizens that reside on the Property. The Property is classed as farm land by BC Assessment, and is used, owned and farmed by a family farm corporation.

The shareholders farm and manage the Property. No part of the Property is used for purposes other than residential and/or farming. There are no improvements on the Property being rented for residential use.

There are no lease agreements (either registered or unregistered), on the Property or the improvements, for the operation and management of the farm. There are no trusts on the Property, other than the unregistered trust which holds the Property.

The proposed transfer of the Property, from the trust held by the registered land owners to (the transferee), would satisfy the PTT exemption requirements as per section 14 (3) (f) of the PTTA.

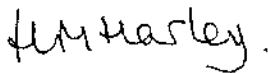
This ruling is issued for the purposes of this transaction only, and with the understanding that all of the facts provided by you or your clients are accurate and complete. In the event the PTTA or PTT Regulation are amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advance tax ruling has been provided may be subject to review by the Administrator. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the property transfer tax return submitted with the application for registration at the LTO, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance web site at www.gov.bc.ca/fin or by calling us in Victoria at **250-387-0604**, or outside of Victoria by our toll free Enquiry BC number at **1-800-663-7867** and requesting a transfer to **387-0604**, or email your questions to PTTENQ@gov.bc.ca.

Yours truly,



Hilary Harley
Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance



March 3, 2015

Re: Property Transfer Tax Advance Ruling

Dear

I am responding to your letter dated December 22, 2014 requesting a ruling as to whether property transfer tax (PTT) would be payable on the transactions proposed by your client. We confirm receipt of the full payment for the ruling on February 4, 2015.

I. BACKGROUND

I understand the facts of your request are as follows:

1. The properties (the "Property") to be transferred are legally described as:

The Property is registered in the names of _____ with each holding an undivided $\frac{1}{2}$ interest.

2. The proposed transactions would be to apply to the Registrar of Land Titles to transfer:
 - the undivided $\frac{1}{2}$ interest of _____ in PID _____ to _____ and his spouse,
 - the undivided $\frac{1}{2}$ interest of _____ in PID _____ to _____ and his spouse,

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FAX: 250 953 - 3094

- the undivided ½ interest of _____ in PID _____ to _____ and his spouse,
 - and the undivided ½ interest of _____ in PID _____ to _____ and his spouse,
3. The Property has been assessed as farm/residential land under the Assessment Act, based on the 2014 BC Assessment.
 4. The Property is farmed solely by _____ (the "Company"). The shareholders of the company are:
 5. The Property is farmed and managed by the shareholders with the assistance of their children. All are Canadian citizens.
 6. The Property is used for the production of _____.
The Property, nor any part of it, is used for purposes other than residential and/or farming. There are two residences on the Property, one which is used solely to house seasonal farm workers, the other which is either rented out or used to house farm employees.
 7. There are no trusts on the Property or on the Company. The Company leases the Property from the current owners: _____. There is no written lease agreement between the owners of the Property and the Company.

II. RULING REQUEST

You are requesting a ruling as to whether the proposed transfer of the Property from the names of _____ each holding an undivided ½ interest, to the names of _____ and _____ will be exempt from PTT based on the facts above.

III. RULING

It is my ruling that the proposed transfer of the Property **will be exempt from PTT.**

IV. LEGISLATION AND ANALYSIS

A. Legislation

PTT is due at the time an application to register a taxable transaction is made at the Land Title Office, and is based on the fair market value (fmv) of the land or interest in the land transferred. The transferee is subject to the tax. Under the *Property Transfer Tax Act* (the Act) all transfers are taxable transactions unless specifically exempt.

Section 1(1) of the Act defines "taxable transaction" as 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, ...*

Section 14 of the Act provides exemptions for certain transfers, provided that all of the criteria as described in each section and subsection are strictly met.

Section 14(3) of the Act states:

"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".*

Section 1(1) and 14(1) of the Act define "related individual" to mean a Canadian citizen or permanent resident as defined in the *Immigration and Refugee Protection Act* (Canada), who is:

- a person's spouse, child, grandchild, great-grandchild, parent, grandparent or great-grandparent, the spouse of a person's child, grandchild or great-grandchild, or
- the child, parent, grandparent or great-grandparent of a person's spouse.

Family farm is defined in section 14 (1) of the Act as 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.

Farm land is defined in section 14(1) of the Act as: "land classified under the Assessment Act as farm land."

Family farm corporation is defined in section 14(1) of the Act as: "*a corporation of which*

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

B. Analysis

PTT is a registration tax, payable by the transferee, when a taxable transaction is registered at the Land Title Office. The transferee is responsible, unless specifically exempt, for the payment of PTT when they: acquire a registered interest in a property; gain a greater registered interest in a property; or, become a registered holder of a lease, a life estate or a right to purchase that is registered against a property.

As per the documentation presented, the transfer of the Property from the ownership of _____, is a taxable transaction which will be exempt from PTT.

You have advised that the Company leases the Property from the current owners and that the shareholders of the Company are actively engaged in running the farming operations undertaken on the Property. There is no written lease agreement between the owners of the Property and the Company. There are no trusts on the property, and no business activities other than the production and sale of crops.

The proposed transfer of the Property, from the current owners, to include the names of _____ would satisfy the PTT exemption requirement that the family farm must be transferred to a related individual, and/or a sibling or a spouse of a sibling.

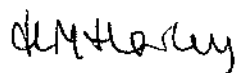
This ruling is issued for the purposes of this transaction only, and with the understanding that all of the facts provided by you or your clients are accurate and complete. In the event the PTTA or PTT Regulation are amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advance tax ruling has been provided may be subject to review by the Administrator. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the property transfer tax return submitted with the application for registration at the LTO, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance web site at www.gov.bc.ca/fin or by calling us in Victoria at **250-387-0604**, or outside of Victoria by our toll free Enquiry BC number at **1-800-663-7867** and requesting a transfer to **387-0604**, or email your questions to **PTTENQ@gov.bc.ca**.

Yours truly,



Hilary Harley
Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance



March 3, 2015

Re: Property Transfer Tax Advance Ruling

Dear

I am responding to your letter dated December 18, 2014 requesting a ruling as to whether property transfer tax (PTT) would be payable on the transaction proposed by your client. We confirm receipt of the full payment for the ruling on February 4, 2015.

1. BACKGROUND

I understand the facts of your request are as follows:

1. The property (the "Property") to be transferred is legally described as:
2. The proposed transaction would be to apply to the Registrar of Land Titles to transfer the title to the Property from _____ as sole owner, to _____ and his spouse, _____ as joint tenants.
3. The Property has been assessed as farm/residential land under the Assessment Act, based on the 2014 BC Assessment.
4. The Property is farmed solely by _____ (the "Company"). The shareholders of the Company are _____
5. The Property is farmed and managed by the shareholders with the assistance of their children. All are Canadian citizens.
6. The Property which has previously produced _____ is currently growing _____. The Property, nor any part of it, is used for _____

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FAX: 250 953 - 3094

purposes other than residential and/or farming. There is a residence on the Property which is occasionally rented out, or used to house farm employees.

7. There are no trusts on the Property or on the Company. The Company leases the Property from the current owner, _____ There is no written lease agreement between the owner of the Property and the Company.

II. RULING REQUEST

You are requesting a ruling as to whether the proposed transfer of the Property from the name of _____ as sole owner, to the names of _____ in joint ownership, will be exempt from PTT based on the facts above.

III. RULING

It is my ruling that the proposed transfer of the Property **will be exempt from PTT.**

IV. LEGISLATION AND ANALYSIS

A. Legislation

PTT is due at the time an application to register a taxable transaction is made at the Land Title Office, and is based on the fair market value (fmv) of the land or interest in the land transferred. The transferee is subject to the tax. Under the *Property Transfer Tax Act* (the Act) all transfers are taxable transactions unless specifically exempt.

Section 1(1) of the Act defines "taxable transaction" as 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, ...*

Section 14 of the Act provides exemptions for certain transfers, provided that all of the criteria as described in each section and subsection are strictly met.

Section 14(3) of the Act states:

"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".*

Section 1(1) and 14(1) of the Act define "related individual" to mean a Canadian citizen or permanent resident as defined in the *Immigration and Refugee Protection Act* (Canada), who is:

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Victoria, BC V8T 4K6
PH: 250 387 - 3328
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- a person's spouse, child, grandchild, great-grandchild, parent, grandparent or great-grandparent, the spouse of a person's child, grandchild or great-grandchild, or
- the child, parent, grandparent or great-grandparent of a person's spouse.

Family farm is defined in section 14 (1) of the Act as 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.

Farm land is defined in section 14(1) of the Act as: "land classified under the Assessment Act as farm land."

Family farm corporation is defined in section 14(1) of the Act as: "*a corporation of which*

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

B. Analysis

PTT is a registration tax, payable by the transferee, when a taxable transaction is registered at the Land Title Office. The transferee is responsible, unless specifically exempt, for the payment of PTT when they: acquire a registered interest in a property; gain a greater registered interest in a property; or, become a registered holder of a lease, a life estate or a right to purchase that is registered against a property.

As per the documentation presented, the transfer of the Property from _____ as sole owner, to _____ as joint tenants, is a taxable transaction which will be exempt from PTT.

You have advised that the Company leases the Property from the current owner and that the shareholders of the Company, _____ are actively engaged in running the farming operations undertaken on the Property. There is no written lease agreement between the owners of the Property and the Company. There are no trusts on the Property, and no business activities other than the production and sale of crops.

The proposed transfer of the Property from the current owner _____ to the joint ownership of _____ and his spouse, _____ would satisfy the PTT exemption requirement that the family farm must be transferred to related individuals.

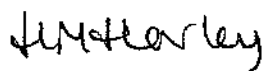
This ruling is issued for the purposes of this transaction only, and with the understanding that all of the facts provided by you or your clients are accurate and complete. In the event the PTTA or PTT Regulation are amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advance tax ruling has been provided may be subject to review by the Administrator. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the property transfer tax return submitted with the application for registration at the LTO, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance web site at www.gov.bc.ca/fin or by calling us in Victoria at **250-387-0604**, or outside of Victoria by our toll free Enquiry BC number at **1-800-663-7867** and requesting a transfer to **387-0604**, or email your questions to **PTTENQ@gov.bc.ca**.

Yours truly,



Hilary Harley
Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance



May 17, 2016

Re: Property Transfer Tax Advance Ruling

Dear

I am responding to your letter of March 3, 2016 requesting an advance tax ruling ("ATR") on the application of the property transfer tax ("PTT") for transfers proposed by your clients, in regards to the adjustments to the common property of a strata corporation. We have received the payment for the request in April 2016.

I. BACKGROUND

I understand the facts of your request are as follows:

1. You are proposing a boundary adjustments in order to facilitate the discontinuance of a two-phase strata plan and adjust the common boundaries around the already existing strata building. The property is located in

During the Phase 1 of the development apartment like strata lots were developed into a single building, while phase 2 envisioned the development of a further apartment strata lots on the remainder lands which are still owned by the developer,

Phase 2 never commenced, and in order to discontinue it, the following process steps are proposed:

3. It is my understanding that the current strata owners are following a cumbersome process under the *Strata Property Act* under certain sections in order to facilitate the boundary adjustments and reconfigure the common property and create the new lot D as per the sketches provided.

The proposed transactions are as following:

II. RULING REQUEST

You are requesting a ruling as to whether the proposed transfers (referenced in the sections above) are exempt from PTT or how the PTT would apply to their registration.

III. RULING

The purpose of an Advance Tax Ruling is to determine the application of tax pursuant to the interpretation of the sections in the *Property Transfer Tax Act*. Should the proposed transfers involve the application of another Provincial statute, we cannot comment under what sections or how one should structure transactions to facilitate an exemption under the PTTA. Hence, it is my ruling that the proposed transfers should they be structured under the current subdivision provisions of the PTTA (described below), and should these transfers strictly meet all the requirements of both the sections of the PTTA and the *Strata Property Act*, then some of the proposed transfers could be exempt from PTT.

This ruling is not binding as there is uncertainty at what point there will be increases in the proportionate share of the fair market value in the titles held by the strata owners. Below you will find a description of how PTTA operates and based on your submission and our current understanding of the facts, we provide advice as to whether we think PTT applies. We cannot comment though on the fair market value and the amount of tax owed at any stage of registration of the proposed transactions. The transactions will be reviewed after registration and the determination about whether the correct fair market value and the correct amount of tax owed has been paid, will be done then; to assist you though I offered my best assumptions of whether tax is payable on the proposed transactions.

IV. LEGISLATION AND ANALYSIS

Legislation

PTT is due at the time an application to register a taxable transaction is made at the LTO, and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax. Under the *Property Transfer Tax Act* ("PTTA"), all transfers are taxable transactions unless specifically exempt.

Section 14 of the PTTA provides exemptions for certain transfers, provided that all of the criteria described in each section and subsection are strictly met.

Section 14(3)(j) provides a PTT exemption for the transfer of the smaller parcels created post subdivision of the "original parcel" to the transferee/s of all of, or a registered ownership interest in, one or more of those smaller parcels. To be exempt, the transferee needs to have been one of the registered owners of the original parcel immediately before its subdivision. This latter exemption only applies if the original owners' proportionate share of the fair market value of the new parcels created by the subdivision, calculated immediately after the subdivision, is not

greater than their proportionate share of the fair market value of the original parcels, calculated immediately before the subdivision.

Section 14(4)(k) provides an exemption from PTT when a registered trustee is used to facilitate the boundary readjustment/subdivision of 2 or more adjacent parcels ("original parcels"). This section exempts the transfer of the parcels from their registered owners ("original owners") to the registered trustee, if the trustee is used to facilitate the subdivision of the original parcels and upon completion of the subdivision, the trustee transfers the newly created parcels under the subdivision to the original owners or to any one or more of them. The transfers from the trustee to the original owners are exempt under section 14(4)(k.1), provided that there is no increase in the owner's proportionate share in the fair market value of the parcels created under the subdivision, calculated using the fair market values as they were immediately after the subdivision, compared to the 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.

Section 14(3)(p.2) provides a PTT exemption for the transfers under section 275 of the *Strata Property Act* of land that was shown on a strata plan cancelled under that section.

Section 14(3)(p.3) provides a PTT exemption for the transfers that facilitate an amendment to the strata plan. The amendment should strictly follow the rules under the provisions of Division 1 of Part 15 of the *Strata Property Act*, or 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.

Analysis

As per the evidence submitted we can only assume that the criteria for the exemptions explained above under the current sections of the PTTA will be met by your clients at some point, but it is unclear at what stage of readjustment the criteria are met to claim the exemptions.

It appears that because of the readjustments within the strata plan, there would be a gain on part of the strata owners in the newly amended common property, hence PTT will be payable as per the criteria set out in section (3.21) of the PTTA.

We apply caution (nonbinding) in confirming whether PTT applies or not to each stage of the boundary adjustment process, and based on the information we have we rule:

This ruling is issued for the purposes of the proposed transactions only, and with the understanding that all of the facts provided by you are accurate and complete. If upon auditing, facts are found to be different, the proposed transactions might not be PTT exempt.

In the event the PTTA is amended with respect to such transactions, and the proposed transfer is not registered before the amendment, this ruling will be null and void. As noted above, after registration of the transfer for which this advance tax ruling has been provided, the Administrator may review the transaction. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the PTT return submitted with the application for registration at the Land Title Office. Alternatively, if you submit the application for registration electronically, please include the reference number in section G3 of the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance web site and reviewing Tax Bulletin PTT 009 entitled "Exemptions for Transfers in the Course of Subdivisions" at http://www.sbr.gov.bc.ca/documents_library/bulletins/PTT_006.pdf or by calling us in Victoria at **250-387-0604** or outside of Victoria by calling our toll-free Enquiry BC number at **1-800-663-7867** and requesting a transfer to 387-0604.

You can also e-mail us your questions to **PTTENQ@gov.bc.ca**.

Yours truly,

Hilary Harley
Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance

March 8, 2006

Dear

RE:
Property Transfer Tax Advance Tax Ruling

I am responding to your letter dated February 24, 2006, requesting an advance tax ruling. Receipt of your payment of \$96.30, reflecting the cost for the provision of this ruling, is acknowledged.

This request is made with respect to the property at
Columbia, legally described as

British

I understand the facts regarding this request to be as follows:

1. is the fee simple owner of the Property.
2. would like to transfer fee simple ownership of the Property to
3. is a registered charity under the *Income Tax Act*;
- 4.
5. is currently leasing the Property and upon transfer of the ownership will continue using the property as its primary headquarters;
6. The Property includes

Your request is for a ruling that the transfer of property from _____ to _____ will be eligible for an exemption from property transfer tax under s. 14(4)(b) of the *Property Transfer Tax Act* (the Act).

Property transfer tax is due at the time an application to register a taxable transaction is made at the Land Title Office. The tax is due on the fair market value of the land or interest in land transferred. However, a number of exemptions are available under the Act.

Section 14(4)(b) provides an exemption for a transfer of land or an interest in land 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.

As the _____ is a registered charity under the *Income Tax Act* (Canada) and _____ constitutes a charitable purpose, it is my ruling that the proposed transfer to _____ will qualify for the exemption provided in section 14(4)(b).

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided in your letter dated February 24, 2006 are accurate and complete.

In the event the Act is amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator, Property Transfer Tax, provided the transactions are completed in the manner described in the advance tax ruling request.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

If you have any questions on the above, please contact me at (250) 356-5340.

Yours truly,

Kevin Gudgeon
A/Manager, Policy and Legislation

January 24, 2006

Dear

RE: - Property Transfer Tax Advance Tax Ruling

I am responding to your letter dated November 29, 2005, requesting an advance tax ruling. Receipt of your payment of \$96.30, reflecting the cost for the provision of this ruling, is acknowledged.

This request is made with respect to the property legally described as:

I understand the facts regarding this request to be as follows:

1. The property is currently registered to _____ in Trust (the Trust).
2. The property was acquired on _____ after the Trust was established.
3. All of the assets used towards purchasing the property were contributed by _____
4. _____ is also a beneficiary of the Trust.
5. The Trust will soon be dissolved and the assets of the Trust will be distributed to the beneficiary.
6. The property is comprised of _____ hectares.
7. Part of the property contains the principal residence of _____ and the remaining part of the property is classified as farm land.
8. The portion of the property that is classified as farm land has been leased to a farmer.

Your request is for a ruling that the transfer of the property from the _____ Trust to _____ as the settlor and beneficiary of the Trust, will be exempt from property transfer tax, pursuant to s. 14(3)(d) and s. 14(3)(d.2) of the *Property Transfer Tax Act* (the Act).

Property transfer tax is due at the time an application to register a taxable transaction is made at the Land Title Office. The tax is due on the fair market value of the land or interest in land transferred. The Act provides a number of exemptions from the tax.

Section 14(3)(d) of the Act provides an exemption where the transfer is from a transferor who is a trustee, registered in that capacity under the *Land Title Act*, of a trust that is settled during the lifetime of the settlor if the transferee is a beneficiary of the trust; the transferee beneficiary is a related individual of the settlor of the trust; and, 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.

Section 14(3)(d.2) of the Act provides a similar exemption, where the transfer is from a transferor who is a trustee, registered in that capacity under the *Land Title Act*, of a trust that is settled during the lifetime of the settlor if the transferee is a beneficiary of the trust; the transferee beneficiary is a related individual of the settlor of the trust; and, the land transferred is a family farm.

Section 14(1) of the Act defines "family farm" as farm land that is used, owned and farmed by one individual or by family members. Based on the facts provided, the portion of the Property that is classified as farm land is currently being leased to a farmer. Therefore, the Property is not a family farm for the purpose of the Act.

"Settlor" is defined under s. 14(1) of the Act as the person who contributed to the trust estate either the land or the assets used to acquire the land, regardless of whether or not that person created the trust. As indicated in your letter, _____ contributed all of the assets required to purchase the Property and is therefore the settlor for the purpose of the Act.

In order to qualify for the exemptions under s. 14(3)(d) and s. 14(3)(d.2), the transferee beneficiary must be a related individual of the settlor of the trust. Section 14(1) of the Act defines "related individual" as a related individual who is a Canadian Citizen or Permanent Resident as defined in the *Immigration and Refugee Protection Act* (Canada). Under the definition of "related individual", a person is not a related individual to themselves.

Accordingly it is my ruling that, if upon dissolution of the Trust, registered fee simple interest in the property is transferred to _____ the transfer will not qualify for the exemptions provided under s. 14(3)(d) or s. 14(3)(d.2) of the Act. Property transfer tax will be payable on the fair market value of the interest transferred.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided in your letter dated November 29, 2005 are accurate and complete.

In the event the Act is amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator, Property Transfer Tax, provided the transactions complete in the manner described in the advance tax ruling request.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

If you have any questions on the above, please contact me at (250) 356-5340.

Yours truly,

Kevin Gudgeon
A/Manager, Policy and Legislation

April 19, 2006

Dear

RE: Application of Exemption Code 15, Property Transfer Tax Advance Tax Ruling

I am responding to your letter of March 22, 2006, requesting an advance tax ruling. Receipt of your payment of \$96.30, reflecting the cost for the provision of this ruling, is acknowledged.

This request is made with respect to the following property, located at
British Columbia, and legally described as:

I understand the facts regarding this request to be as follows:

1. The Property is registered in the name of _____ and _____
2. The Divorce Order gave the parties the authority to effect a disposition for the purposes of dividing the family assets in such manner as they agreed upon by giving them joint conduct of the sale.
3. The parties have been unable to find and agree upon a 3rd party purchaser of the Property.
4. The parties have agreed upon the purchase of the interest of _____ by _____ rather than selling the Property to a 3rd party.

Your request is for a ruling that the transfer of the Property from _____ to _____ will be exempt from tax under section 14(3)(h) of the *Property Transfer Tax Act* (the Act) (exemption code 15).

Property transfer tax is due at the time an application to register a taxable transaction is made at the Land Title Office. The tax is due on the fair market value of the land or interest in land transferred. However, Section 14(3)(h) of the Act provides an exemption for a transfer from a

transferor to a transferee who is a spouse of the transferor and the transfer is made pursuant to a written separation agreement or a court order under the *Family Relations Act*.

Ministry of Small Business and Revenue policy requires that a separation agreement must be an agreement that is signed by both parties and witnessed. The document you have provided meets this criterion. Accordingly, it is my ruling that property transfer tax will be exempt for the purpose of the transfer of the Property, located at _____ British Columbia, to _____

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided in your letter of March 22, 2006, are accurate and complete.

In the event the Act is amended with respect to such transactions and the proposed transfer is not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator, Property Transfer Tax, provided the transaction completes in the manner described in the advance tax ruling request.

After registration, the transaction(s) for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

If you have any questions on the above, please contact me at (250) 356-5340.

Yours truly,

Kevin Gudgeon,
Manager, Policy and Legislation

November 10, 2005

Dear

Re: Property Transfer Tax Act - Advance Tax Ruling No.

I am responding to your fax of October 7, 2005, requesting an advance tax ruling on behalf of
Receipt of your payment of \$96.30, reflecting the cost
for the provision of this ruling is also acknowledged.

You have requested a ruling to indicate whether a transfer of the registered fee simple interest
in the property from to her husband (the Transaction) will
attract tax under the *Property Transfer Tax Act* (the Act).

The request is made with respect to the property legally described as:

My ruling is based on the following facts:

- 1) is the only registered fee simple owner of the Property.
- 2) and are husband and wife.
- 3) The Property farmed solely by and
- 4) No part of the Property is being leased to any other individuals.
- 5) The Property is acres of land and has been assessed as a farm land under the
Assessment Act.
- 6) and are Canadian citizens.

Your request is for a ruling that:

Transfer of the Property to is an exempt transaction and will therefore
not require the payment of any property transfer tax.

The Act imposes tax on the transfer of a registered fee simple interest at any land title office.
Tax is due on the fair market value of the land and improvements or the interest in the land and
improvements transferred. However, the Act provides a number of tax exemptions.

Section 14(3)(a) of the Act provides a tax exemption for the transfer of the registered fee simple interest in land if two conditions are met. First, the land must be a family farm. Second, the transfer of the fee simple interest in the land must be between related individuals who are all Canadian citizens or have the permanent status of Canada. Section 14(1) of the Act defines "related individual" to include a person's spouse, provided the spouse is either a Canadian Citizen or Permanent Resident as defined in the *Immigration and Refugee Protection Act* (Canada).

Family farm is defined as farm land that is used, owned and farmed by one individual or by family members. The Property has been assessed as farm land under the *Assessment Act*. is currently registered as the owner of the Property, which is being used and farmed by only. Therefore, the Property is a family farm for the purpose of the Act.

Accordingly, it is my ruling that the Transaction will be tax exempt under section 14(3)(a) of the Act.

This ruling is issued for the purposes of this transaction only, and with the understanding that all of the facts provided in your letter dated October 7, 2005 are accurate and complete.

In the event the Act is amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator, Property Transfer Tax, provided the transactions complete in the manner described in the advance tax ruling request.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

If you have any questions on the above, please contact me at (250) 356-5340.

Yours truly,

Kevin Gudgeon
A/Manager, Policy and Legislation

December 16, 2005

Dear

Re: Property Transfer Tax Act - Advance Tax Ruling No.

I am responding to your fax of November 25, 2005, requesting a revised advance tax ruling on behalf of and in reference to the previous ruling provided on November 10, 2005.

You have requested a ruling to indicate whether a transfer of the registered fee simple interest in the properties from to her husband will attract tax under the *Property Transfer Tax Act* (the Act).

The request is made with respect to the properties legally described as:

My ruling is based on the following facts:

- 1) is the only registered fee simple owner of
- 2) and are married.
- 3) Both are farmed solely by and
- 4) No part of is being leased to any other individuals.
- 5) consists of acres of land and has been assessed as a farm land under the *Assessment Act*.
- 6) is the principal residence of and consisting of acres of land and has been assessed as farm land under the *Assessment Act*.
- 7) and are Canadian citizens.

Your request is for a ruling that the:

- A. Transfer of _____ to _____ is an exempt transaction and will therefore not require the payment of property transfer tax.
- B. Transfer of _____ to _____ is an exempt transaction and will therefore not require the payment of property transfer tax.

The Act imposes tax on the transfer of a registered fee simple interest at any land title office. Tax is due on the fair market value of the land and improvements or the interest in the land and improvements transferred. However, the Act provides a number of tax exemptions.

Section 14(3)(a) of the Act provides a tax exemption for the transfer of the registered fee simple interest in land if two conditions are met. First, the land must be a family farm. Second, the transfer of the fee simple interest in the land must be between related individuals who are all Canadian citizens or have permanent status in Canada. Section 14(1) of the Act defines "related individual" to include a person's spouse, provided the spouse is either a Canadian Citizen or Permanent Resident as defined in the *Immigration and Refugee Protection Act* (Canada).

A family farm is defined as farm land that is used, owned and farmed by one individual or by family members. Both _____ have been assessed as farm land under the *Assessment Act*. _____ is currently the registered owner of the properties which are being used and farmed by _____ and _____ only. Therefore, the Properties are family farms for the purpose of the Act.

Accordingly, it is my ruling that both the transfer of _____ from _____ to _____ will be tax exempt under s. 14(3)(a) of the Act.

Pursuant to s. 14(3)(b) of the Act, an exemption is also available for a transfer of a principal residence between related individuals, provided that certain conditions are met: the land transferred must have been the principal residence of either the transferor or the transferee for a continuous period of at least 6 months immediately prior to the date of the transfer; all of the improvements are classified as residential by BC Assessment; and, the land does not exceed 0.5 hectares (1.24 acres).

Where a transfer of property does not qualify for the full exemption under s. 14(3)(b) only because the parcel of land is larger than 0.5 hectares in area, a partial exemption would apply. The partial exemption would reflect the fair market value of the improvements on the property as well as the fair market value of the land (not including improvements) that is equivalent to the ratio of 0.5 hectares to the total area of the parcel.

Based on the facts provided, if _____ did not meet the conditions of a family farm, and therefore did not qualify for the exemption under s. 14(3)(a) of the Act, the transfer of _____ from _____ to _____ might also have been eligible for a partial exemption pursuant

to s. 14(3)(b), provided that had been their principal residence for a period of at least six months prior to the transfer.

This revised ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided in your letter dated November 25, 2005 are accurate and complete. Based on the new information provided, the previous ruling of November 10, 2005 is no longer valid.

In the event the Act is amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator, Property Transfer Tax, provided the transactions are completed in the manner described in the advance tax ruling request.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the applications for registration electronically, please include the reference number on the electronic tax returns.

If you have any questions on the above, please contact me at (250) 356-5340.

Yours truly,

Kevin Gudgeon
A/Manager, Policy and Legislation

Property transfer tax is due at the time an application to register a taxable transaction is made at the Land Title Office. The tax is due on the fair market value of the land or interest in land transferred.

Under the *Property Transfer Tax Act* (the Act), the definition of a taxable transaction includes a lease agreement. Section 14(1) of the *Property Transfer Tax Act Regulations* (the Regulations) provides a formula for determining fair market value, based on the interest of all of the demised premises. Demised premises include both land and improvements.

However, section 7(2) of the Regulations specifically excludes from the determination of the fair market value of a demised premise, the value of any improvements that are made by the lessee for which they will not be reimbursed by the lessor. Accordingly it is my ruling that upon registration of the Lease, the determination of fair market value will be based on the land only and not the improvements made by

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided in your letter dated March 3, 2006 are accurate and complete.

In the event the Act is amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator, Property Transfer Tax, provided the transactions are completed in the manner described in the advance tax ruling request.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

If you have any questions on the above, please contact me at (250) 356-5340.

Yours truly,

Kevin Gudgeon
A/Manager, Policy and Legislation



April 6, 2006

Dear

RE:
Tax Ruling

– Property Transfer Tax Advance

I am responding to your letter dated February 24, 2006, requesting an advance tax ruling. Receipt of your payment of \$96.30, reflecting the cost for the provision of this ruling, is acknowledged.

This request is made with respect to the property legally described as:

Lot A:

Lot B:

I understand the facts regarding this request to be as follows:

1. The land in question is located
2. The areas shown in white on the plan, including the immediately adjacent areas shown as road are owned by
3. The areas shown in the Legend on the Plan as
(collectively the "City Lands") are owned by the City
4. Your clients intend to subdivide the lands into the two parcels shown as Lot A and Lot B on the draft Subdivision Plan by taking the following steps:
 - i. Transfer all of the Lands to a trustee for the purposes of facilitating the transfers required for the subdivision. The trustee will be registered as the trustee of the Lands at the Land Titles Office;
 - ii. Subsequently transfer the newly created parcels to and the City.
 - iii. The trustee will transfer new lot A to the City and new lot B to immediately following the filing of the subdivision.

Your request is for a ruling to a proposed subdivision transaction from property transfer tax pursuant to section 14(4)(k) and (k.1) where:

- a) will own a larger proportion of the lands after the subdivision than it owned prior to the subdivision;
- b) will pay the City the current fair market value acquired from the City for the additional land at the time of the transfer of lot B from the trustee to
- c) It is your intention that will pay property transfer tax on the increased area it will own.
- d) It is your view that there will be no change in the value of the land before and immediately following the filing of the subdivision (letter dated March 14, 2006).
- e) Fair market value of the land is based on the approved density which will be permitted to develop on the land following the re-zoning and subdivision.
- f) The price being paid by to the City is

Property transfer tax is due at the time an application to register a taxable transaction is made at the Land Title Office. The tax is due on the fair market value of the land or interest in land transferred. However, the *Property Transfer Tax Act* (the Act) provides a number of exemptions from the tax.

Section 14(4)(k) of the Act provides an exemption from property tax where 2 or more adjacent parcels of land are transferred from the original owners to a trustee, registered under the *Land Title Act*, and two further conditions are met. First, the transfer to the trustee is to facilitate the subdivision of the original parcels and second, upon registration of the plan of subdivision, the trustee transfers the subdivided parcels to any or all of the original owners.

An exemption from property transfer tax is also provided under s. 14(4)(k.1) of the Act. This exemption is available where pursuant to s. 14(4)(k) of the Act, the registered trustee transfers the property back to the original owners and the proportionate fair market value of the new parcels does not exceed the original owner's proportionate share of the fair market value of the original parcels, as calculated immediately before the subdivision.

A determination of whether the transfer of the property from the trustee to the original owners is exempt from the tax under s. 14(4)(k.1) of the Act is based on the proportionate fair market value of ownership as reflected immediately before the subdivision of the parcels in comparison with proportionate fair market value immediately preceding subdivision.

Where an original owner receives a greater proportionate share of the fair market value of the parcels created under the subdivision than was held in the original parcel, that transfer will be subject to tax based on the increase in the proportion of fair market value that was received as a result of the subdivision and accordance with s. 3(3.2) of the Act.

Accordingly, in order to be eligible for the exemption under s. 14(4)(k.1), upon completion of the subdivision, there can be no change in the proportionate share of the fair market value.

The additional information provided in your ruling request evidences proportionate ownership based on the original land area of the properties. Eligibility for the exemption under s. 14(4)(k.1) of the Act is based on the proportionate share of the fair market value of the property and not on the proportionate share of the total land area. Even if there is no change in proportionate ownership of land area, there may still be a variation in proportionate ownership in terms of the fair market value immediately before and after the subdivision.

In the absence of any other credible evidence, such as an appraisal by a professional appraiser (AACI or RIBC) using accepted appraisal techniques and methodologies, the Administrator will rely on BC Assessment assessed values to determine the proportionate share of the total fair market value of the new parcels in comparison with the original parcels as were assessed immediately before subdivision.

Based on the information provided it is my ruling that the:

- The transfer of all the land to the trustee for the purpose of the subdivision be exempt from property transfer tax, and
- Property transfer tax will be payable on the increased fair market value of the portion of the land transferred to following the subdivision. The fair market value will be based on the proportionate fair market value of ownership as reflected immediately before the subdivision of the parcels in comparison with proportionate fair market value immediately proceeding subdivision.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided in your letters dated February 24, 2006 and March 14, 2006 are accurate and complete.

In the event the Act is amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator, Property Transfer Tax, provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transaction(s) for which this advanced tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

If you have any questions on the above, please contact me at (250) 356-5340.

Yours truly,

Kevin Gudgeon
A/Manager, Policy and Legislation

4. Based on 2006 BC Assessment values, current ownership of the parcels and the fair market value of each registered owner's interest are as follows:

5. Upon completion of the subdivision _____ will be the registered fee simple owner of Lot A and Strata Lot 2. There is currently one residence on Lot 2 and another located on Lot 3. These residences will fall within the boundaries of Lot A and Strata Lot 2, respectively; and,
6. Upon completion of the subdivision _____ as joint tenants, will be the registered fee simple owners of Strata Lot 1.

Your request is for a ruling that the following transactions are exempt from property transfer tax:

- a) The transfer of Lot 2 and Lot 3 to _____ as trustee;
- b) The registration of the subdivision plans for Lots 2 and 3 and the registration of the bare land strata plan for Lot B; and,
- c) The transfer of the subdivided parcels from _____ in trust to the beneficial owners of the original properties.

Property transfer tax is due at the time an application to register a taxable transaction is made at the Land Title Office. The tax is due on the fair market value of the land or interest in land transferred. However, the *Property Transfer Tax Act* (the Act) provides a number of exemptions from the tax.

Section 14(4)(k) of the Act provides an exemption from property tax where 2 or more adjacent parcels of land are transferred from the original owners to a trustee, registered under the *Land Title Act*, and two further conditions are met. First, the transfer to the trustee is to facilitate the subdivision of the original parcels and second, upon registration of the plan of subdivision, the trustee transfers the subdivided parcels to any or all of the original owners.

An exemption from property transfer tax is also provided under s. 14(4)(k.1) of the Act. This exemption is available where pursuant to s. 14(4)(k) of the Act, the registered trustee transfers the property back to the original owners and the proportionate fair market value of the new parcels does not exceed the original owner's proportionate share of the fair market value of the original parcels, as calculated immediately before the subdivision.

Accordingly, if _____ transfer fee simple ownership of the adjacent parcels (Lot 2 and Lot 3) to _____ in trust, in order to facilitate the subdivision of their properties, this transaction will be exempt from property transfer tax, pursuant to s. 14(4)(k) of the Act.

A determination of whether the transfer of the property from the trustee to the original owners is exempt from the tax under s. 14(4)(k.1) of the Act is based on the proportionate fair market value of ownership as reflected immediately before the subdivision of the parcels in comparison with proportionate fair market value immediately preceding subdivision.

Where an original owner receives a greater proportionate share of the fair market value of the parcels created under the subdivision than was held in the original parcel, that transfer will be subject to tax based on the increase in the proportion of fair market value that was received as a result of the subdivision and accordance with s. 3(3.2) of the Act.

Based on the information you have provided, namely the BC Assessment 2006 property assessment notice _____ proportionate share of the fair market value of the combined property is _____ while _____ each maintain a share. Accordingly, in order to be eligible for the exemption under s. 14(4)(k.1), upon completion of the subdivision, there can be no change in the proportionate share of the fair market value.

The additional information provided in your ruling request evidences proportionate ownership based on the original land area of the properties. Eligibility for the exemption under s. 14(4)(k.1) of the Act is based on the proportionate share of the fair market value of the property and not on the proportionate share of the total land area. For example, the existing improvements such as the residences on Lot 2 and Lot 3 will impact the fair market value of the parcels after subdivision. Even if there is no change in proportionate ownership of land area, there may still be a variation in proportionate ownership in terms of the fair market value immediately before and after the subdivision.

In the absence of any other credible evidence, such as an appraisal by a professional appraiser (AACI or RIBC) using accepted appraisal techniques and methodologies, the Administrator will rely on BC Assessment assessed values to determine the proportionate share of the total fair market value of the new parcels in comparison with the original parcels as were assessed immediately before subdivision.

The registration of the subdivision and bare land strata plans are considered part of the subdivision process and will not attract property transfer tax as stand alone transactions.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided in your letter dated January 16, 2006 are accurate and complete.

In the event the Act is amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator, Property Transfer Tax, provided the transactions are completed in the manner described in the advance tax ruling request.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

If you have any questions on the above, please contact me at (250) 356-5340.

Yours truly,

Kevin Gudgeon
A/Manager, Policy and Legislation

January 6, 2005

Dear

Re: Property Transfer Tax Act - Advance Tax Ruling No.

I am responding to your fax of November 25, 2005, requesting a revised advance tax ruling on behalf of and in reference to the previous ruling provided on November 10, 2005.

You have requested a ruling to indicate whether a transfer of the registered fee simple interest in the properties from to her husband will attract tax under the *Property Transfer Tax Act* (the Act).

The request is made with respect to the properties legally described as:

My ruling is based on the following facts:

- 1) is the only registered fee simple owner of
- 2) and are married.
- 3) Both are farmed solely by and
- 4) No part of is being leased to any other individuals.
- 5) consists of acres of land and has been assessed as a farm land under the *Assessment Act*.
- 6) is the principal residence of and ; consisting of acres of land and has been assessed as farm land under the *Assessment Act*.
- 7) and are Canadian citizens.

Your request is for a ruling that the:

- A. Transfer of _____ to _____ is an exempt transaction and will therefore not require the payment of property transfer tax.
- B. Transfer of _____ to _____ is an exempt transaction and will therefore not require the payment of property transfer tax.

The Act imposes tax on the transfer of a registered fee simple interest at any land title office. Tax is due on the fair market value of the land and improvements or the interest in the land and improvements transferred. However, the Act provides a number of tax exemptions.

Section 14(3)(a) of the Act provides a tax exemption for the transfer of the registered fee simple interest in land if two conditions are met. First, the land must be a family farm. Second, the transfer of the fee simple interest in the land must be between related individuals who are all Canadian citizens or have permanent status in Canada. Section 14(1) of the Act defines "related individual" to include a person's spouse, provided the spouse is either a Canadian Citizen or Permanent Resident as defined in the *Immigration and Refugee Protection Act* (Canada).

A family farm is defined as farm land that is used, owned and farmed by one individual or by family members. Both _____ have been assessed as farm land under the *Assessment Act*. _____ is currently the registered owner of the properties which are being used and farmed by _____ and _____ only. Therefore, the Properties are family farms for the purpose of the Act.

Accordingly, it is my ruling that both the transfer of _____, from _____ to _____ will be tax exempt under s. 14(3)(a) of the Act.

Pursuant to s. 14(3)(b) of the Act, an exemption is also available for a transfer of a principal residence between related individuals, provided that certain conditions are met: the land transferred must have been the principal residence of either the transferor or the transferee for a continuous period of at least 6 months immediately prior to the date of the transfer; all of the improvements are classified as residential by BC Assessment; and, the land does not exceed 0.5 hectares (1.24 acres).

Where a transfer of property does not qualify for the full exemption under s. 14(3)(b) only because the parcel of land is larger than 0.5 hectares in area, a partial exemption would apply. The partial exemption would reflect the fair market value of the improvements on the property as well as the fair market value of the land (not including improvements) that is equivalent to the ratio of 0.5 hectares to the total area of the parcel.

Based on the facts provided, if _____ did not meet the conditions of a family farm, and therefore did not qualify for the exemption under s. 14(3)(a) of the Act, the transfer of _____ from _____ to _____ might also have been eligible for a partial exemption pursuant

to s. 14(3)(b), provided that had been their principal residence for a period of at least six months prior to the transfer.

This revised ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided in your letter dated November 25, 2005 are accurate and complete. Based on the new information provided, the previous ruling of November 10, 2005 is no longer valid.

In the event the Act is amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator, Property Transfer Tax, provided the transactions are completed in the manner described in the advance tax ruling request.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the applications for registration electronically, please include the reference number on the electronic tax returns.

If you have any questions on the above, please contact me at (250) 356-5340.

Yours truly,

Kevin Gudgeon
A/Manager, Policy and Legislation

February 8th, 2006

Dear

RE: – Property Transfer Tax Advance Tax Ruling

I am responding to your letter dated November 15, 2005, requesting an advance tax ruling. Receipt of your payment of \$96.30, reflecting the cost for the provision of this ruling, is acknowledged.

This request is made with respect to the property legally described as:

I understand the facts regarding this request to be as follows:

1. On _____ purchased an undivided _____ interest in the Property from the original property owner;
2. At the time of transfer, _____ paid _____ in property transfer tax;
3. The original property owner still holds the remaining _____ interest in the Property;
4. The original property owner is unwilling to sign a co-ownership agreement with _____ and would like to repurchase the _____ interest in the Property.
5. The Property is _____ principal residence.

Your request is for a ruling that, if _____ sells her interest in the Property back to the original owner, she will be eligible for one of the following:

- a) A refund of the property transfer tax paid; or,
- b) The right to claim a First Time Home Buyers exemption if and when Ms. Trudel purchases a property in the future.

Property transfer tax is due at the time an application to register a taxable transaction is made at the Land Title Office. The tax is due on the fair market value of the land or interest in land transferred. However, the *Property Transfer Tax Act* (the Act) provides for a refund of property transfer tax where certain conditions apply.

A refund of property transfer tax is available pursuant to s. 23(1) of the Act, where as a result of a decision by the minister; a court order; or, a decision in arbitration; it is found that the amount of tax payable is less than the amount of tax actually paid. Section 23(2) also provides a refund where an application for registration is either withdrawn or rejected. Under s. 167(1) of the *Land Title Act*, the withdrawal must take place at any time prior to registration.

Based on the facts provided, _____ does not meet the refund requirements under s. 23(1) or s. 23(2) of the Act. Accordingly, it is my ruling that _____ is ineligible for a refund of property transfer tax.

Section 4(1) of the Act contains the eligibility criteria for the First Time Home Buyers Program. Eligibility for the program is contingent upon the following requirements:

- The purchaser never held a registered interest in a principal residence anywhere in the world;
- The property must be financed a minimum of 70 percent of the fair market value, and;
- The fair market value of the property must not be greater than a set threshold amount.

Accordingly, it is my ruling that if and when _____ purchases another property, she will not qualify for the First Time Home Buyer exemption. The current property is _____ principal residence, and therefore _____ will not be able to satisfy all of the eligibility criteria required for the Program.

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided in your letter dated November 15, 2005 are accurate and complete.

In the event the Act is amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator, Property Transfer Tax, provided the transactions are completed in the manner described in the advance tax ruling request.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

If you have any questions on the above, please contact me at (250) 356-5340.

Yours truly,

Kevin Gudgeon
A/Manager, Policy and Legislation

March 13, 2006

Dear

RE:
Advance Tax Ruling

– Property Transfer Tax

I am responding to your letter dated November 2, 2005, requesting an advance tax ruling. Receipt of your payment of \$96.30, reflecting the cost for the provision of this ruling, is acknowledged.

This request is made with respect to the property legally described as:

I understand the facts regarding this request to be as follows:

1. (company) is the fee simple owner of the property;
2. (club) operates situated on the property;
3. Both the company and the club are non-profit organizations for income tax purposes, but are not registered charities under section 248(1) of the *Income Tax Act*;
4. The club is incorporated under the *Society Act of B.C.*;
5. The company is incorporated under the *British Columbia Business Corporation Act*;
6. The club and the company are governed by a common Board of Directors;
7. A majority of company shareholders are also members of the club;
8. Membership in the club is a requirement for use of the club's facilities.

Your request is for a ruling of whether property transfer tax would apply if the Board of Directors transfers the property from the to the .

Property transfer tax is due at the time an application to register a taxable transaction is made at the Land Title Office. The tax is due on the fair market value of the land or interest in land transferred. However, the *Property Transfer Tax Act* (the Act) provides a number of exemptions from the tax.

Section 14(4)(b) of the Act provides an exemption for a transfer of land or an interest in land 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.

Non-profit organizations that are not registered charities are ineligible for the exemption available under s. 14(4)(b) of the Act. Accordingly, if the property was transferred directly from the company to the club, this would constitute a taxable transaction and property tax would be payable.

An exemption from property transfer tax is also available if the transfer is the result of an amalgamation of two or more registered societies, pursuant to s. 17 of the *Society Act* or if the transfer results from an amalgamation of two or more corporations under sections 181 to 186 of the *Business Corporations Act*. As the proposed transfer is between a registered company and a registered society, neither exemption is applicable.

Your request also references s. 14(4)(q) of the Act. Section 14(4)(q) provides an exemption for a transfer from a trustee registered under the *Land Title Act* to another trustee registered under the *Land Title Act*, if the change in trustee does not relate directly or indirectly to a change in beneficiaries or class of beneficiaries, or to a change in the terms of the trust. The trustee(s) must make a declaration that there are no changes in the beneficiaries, class of beneficiaries or in the terms of the trust in the property transfer tax return submitted with the application for registration at the Land Title Office.

The exemption under s. 14(4)(q) of the Act is only applicable where a property or interest in a property is held by a trustee registered under the *Land Title Act*. If the property is not currently held in trust, the transfer of the property from the company to the trustee(s) would constitute a taxable transaction. The tax would be incurred regardless of whether or not there is a change in beneficial ownership. Property transfer tax is a registration tax and is not concerned with beneficial ownership.

If the property is held in trust at the time of the proposed transfer from the company to the club, the transfer would result in a direct change in the class of beneficiaries of the trust. The company and the club are separate legal entities for the purposes of the Act. Accordingly, it is my ruling that the transfer of property from _____ to _____ would not qualify for the exemption under s. 14(4)(q).

This ruling is issued for the purposes of these transactions only, and with the understanding that all of the facts provided in your letter dated November 2, 2005 are accurate and complete.

In the event the Act is amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator, Property Transfer Tax, provided the transactions are completed in the manner described in the advance tax ruling request.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

If you have any questions on the above, please contact me at (250) 356-5340.

Yours truly,

Kevin Gudgeon
A/Manager, Policy and Legislation

March 1, 2007

Dear

Re: Property Transfer Tax Advance Ruling

I am responding to your letter of January 16, 2007, requesting an advance tax ruling. We have received your payment of \$180.00.

This request is made with respect to the property at
Columbia, legally described as:

British

(the "Property").

I understand the facts of your request are as follows:

1. You act for _____ the legal title holder of the Property.
2. You also act for _____ and _____ (collectively
Clients) which are the beneficial owners of the Property.
3. _____ wishes to transfer title to the Property to _____ and
_____ in equal interests. This transaction will attract Property Transfer
Tax (PTT).
4. _____ Clients intend to apply for rezoning and development approval of the
Property to build a _____ apartment complex as set out in the plans included in your
January 16 letter (the Plans).

.../2

5. Clients intend to stratify title to the Property into _____ and transfer the 50 percent interest held by _____ in ten of the units to _____ and to transfer the 50 percent interest held by _____ in the other ten units to _____. The result will be that each client owns a 100 percent interest in _____ units.
6. You propose that if the Plans are accurate and are followed, the values of the interest transferred to each party are equal and therefore the transfers are exempt from PTT.

Property transfer tax is due at the time an application to register a taxable transaction is made at the Land Title Office. The tax is due on the fair market value of the land or interest in land transferred. However, the *Property Transfer Tax Act* (the *Act*) provides a number of exemptions from the tax.

Section 14(3)(j) of the *Act* provides an exemption for a transfer where a parcel is subdivided. The transfer is exempt if:

s. 14(3)(j)

- (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;

If an original owner receives a greater proportionate share of the fair market value of the parcels created under the subdivision than was held in the original parcel, that transfer will be subject to tax based on the increase in the proportion of fair market value that was received as a result of the subdivision in accordance with section 3(3.2) of the *Act*.

.../3

According to your letter, Clients' proportionate shares of the fair market value of the Property prior to its subdivision are 50 percent. Their proportionate shares after the subdivision will remain 50 percent. Assuming this is correct, the transfer will be exempt. As your estimate that Clients' proportionate shares of the fair market value of the Property will remain at 50 percent is hypothetical only, I make no comment on the accuracy or acceptability of the estimate itself.

To determine fair market value, in the absence of any other credible evidence, such as an appraisal by a professional appraiser (AACI or RIBC) using accepted appraisal techniques and methodologies, the Administrator will rely on BC Assessment assessed values to ascertain the proportionate shares of the total fair market value of the new parcels in comparison with the original parcel as was assessed immediately before subdivision.

Based on the information provided, it is my ruling that the transfers of Clients' interests to each other are exempt from property transfer tax if the conditions set out above are met.

This ruling is issued for the purposes of this transaction only, and with the understanding that all of the facts provided in your letter are accurate and complete.

In the event the *Act* is amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator, Property Transfer Tax, provided the transactions are completed in the manner described in the advance tax ruling request.

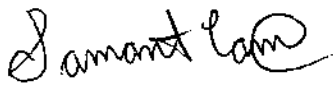
After registration, the transactions for which this advance tax ruling has been provided may be subject to review by the Administrator. Information provided for the purposes of this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of this ruling.

Please attach a copy of this ruling to the property transfer tax returns submitted with the application for registration at the Land Title Office, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

.../4

If you have any questions on the above, please contact me at (250) 356-7585.

Yours truly,

A handwritten signature in black ink, appearing to read "Samantha Cameron". The signature is fluid and cursive, with the first name "Samantha" written in a larger, more prominent script than the last name "Cameron".

Samantha Cameron
Senior Rulings Analyst



February 12, 2008⁹

Dear

RE: Property Transfer Tax Advance Tax Ruling

I am responding to your letter dated December 19, 2008, requesting a ruling with respect to an exemption from property transfer tax. We received payment for this ruling on January 16, 2009.

I. BACKGROUND

The request is made with respect to the property legally described as:

I understand the facts as being the following:

1. son of the deceased, and
were named Executors and Trustees of the Will of
2. The Property is part of the estate of (the deceased) and was her
principal residence immediately prior to her death.
3. Legal ownership of the Property has been transferred to and
as Executors and Trustees of the estate of



Ministry of Finance

Mailing Address:
7th Floor - 1802 Douglas Street
Victoria, BC V8T 4K6

Telephone: 250 387-0100
Facsimile: 250 387-3000

4. _____ and _____ are proposing a transfer of the Property to _____ son of the deceased (in trust), daughter of the deceased (in trust) and _____ son of the deceased (in trust), the three Trustees of the three individual trusts created by the Will.
5. The beneficiaries of the three individual trusts created by the Will are:

II. RULING REQUEST

You have requested an Advance Tax Ruling on whether the transfer of title from the Executors and Trustees of the estate to the three Trustees of three individual trusts created by the Will is exempt pursuant to section 14(4)(q) of the *Property Transfer Tax Act* (the Act).

III. RULING

It is my ruling that the three Trustees of three individual trusts created by the Will **are not exempt** under section 14(4)(q) of the Act from paying property transfer tax (PTT) on the transaction.

IV. LEGISLATION AND ANALYSIS

A. Legislation

PTT is due at the time an application to register a taxable transaction is made at the Land Title Office and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax. Under the current provisions of the Act all transfers are taxable transactions unless specifically exempt.

Under section 14(4)(q) the transferee is exempt from PTT if the following criteria are met:

- both the transferor and transferee are registered under the *Land Title Act* as trustees of the land,
- the change in trustee is not related to a change in beneficiaries or class of beneficiaries, or to a change in the terms of the trust, and
- the transferor and transferee make a declaration to that effect on the tax return filed under section 2.

B. Analysis

Under _____ Will, _____ and _____ are appointed as Executors and Trustees of the estate and hold the estate property in trust for all of the beneficiaries under the will. Under the clauses of the Will, three individual trusts are established separately as beneficiaries of the residue of the estate. The Property will

2



be transferred from the Executors
appointed trustees.

and

into the names of the

The beneficiaries of each of the three trusts set up by the deceased in her Will and,
which the shares in the property are transferred into, are

as individuals. In this case, the

beneficiaries under the first trust are different than the beneficiaries of the three trusts
set up under the Will; this represents a change in the terms of the trust. The change in
the terms of the trust as well as the change in the beneficiaries disqualifies the transfer
of Property from receiving the exemption under the section 14(4)(q) of the PTTA.

This ruling is issued for the purposes of this transaction only, and with the
understanding that all of the facts provided by you or your clients are accurate and
complete.

In the event the Act is amended with respect to such transactions and the proposed
transfers are not registered before the amendment, this ruling will be null and void. This
ruling is binding on the Administrator of the Property Transfer Tax, provided the
transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advanced tax ruling has been provided
may be subject to review by the Administrator. Information provided for the purposes of
this ruling will be verified against the information and relevant circumstances presented
at the date of registration in order to determine the accurate application of this ruling.

Please attach a copy of this ruling to the property transfer tax returns submitted with the
application for registration at the Land Title Office, or if you submit the application for
registration electronically, please include the reference number on the electronic tax
return.

Additional information may be obtained by accessing the Ministry of Finance, Revenue
Division Web site at www.gov.bc.ca/sbr or by calling us in Victoria at **250-387-0604** or
outside of Victoria by our toll free Enquiry BC number at **1 800 663 7867** and requesting
a transfer to **387-0604** or email your questions to PTTENQ@gov.bc.ca.

Yours truly,



Hilary Vance
A/Director Property Taxes
Policy and Legislation Branch

3



Ministry of Finance

Mailing Address:
7th Floor - 1802 Douglas Street
Victoria, BC V8T 4K6

Telephone: 250 387-0100
Facsimile: 250 387-3000



January 19, 2015

Re: Property Transfer Tax Advance Ruling

Dear

I am responding to your letter dated November 28, 2014 requesting an advance tax ruling on the application of the Property Transfer Tax (PTT) to the transfer proposed by your client,

We confirm receipt of the full payment for this ruling on December 11, 2014.

I. BACKGROUND

I understand the facts of your request are as follows:

1. The property to be transferred (the "Property") is legally described as:
2. died on and at the time of her death was the sole registered owner of the Property.
3. By order of the Supreme Court of British Columbia, dated a grant of probate of will was issued to as the "Executor".
4. Application was made at the Land Title Office (LTO) to transfer the Property from the name of to the Executor. The Property is currently registered in the name of as Executor.

5. _____ will, created the _____ Trust Fund, (the "Trust") which came into effect on the condition that _____ was living on the thirtieth day following death.
6. _____ is the sole trustee of the Trust. During his life he is the sole beneficiary of the Trust (both as to capital and income). The Property is an asset of the Trust. _____ has the power to transfer capital assets of the Trust.
7. As the trustee of the Trust _____ proposes to transfer the Property from the Trust, currently in his name as Executor, to himself as beneficiary.

II. RULING REQUEST

You are requesting a ruling as to whether PTT will be payable on the transfer of title to the Property from the name of _____ as the Executor of _____ will, to _____ as beneficiary of the Trust.

III. RULING

It is my ruling that the proposed transfer of title from _____ (as executor) to himself, as beneficiary of the Trust, **will be exempt from PTT.**

IV. LEGISLATION AND ANALYSIS

A. Legislation

Under the *Property Transfer Tax Act* (PTTA), all transfers are taxable transactions, unless specifically exempt. PTT is due at the time an application to register a taxable transaction is made at the LTO and is based on the fair market value of the land or interest in land transferred. The transferee is subject to the tax.

Section 14 of the Act provides exemptions for certain transfers, provided that all of the criteria as described in each section and subsection are strictly met.

Section 14(3) (c) of the Act provides an exemption for: "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;"

B. Analysis

As per the facts presented, the transfer of the Property from _____, the executor, to the beneficiary, will be exempt from PTT.

The Property was the principal residence of _____ immediately before her death, for a continuous period of at least 6 months. _____ is the trustee of _____ will and of the Trust, and a beneficiary of the Trust. He was a related individual (the spouse) of _____ at the time of her death.

Section 1(1) of the Act defines a related individual as:

- (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;*

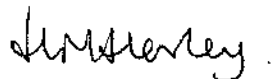
This ruling is issued for the purposes of this transaction only, and with the understanding that all of the facts provided by you are accurate and complete. In the event the PTTA or the PTT Regulation are amended with respect to such transactions and the proposed transfers are not registered before the amendment, this ruling will be null and void. This ruling is binding on the Administrator of the PTT provided the transactions are completed in the manner described in the advance tax ruling request.

After registration, the transactions for which this advance tax ruling has been provided may be subject to review by the Administrator. Information provided for this ruling will be verified against the information and relevant circumstances presented at the date of registration in order to determine the accurate application of the ruling.

Please attach a copy of this ruling to the property transfer tax return submitted with the application for registration at the LTO, or if you submit the application for registration electronically, please include the reference number on the electronic tax return.

Additional information may be obtained by accessing the Ministry of Finance web site at: www.gov.bc.ca/fin/ or by calling us in Victoria at **250-387-0604** or outside of Victoria by our toll free Enquiry BC number at **1-800-663-786** and requesting a transfer to **387-0604**, or email your questions to PTTENQ@gov.bc.ca.

Yours truly,



Hilary Harley
Director, Audit and Compliance
Property Taxation Branch
Ministry of Finance

