



s.22

March 4, 2016

Re: Property Transfer Tax Ruling # s.22

Dear s.22

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, s.22

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 s.22
s.22 for the property
identified as Lot A;
Lot A is approximately 4.36 acres and is legally described as:
s.22

- s.22 is the registered owner of Lot B;
Lot B is approximately 9.68 acres and is legally described as:
s.22

2. You are proposing to execute two transfers of Lot A
s.22

**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

You are also proposing to transfer Lot B from s.22
s.22 as joint tenants.

3. For Lot A, you have provided a statement of assets, liabilities and distributions for the deceased, s.22 You have also provided the last will testament and affidavit establishing s.22 as the Executor and beneficiary of the Estate. At the time of death of s.22 Lot A was classed residential property and not farm land. You have indicated that at that time Lot A was used s.22 ; 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 4.36 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 9.68 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 s.22

Lot A and Lot B are being farmed by s.22
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, ^{s.22} 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** ^{s.22} i.e., residential.

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The transfer of Lot A from s.22 as sole owner, to s.22 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 s.22, as sole owner, to s.22 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
Property Taxation Branch
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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 s.22
s.22 for the property
identified as Lot A;
Lot A is approximately 4.36 acres and is legally described as:
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- s.22 the registered owner of Lot B;
Lot B is approximately 9.68 acres and is legally described as:
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2. You are proposing to execute two transfers of Lot A
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You are also proposing to transfer Lot B from s.22
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II. RULING REQUEST

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IV. LEGISLATION AND ANALYSIS

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 - (i) the deceased;
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 - (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;

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As per the documentation submitted, the transfer of Lot A, ^{s.22} 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** ^{s.22} i.e., residential.

The transfer of Lot A from ^{s.22} as sole owner, to ^{s.22} as joint tenants, is a taxable transaction which will be exempt from PTT under section 14(3)(a)(i).

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The transfer of Lot B from s.22 as sole owner, to s.22
s.22 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.

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subject to review by the Administrator. Information provided for this ruling will be verified
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Yours truly,

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s.21

May 4, 2016

Re: Property Transfer Tax Ruling # s.21

Dear s.21

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, s.21 and s.21 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 s.21 s.21 are each the legal and beneficial owner of an undivided one-half interest in the following two adjacent properties:

s.21

2. s.21 have agreed to subdivide current Lot 1 and Lot 2 into two new lots having the legal descriptions:

s.21

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s.21

3. Following the subdivision, you are proposing to transfer the entire legal and beneficial interest in New Lot 1 to s.21 You are also proposing to transfer the entire legal and beneficial interest in New Lot 2 to s.21
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 s.21 s.21 operate separate agricultural businesses.
5. You have indicated that s.21 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 s.21 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.

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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 PTТА 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 PTТА 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, ^{s.22} 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.

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Yours truly,

Hilary Harley
Director, Audit and Compliance
Property Taxation Branch
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s.21

May 17, 2016

Re: Property Transfer Tax Advance Ruling s.21

Dear s.21

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 s.21 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 s.21
s.21 existing strata building. The property is located s.21
s.21

s.21

- Subdivide the current common property of the developed building to create lot B and remainder of common property. Transferring lot B to s.21 s.21
- Subdivide lot A to create lot C and remainder of lot A. Transfer lot C to s.21 s.21
- Consolidate remainder of lot A with lot B.
- Consolidate the remainder of the common property with lot C.

The interim parcels B and C will be exchanged to adjust boundaries and facilitate the reconfiguration of the current common property and create also Lot D.

2. You have provided information as to the current description of the land. Hence, the remainder of **lot 1/lot A** is described as

s.21

The owner of lot A is s.21
remainder of the lot 1 s.21

This lot is the

3. s.21

The proposed transactions are as following:

1. Change of the legal description of the lot 1 remainder. s.21 s.21

2. Subdivide common property to create lot B and transfer lot B: In order to create lot B and transfer lot B, there would be changes to the description of the common property and some changes to the titles of the strata lots. Lot B will be transferred to s.21

3. Subdivide lot A to create lot C and transfer lot C: Pursuant to the subdivision, lot C will be transferred to s.22

4. Consolidate lot B with the remainder of lot A: You have indicated ^{s.22} ^{s.22} will be the registered owner.
5. Consolidate the remainder of the common property with lot C: This step and the exchange of lot B and lot C will potentially change the description of the common property ^{s.21} amended common property.

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 ^{s.21} 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^{s.21} 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:

1. The change in legal description of the lot 1 remainder is less likely to attract PTT.
2. The subdivision of the current common property and the creation of the lot B, if obtained under section 265 of the *Strata Property Act* is potentially exempt from PTT under section 14(3)(p.3)

The transfer of the newly created lot B held by^{s.21}
the strata plan^{s.22}

and not shown on
attracts PTT.

3. The transfer of newly created lot C^{s.21}

will attract PTT.

4. The consolidation of remainder of lot A with lot B (owned by s.22
s.22 would not attract PTT. It is my assumption that at this stage
the consolidation involved the cancellation of the lot lines between the two adjacent
parcels A and B.
5. The consolidation of the lot C (registered in the name of s.21
with the
remainder of the common property pursuant to section 266 of the *Strata Property Act*
will potentially be exempt from PTT if there is no increase in the proportionate share
of the fair market value.

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



July 15, 2016

s.21,s.22

Re: Property Transfer Tax Advance Ruling s.21,s.22

Dear s.21,s.22

I am responding to your letter dated February 5, 2016, requesting a ruling as to whether property transfer tax (PTT) will be payable on the transaction proposed by your client. We confirm receipt of the full payment for the ruling.

I. BACKGROUND

I understand the facts of your request are as follows:

1. The property (the "Property") to be transferred is legally described as:

s.21,s.22

2. The Property is currently registered with s.22
s.22

3.

4. The property has been assessed as farm/residential land under the Assessment Act, based on the 2015 assessment roll issued by BC Assessment.

5. s.22
s.22

All the parties are related individuals and are Canadian citizens.

6. You have advised the property is used for s.21
s.21

Ministry of Finance

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

7.

8.

9.

10. There are no trusts registered against the property title.

11. s.21,s.22

12.

13.

II. RULING REQUEST

You are requesting a ruling as to whether the proposed transfer of the property, held in common by s.22 in joint tenancy, 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 **will not be exempt from PTT**. Your clients might qualify for a partial exemption for the transfer of the principal residence, as per section 14(3)(b). Please see explanation below in the Analysis section.

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."

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; ...

Family farm corporation is defined in section 14(1) of the PTTA as a corporation of which

(a) the principal activity is farming 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 related individual is defined in section 14(1) of the PTTA as: *"a related individual who is a Canadian citizen or a permanent resident of Canada"*.

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.

Based upon the information you have provided, it appears that the legislative requirements for PTT exemption with respect to the proposed transfer **have not been met**.

s.21,s.22

s.21,s.22

Section 14(1) defines a family farm corporation as a corporation in which the **principal activity** is **farming** farm land.

s.22

may be eligible for a partial exemption for the transfer of s.22

Section 14(3)(c.2) of the PTTA 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 specific criteria apply. Please see Legislation section above.

Your client could take the following steps to obtain a partial exemption of the principal residence:

s.22

An exemption is provided under section 14(3)(b) as follows: *"a transfer from a transferor who is not a trustee (as per s 14(3) (c), (d), or (e), 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.*

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

Application Property Transfer Tax and the Additional Tax (Exemptions- s.14)

PROPERTY TRANSFER TAX

Property transfer tax (PTT) applies to the fair market value (FMV) of all taxable transactions as defined in section 1 of the *Property Transfer Tax Act (PTTA)*, unless specifically exempt (section 14).

The ADDITIONAL TAX

On August 2, 2016 the government amended the PTTA to introduce “the Additional Tax” payable at the time of registration on all taxable transactions registered by foreign nationals who are buying **residential**¹ real estate in **Metro Vancouver Regional District**. The Additional Tax is payable in addition to PTT and it is **15 percent** of the total FMV of the property.

The Additional Tax is payable by the transferee at the time of registration at the Land Title Office for the share/interest acquired in the property, with the exception of the bare trustee (even if Canadian citizen) who pays the Additional Tax on 100% FMV if the property has foreign nationals as beneficiaries regardless of the percentage the foreign national beneficiary holds in the property.

The Additional tax is not retroactive and it took effect on August 2, 2016, being payable for the registrations that occurred on or after August 2, 2016.²

APPLICATION OF PTT and the Additional Tax: Exemptions under section 14 of the PTTA

The exemptions under section 14 of the PTTA can be grouped using different principles in regards to the requirements of each of the exemptions.

Type of property (BCA Classification) and relationship between transferor and transferees

Residential (Class 1)	Related Individuals
Non-residential: Farm, Commercial or Other	Not related Individuals

¹ For other BCA classifications (e.g., recreational residence-Class 8, farms-Class 9, commercial-Class 2, 4, 5 etc.), unless there is a portion on the land that is classed as Class 1, no Additional Tax is payable even when purchased by a foreign entity/national or foreign corporation. BC Assessment Property defines **Class 1, Residential**: single-family residences, multi-family residences, duplexes, apartments, condominiums, nursing homes, seasonal dwellings, manufactured homes, some vacant land, farm buildings and daycare facilities (<https://www.bcassessment.ca/Services-products/property-classes-and-exemptions/understanding-property-classes-and-exemptions>)

² Pre-sold contracts are the only exception to the rule and are addressed separately.

Type of transfer	and	Type of interest acquired & ownership registration
Fee simple		% and joint tenancy or tenants in common
Lease		% and length of the term of the lease
Life Estate		% and release of reversionary interest to registered owner upon death of the life estate holder
Trusts (intervivos, deceased estate, bare trusts)		% and for whose benefit under the trust's terms.
Other		

Related individuals exemptions are based on two main principles:

- Relationship between the transferee and the transferor

A **related individual** includes only a person's spouse, child, grandchild, great-grandchild, parent, grandparent or great-grandparent, the spouse of a person's child, grandchild or great-grandchild, the child, parent, grandparent or great-grandparent of a person's spouse.

Note: **Child** includes the stepchild. **Parent** includes the stepparent (the spouse of a parent of the child).

- Citizenship status.

To be considered **related individual** for the exemptions in section 14, the transferee **must** also be a **Canadian Citizen** or a **Permanent Resident of Canada**³.

Family Members exemptions are based on the following:

- Relationship between the transferee and the transferor **and** Citizenship Status

A "**family member**" is defined in PTTA as **an individual who is a Canadian citizen or a permanent resident of Canada** and is one of the following: a related individual, 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.

In this exemption group, differently from the related individual exemption group, when **transferor and transferee satisfy the relationship criterion** (i.e., related individual/family member) BUT **if not both Canadian Citizen or Permanent Resident of Canada**, they **DON'T qualify** for a PTT exemption under section 14. In such case, both PTT and the Additional Tax is payable, if applicable.

Note: The Additional tax applies only to the residential portion of land that is classed by BCA as Class 1 when a transfer of a farm occurs.

³ A **permanent resident of Canada** is a person who has a valid permanent resident card issued by the Immigration Canada as defined in the *Immigration and Refugee Protection Act(Canada)* and is defined in section 1(1) of the PTTA : "**permanent resident of Canada**" means a permanent resident as defined in the *Immigration and Refugee Protection Act* (Canada).

For RESIDENTIAL only

If PTT exempt	→ Additional Tax exempt
RELATED INDIVIDUAL and Canadian citizen or Permanent Resident	
Except	
RELATED INDIVIDUAL and Canadian citizen or Permanent Resident BUT in TRUST (including BARE TRUST=unregistered/registered) for a foreign national beneficiary	
PTT exempt	→ Additional Tax TAXABLE (only)

FARM use ONLY with residential improvements

FAMILY MEMBERS (farm transfer including the residential portion) and Canadian citizen/Permanent Resident	
If PTT exempt	→ Additional Tax exempt
Except	
FAMILY MEMBERS (farm transfer including the residential portion) BUT NOT Canadian citizen/Permanent Resident	
Not PTT exempt	→ Additional Tax TAXABLE (only on residential)

OTHER EXEMPTIONS

	ATT TAXABLE ONLY	ATT EXEMPT	PTT EXEMPT
08 Transferee is not Canadian citizen or permanent resident	YES	-	YES
09 The Executor is not Canadian Citizen or Permanent Resident PTT Return transferee ticks NO to the Canadian citizen question and put \$0.01 in the additional tax box at I 6(b) so the form will validate. No ATT form needs to be mailed	Exception NO-	-	YES
13	YES	-	YES
14 Transferee is not Canadian citizen or permanent resident		YES	YES
15		YES	YES
16		YES	YES
17		YES	YES
19		YES	YES
20	N/A	N/A	YES
21		YES	YES
22	N/A	N/A	YES
23	N/A	N/A	YES
24	-		
25		YES	YES
26 Trustee Transferee NOT Canadian or Permanent Resident	YES	-	YES
27	N/A	N/A	YES
28	N/A	N/A	YES
29		YES	YES
30		YES	YES
31		YES	YES
32		YES	YES
34		YES	YES
35		YES	YES
37	N/A	N/A	YES
38 If the corporation is foreign	YES		YES
39	N/A	N/A	YES
40		YES	YES
41		YES	YES
42		YES	YES
43		YES	YES
44		N/A	YES
45		YES	YES

46		N/A	YES
47		YES	YES
48		YES	YES



September 28, 2016

s.21,s.22

Re: Property Transfer Tax Advance Ruling

s.21,s.22

s.21,s.22
Dear

I am responding to your letter of July 11, 2016, requesting an advance tax ruling regarding exemption from property transfer tax ("PTT") for a proposed lease agreement between your clients: s.21,s.22
s.21,s.22

Your request asks specifically for a ruling on whether the proposed lease you have provided, if registered at this time, would attract PTT. We received payment for this ruling on August 26, 2016, and a copy of the proposed lease agreement on July 11, 2016.

I. BACKGROUND

I understand the facts of your request are as follows:

1. The property involved is located in s.21,s.22 and is legally described as:
s.21,s.22

(the "Property")

2. The Property has several agreements registered on title.
3. The first agreement is a lease ("**Original Lease**") between s.21,s.22
s.21,s.22

4. A second agreement between the parties ("**Lease Modification Agreement #1**") was registered in the LTO on June 7, 2000 s.21,s.22 You have advised that Lease Modification Agreement #1 does not change the term of the Original Lease. s.21,s.22 s.21,s.22
5. A third agreement between the parties ("**Lease Modification Agreement #2**") was registered in the LTO on February 3, 2005 s.21,s.22 You have advised that Lease Modification Agreement #2 also does not change the term of the Original Lease.

You have provided the proposed new lease (**Proposed Lease**), which is between the same parties as Lease Modification Agreement #2. You have advised that the new lease is a 'standalone arrangement' that does not further modify, nor extend the existing lease.

Further, you have advised that the new lease makes no reference to the existing lease, with the exception of section 40. This section provides that the terms of the new lease shall be forfeit and become unenforceable if the existing lease has been terminated prior to December 31, 2020. s.21,s.22

s.21,s.22

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 **not 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 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 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, and
- (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, and
- (b) the number of years by which the lease agreement is extended by the lease modification agreement.

Analysis

As per the facts presented and the documentation submitted, we determined that the registration of the Proposed Lease between s.22 is **not exempt from PTT**.

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

- extends the term of the existing lease, beginning immediately after the expiry of Lease Modification Agreement #2;
- makes reference to the Original Lease;
- is between the same parties; and,
- is for the same property.

The term of the Proposed Lease is calculated as per section 10(2) of the PTT Regulation: the term (as of the date it was registered at the LTO), before the extensions by the lease modification agreements and the number of years by which the lease modification agreements extend the lease.

s.21,s.22

The fair market value (FMV) of the “modified lease” is calculated as per section 14(1) of the PTT Regulation. The fair market value of a lease agreement (that is not a prepaid lease) is the amount determined by applying the following formula:

$VSI \times P$

where VSI = the fair market value (as per the definition 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.

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



October 18, 2016

s.22

Re: Property Transfer Tax Advance Ruling s.22

Dear s.22

I am responding to your letter requesting a ruling as to whether property transfer tax (PTT) will be payable on the transaction proposed by your clients, s.22

s.22

We confirm receipt of the full payment for the ruling.

I. BACKGROUND

I understand the facts of your request are as follows:

1. The properties to be transferred are classified as farm land by BC Assessment and are legally described as:

s.22

2. The Properties are currently registered in the name of s.22 You have indicated that s.22 is holding the beneficial interest in the properties on behalf of a limited partnership, s.21, s.22 (the Partnership) of which the only partners are s.21, s.22 (the transferees). All the partners are related individuals s.22 and are Canadian citizens residing in Canada. s.22

Ministry of Finance

Property Taxation Branch
1802 Douglas Street- 4th floor
Victoria, BC V8T 4K6
PH: 250 387 - 3328
FAX: 250 953 - 3094

3. s.22 transferred the properties and other parcels of land to the Partnership for a total consideration of s.22. Only the beneficial interest was transferred, the registered title remaining unchanged, (i.e., in the name of s.22 in joint tenancy). The legal owners of the properties at the time, s.22 each signed a Declaration of Trust of Land agreement, confirming they hold the interest as trustees of the Partnership.

4. You have stated that the Partnership uses the properties for farm activities and generates farm income.

5. s.21,s.22

6. No part of the properties is currently leased out or operated under crop sharing agreements.

7. You have provided financial information for both the transferor and the transferees and: s.21,s.22

8. The proposed transaction is to transfer the properties from the transferor to the transferees and claim an exemption for the transfer of the family farm under section 14(3)(a).

II. RULING REQUEST

You are requesting a ruling as to whether the proposed transfers of the properties, s.22 will be exempt from PTT based on the facts as per above.

III. RULING

Ministry of Finance

Property Taxation Branch
1802 Douglas Street- 4th floor
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It is my ruling that the proposed transfer of the property **is exempt from PTT**, provided that at the time of transfer there will be enough evidence of the active farming of the lands.

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 subsections are strictly met.

Section 14 (3)(a) exempts a transfer from a transferor who is not a trustee of a deceased's estate or of a trust settled during the lifetime of the settlor and who is registered as such at the Land Title Office, 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, [...]*

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*
- [...]

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.*

Section 1(3) stipulates that

*For the purpose of calculating tax payable under this Act, **a person registered in the land title office as the owner of land**, other than a person registered only as the owner*

*of a charge, is **deemed to be the legal and beneficial owner of a fee simple interest in the land, even if the person holds the land in trust.***

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.

Based upon the information you have provided, and the way the legislation reads (s. 1(3) of the Act) the properties are owned legally and beneficially by s.22

The Properties are: classified under the *Assessment Act* as farm /residential land and, as per the evidence submitted, the properties seem to qualify under the current definition of a family farm- used, owned and farmed by family members- for the production of crops.

The transferor and the transferees are all related individuals as defined in section 1 and section 14(1) 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 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 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



November 14, 2016

s.21

Dear s.21

RE: Property Transfer Tax Advance Tax Ruling ATRi^{s.21}

I am responding to your letter dated September 20, 2016, requesting a ruling with respect to application of the Additional Transfer Tax. We received payment for this ruling on October 20, 2016.

I. BACKGROUND

The request is made on behalf of s.21
s.21

the Metro Vancouver. The properties in question have been attached in an appendix and are referred to in the ruling as **the Properties**.

I understand the facts as being the following:

1. s.21
2. The current owners of the Properties do not fall under the definition of “foreign entity” as defined in section 2.01 of the *Property Transfer Tax Act* (PTTA) and the registered as well as the beneficial owners of the Properties existed as such for at least three years.
3. You have identified the purchaser, s.21 as being a “foreign entity” as defined in s. 2.01 of the PTTA.
4. I understand that the proposed transactions are the sale of the Properties by a way of a purchase and sale of
 - a. All of the issued shares of the current registered owners of the Properties
 - b. All of the issued units of the limited partnerships that are the beneficial owners of the Properties (you have identified these in an attached Appendix).

5. You have provided evidence that the proposed structure of the transaction was entered into through a letter of intent between the affiliates of current owners and the affiliates of the purchaser, on June 28, 2016, almost a month prior to the introduction of the Additional Transfer Tax. The structure of the transaction was all along envisioned by your clients as part of their desired relationship with no consideration to other tax liabilities, including the 15% Additional Transfer Tax.

II. RULING REQUEST

You are requesting a ruling as to application of the Additional Transfer Tax provisions including the anti-avoidance section 2.04 to the above mentioned transactions.

III. RULING

It is my ruling that the proposed transfers will be exempt from Additional Transfer Tax as there is no application to register the transfers at the LTO.

IV. LEGISLATION AND ANALYSIS

Legislation

Under the 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 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 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...

Under section 2 of the Act, tax is due at the time an application to register a taxable transaction is made at LTO, including the registration of a transfer of legal title.

On August 2, 2016, the 15% Additional Transfer Tax (sections 2.01-2.04) was introduced to allow tax be imposed in addition to the property transfer tax on taxable transactions registered at the LTO when the taxable transaction includes residential property located in the Metro Vancouver and the transferee is a foreign entity or taxable trustee, or both (s. 2.02 (2)).

Section 2.04 (the Additional Transfer Tax- anti-avoidance rule) delineates what avoidance transactions and tax consequences are in the context of the Additional Transfer Tax:

2.04 (1) In this section:

"avoidance transaction" means a transaction

(a) that, but for this section, would result, directly or indirectly, in a tax benefit, or
(b) that is part of a series of transactions, which series, but for this section, would result, directly or indirectly, in a tax benefit,
but does not include a transaction that may reasonably be considered to have been undertaken or arranged primarily for bona fide purposes other than for the purpose of obtaining a tax benefit;

"tax benefit" means a reduction, avoidance or deferral of tax payable under section 2.02;

"transaction" includes an arrangement or event.

(2) For the purposes of this section, a series of transactions is deemed to include any related transactions completed in contemplation of the series.

(3) If a transaction is an avoidance transaction, the administrator may determine the tax consequences to a transferee in a manner that is reasonable in the circumstances in order to deny a tax benefit that, but for this section, would result, directly or indirectly, from that transaction or from a series of transactions that includes that transaction.

(4) The tax consequences to any person, after the application of this section, must be determined only through an assessment under section 18.

Analysis

s.21

The purchaser, ^{s.21} is a foreign entity purchaser as defined in s. 2.01 of the PTTA, i.e., **"foreign entity"** means a foreign national or a foreign corporation. The purchase of any residential property in the Metro Vancouver Area by ^{s.21} is a taxable transaction for which the purchaser is liable for the 15% Additional Transfer Tax on application at the LTO for the registration of the taxable transaction. Not registering the purchase at the LTO can fall under the current anti-avoidance rules, section 2.04 (b).

Although the registration of the proposed transactions by ^{s.21} does not occur at the LTO, the purchase of shares and beneficial interest, under the current anti-avoidance section 2.04(b) of the PTTA can be perceived as being a *"series of transactions that [...] would result directly or indirectly into a tax benefit"*.

Nonetheless, after careful analysis of the contract (the Purchase Agreement) and of the particular facts, as well as the timing of the contract, I determined that the proposed transactions do not fall under s. 2.04 (b) of the anti-avoidance provision; they can be viewed as a *"transaction that may reasonably be considered to have been undertaken or arranged primarily for bona fide purposes other than for the purpose of obtaining a tax benefit"*. That being said, there is no guarantee that in the future, similar transactions are going to be treated equally. Each transaction is assessed considering the uniqueness of the evidentiary facts, which in your clients' scenario support the "bona fide" purposes of the proposed transactions.

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



December 2, 2016
s.21

Re: Property Transfer Tax Advance Ruling s.21

Dear s.21

I am responding to your email dated October 14, 2016, requesting an advance tax ruling on the application of the property transfer tax ("PTT") for transfers proposed by your clients, s.21
s.21 i. Thank you for the payment received in full for this ruling.

I. BACKGROUND

I understand the facts of your request are as follows:

1. The properties in question (the "Property") was a single parcel of land located in the District of New Westminster, BC, which was formerly legally described as:

s.21

On June 6, 2016, the Parent Parcel was subdivided into the following two parcels, legally described as:

s.21

s.21

2.

t

3.

4.

II. RULING REQUEST

You are requesting a ruling as to whether the proposed transfers, of the interest in Lot A (held by s.21, and the interest in Lot B (held by s.21 will be exempt from property transfer tax (PTT).

III. RULING

It is my ruling that the proposed transfer of the interest held in Lot A, by s.21 s.21 and of the interest held in Lot B, by s.21 **will not be exempt from PTT**. The proposed transactions would not be part of the cited subdivision, and they are taxable transactions.

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 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 PT TA provides exemptions for certain transfers, provided that all of the criteria as described in each section and subsection are strictly met. The proposed transfers do not qualify under the subdivision provisions (exemption code 34) of the PT TA, as they would not be part of the subdivision which took place 6 months ago. Exemption under code 34 applies to transfers that occur immediately following the registration of a subdivision of a single parcel of land into smaller parcels, and transferees are subject to PTT on any increase in the proportionate shares of the fmV that they acquire.

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Analysis

As per the facts presented, the proposed transfers, whereby ^{s.21}
s.21 would not be exempt from PTT. PTT would be payable on the fmv of the land and improvements.

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

<i>Property Transfer Tax Act (PTTA)</i>	Policy Statement
Principal Residence	Sections 8 and 12.05
Evidentiary standards to establish principal residence for FTH & NBH August 2017	

Issue: What will the Property Transfer Tax Administrator accept as sufficient evidence of principal residency for the First Time Home Buyers (FTH) and Newly Built Homes (NBH) exemptions?

Background: Both the FTH and NBH exemptions require the transferee to inhabit the property as his or her principal residence for a specific period of time after registration. This period begins on or before the 92nd day after the date of registration and continues until the first anniversary from the date of registration.

“Principal residence” is defined broadly for both FTH and NBH exemptions as “the usual place where an individual makes his or her home.” By an administrative policy statement dated November 2008 and updated December 2012, the Property Transfer Tax Administrator has adopted the court’s interpretation of principal residence as:

... chiefly a matter of the degree to which a person in mind and fact settles into or maintains or centralizes his ordinary mode of living with its accessories in social relations, interests and conveniences at or in the place in question.¹ ...

The challenge of auditing and verifying a taxpayer’s principal residence is that while each taxpayer has unique personal circumstances, evidentiary standards also need to be consistently applied to ensure both fair and efficient administration of the FTH and NBH exemptions.

Current audit practice: Currently address changes on the taxpayer’s driver’s license or medical service plan (MSP) are accepted as sufficient evidence of principal residency. This practice is consistent, efficient and appropriate given the broad definition of “principal residence” and because there are additional program requirements that also limit revenue leakage (e.g. citizenship, fair market value thresholds and new construction).

If the address on a taxpayer’s driver’s license or MSP does not match the property on which an exemption is claimed, administrative fairness requires that the taxpayer be provided with an opportunity to explain his or her circumstances and provide additional evidence. Additional evidence may include copies of one or more of the following: owner-occupied house insurance, bills, bank statements or personal correspondence sent to the taxpayer at the property in question. There is some inconsistency regarding the type of bills or correspondence accepted and the degree to which principal residency should be scrutinized at this point.

This administrative policy statement clarifies that acceptable additional evidence should be similar to, and be subject to the same fairly low level of scrutiny, as driver’s license

¹ *Thomson v. Minister of National Revenue*, [1946] S.C.R. 209

and MSP address changes. This policy is an incremental shift away from the reliance upon multiple pieces of mailed correspondence, and toward single documents in which a residential address as opposed to a mailing address is required or principal residence has been independently determined or declared under certain government programs.

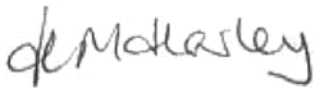
Administrative Policy Statement (August 2017)

If principal residency for a FTH or NBH exemption cannot be verified by driver's license or medical service plan address changes, then the taxpayer must be provided with an opportunity to explain his or her circumstances and provide additional evidence.

Any piece of evidence from the following list is sufficient to establish principal residency if the date falls on or before the 92nd day after the date of registration (when auditing move-in requirement) or on or after the first anniversary of registration (when auditing the one year anniversary occupation requirement).

- Residential home insurance indicating that the property is owner-occupied
- Home owner grant claim on the property
- BC Home Partnership loan registered on title
- Land Tax Deferment lien registered on title
- GST/HST new housing rebate approved application for the property
- Voter registration record from Elections BC

Other evidence offered by taxpayers, including a combination of bills and miscellaneous correspondence can continue to be considered on a case-by-case basis.



APPROVED – PTB

August 10th
2017_____
DATE

Example of Scenarios and Implementation Policy

Scenario	Policy
1) Transferee has claimed the home owner grant on the property within 92 days of the date of registration	Principal residence. Not all transferees will claim the home owner grant on or before 92 days of the date of registration due to the timing of the home owner grant application deadlines. However, if the grant application deadline coincides with their occupation of the property and a claim is made, this is sufficient evidence of principal residency for audit purposes.
2) Transferee has a Property Tax Deferment Lien registered on title.	Principal residence. If the deferment lien has been registered within the audit period for these exemptions, then it is most likely a new, active deferment account and so evidence of principal residence.
3) Transferee provides a copy of their homeowner's insurance. The location of the insured property matches the insured's mailing address, but there is an endorsement permitting a rental suite.	Principal residence. Homeowner's insurance provides direct evidence of principal residency as the occupation of the property determines the nature of the risk and so cost and nature of the insurance policy. Rental suites are permitted in a person's principal residence.
4) Transferee provides a copy of their T1 Income Tax Return, Capital Gains, Schedule 3, showing the property as their designated principal residence.	Insufficient evidence of principal residence. A principal residence designation for capital gain purposes is insufficient because taxpayers are able to designate properties that are not the usual place where they make their home.
5) Transferee requests a copy of their Voter registration record from Elections BC and the address matches the property in question.	Principal Residence. Voter registration records are updated through ICBC and other sources such as Vital Statistics and Elections Canada. The voter's residential address as opposed to a mailing address is required.
6) Transferee provides a cable bill, hydro bill, and credit card statement with mailing addresses that match the property.	Principal Residence Although not the preferred method of verifying principal residence under this policy, a variety of bills and correspondence will continue to be accepted.



February 21, 2017

s.21

Re: Property Transfer Tax Advance Ruling ^{s.21}

Dear ^{s.21}

I am responding to your email dated December 15, 2016, requesting an advance tax ruling on the application of the property transfer tax ("PTT") for transfers proposed by your clients, ^{s.21} Thank you for the payment received in full.

I. BACKGROUND

I understand the facts of your request are as follows:

1. The properties in question is ^{s.21} and is legally described as:

^{s.21}

(the Property)

^{s.21}

submitted a PTT return and paid property transfer tax on this transaction. I assume that you have a copy of these records.

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the BC Supreme Court has ruled that it is indeed the party entitled to those residual interests, granting an order to have it named as the beneficiary under the trust agreement and have the previous owner removed.

II. RULING REQUEST

You are requesting a ruling as to whether the proposed transfers, of the registration of the
s.21 at the
Property, will be exempt from property transfer tax (PTT).

III. RULING

It is my ruling that the proposed transfer **falls under the correcting transaction section of the PTTA and is exempt.**

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 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 PTTA provides exemptions for certain transfers, provided that all of the criteria as described in each section and subsection are strictly met. The proposed transfers qualify under section 3.1 of the PTTA:

3.1 (1) In this section:

"correcting transaction" means 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;

"original transaction" means 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.

(2) Despite sections 2.02 (3) and 3 (1), the tax payable under this Act for a correcting transaction is the tax payable calculated in accordance with this Act and the regulations, as they read on the date of registration of the original transaction and as if the fair market value of the correcting transaction were determined at that date.

(3) On the registration of a correcting transaction, the amount of tax paid under this Act by a transferee in respect of the original transaction is deemed to be tax

(a) paid by the transferee in respect of the correcting transaction,
and

(b) paid on the date the correcting transaction is registered.

Section 3.1 provides for situations involving correcting transactions (as defined above), so that tax is not paid twice for what is in essence one transaction. On the registration of a correcting transaction, the tax previously paid by the transferee under the PTTA for the original transaction is deemed to have been paid for the correcting transaction.

Analysis

As per the facts presented, the proposed transfer from the seller to ^{s.21} of the beneficial interest in the trust falls within the category of correcting transactions as defined by the PTTA.

Assuming the fair market value was properly declared at the time of purchase, the tax paid under PTTA on the original transaction is deemed to have been paid at the time of the correcting transfer. Please note that the client will be required to provide evidence at the time of submission.

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,



Emily Lewis

Manager, Audit and Compliance
Property Transfer Tax

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s.22

s.22

March 21, 2017

Deal^{s.22}

Re: Property Transfer Tax Advance Ruling^{s.22}

I am responding to a letter from^{s.22} of your firm dated January 18, 2017, requesting an advance tax ruling on the application of the property transfer tax ("PTT") for transfers proposed to correct title ownership. Thank you for the payment received in full.

Background

I understand the facts of your request are as follows:

1. In 2015, four new row-style townhouses were built on a^{s.22} property in^{s.22} British Columbia.
2. The townhouses were presold contracts of purchase and sale; the properties were identified by referencing a preliminary strata plan (dated June 6, 2014) that was not deposited in the Land Title Office.
3. The preliminary strata plan numbered the strata lots 1 through 4, east to west, so that the strata lot numbers increased in the *same* direction as the civic addresses.
4. Contracts of purchase and sale were entered into as follows:

s.22

5. The strata plan was revised before application was made to deposit it with the Land Title Office on November 19, 2015 (strata plan s.22
6. Strata plan s.22 reversed the numbering of the four strata lots so that the numbering now ran west to east, in the *opposite* direction to the civic addresses.
7. On November 30, 2015, each strata lot was transferred to s.22
8. The strata lots were then transferred to the purchasers according to the preliminary strata plan numbering as found in the contracts of purchase and sale, rather than the numbering found in the deposited strata plan. Specifically:
s.22

Ministry of Finance Revenue Division
Property Taxation Branch

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Courier Only:
Property Taxation Branch
1802 Douglas St
Victoria BC V8T 4K6

Website: gov.bc.ca/propertytransfertax
Email: PTTENQ@gov.bc.ca

9. No further transfers of the strata lots have been registered to date.

10. You are proposing the following transactions:

s.22

11. Steps (a) and (b) and Steps (c) and (d) may happen before, simultaneously or after each other depending on when the required signed documents are received; however step (c) will occur immediately after Step (a) is complete and Step (d) will occur immediately after Step (b) is complete.

12. Although the letter from your firm dated January 18, 2017 proposes transfers

s.21,s.22

Ruling Request

You are requesting a ruling as to whether the transfers described in Steps (a) to (d) above come under the exemption provisions of section 14(4)(t) of the *Property Transfer Tax Act* (PTTA).

Ministry of Finance Revenue Division
Property Taxation Branch

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Courier Only:
Property Taxation Branch
1802 Douglas St
Victoria BC V8T 4K6

Website: gov.bc.ca/propertytransfertext
Email: PTTENQ@gov.bc.ca

You are also requesting a ruling as to whether there will be any further property transfer tax due or a refund of property transfer tax previously paid as a result of the transactions described in Steps (c) and (d) above.

Ruling

It is my ruling that the proposed transfers in Steps (a) and (b) are exempt under section 14(4)(t)(i) of the PTTA as transfers for the purpose of reconveying land that was transferred in error.

The proposed transfers in Steps (c) and (d) are "correcting transactions" as set out in section 3.1 of the PTTA. These correcting transactions are not exempt, but the tax payable is deemed to be the tax that was payable at the time the strata lots were conveyed in error. The transferees in Steps (c) and (d) will be deemed to have paid the tax that was already paid when the strata lots were conveyed in error. It is assumed that the value and the PTT paid on the registration of the presold strata lots was the correct fair market value; this issue can be part of a future audit but it is out of scope for the transfers proposed in this ruling.

There will be no further property transfer tax due nor a refund of property transfer tax previously paid as a result of the transactions described in Steps (c) and (d) above.

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.

Transfers for the purpose of reconveying land transferred in error are exempt under section 14(4)(t)(i) of the PTTA.

14(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:

- (t) a transfer for the purpose of reconveying land
 - (i) that was transferred in error, ...

After the land is reconveyed, the transfer to the originally intended transferee is not exempt but rather is a "correcting transaction" and taxed according to section 3.1 of the PTTA:

3.1 (1) In this section:

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Property Taxation Branch

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"correcting transaction" means 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;

"original transaction" means 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.

(2) Despite sections 2.02 (3) and 3 (1), the tax payable under this Act for a correcting transaction is the tax payable calculated in accordance with this Act and the regulations, as they read on the date of registration of the original transaction and as if the fair market value of the correcting transaction were determined at that date.

(3) On the registration of a correcting transaction, the amount of tax paid under this Act by a transferee in respect of the original transaction is deemed to be tax

- (a) paid by the transferee in respect of the correcting transaction, and
- (b) paid on the date the correcting transaction is registered.

The tax payable in the correcting transaction is calculated based on the fair market value of the property at the time of the transfer error (the "original transaction") as well as the legislation in place at that time. The tax paid by the transferee in the original transaction is deemed to be tax paid by the transferee in respect of the correcting transaction.

If tax is deemed to be paid under section 3.1 and the amount deemed to be paid exceeds the amount payable, a refund is available under section 23(3) of the PTTA:

23 (3) If a person is deemed to have paid tax under section 3.1 (3) in respect of a correcting transaction and the tax payable on that transaction is less than the amount deemed to have been paid, the administrator must, in accordance with the *Financial Administration Act*, refund out of the consolidated revenue fund the overpaid tax including any interest relating to the amount overpaid calculated in the manner prescribed in the regulations.

Analysis

There is sufficient evidence that ^{s.22}

s.22

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Transferring the strata lots^{s.22} in the same proportions as proposed in Steps (a) and (b) would be transfers for the purpose of reconveying land that was transferred in error, and so, exempt under section 14(4)(t)(i) of the PTTA.

When the strata lots are subsequently transferred to the intended owners as proposed in Steps (c) and (d) and as contemplated in the contracts of purchase and sale, these transfers will be "correcting transactions" as defined in section 3.1 of the PTTA. The tax payable under the correcting transactions will be the tax that was payable at the time the strata lots were conveyed in error. The transferees will be deemed to have paid the tax that was actually paid at the time the strata lots were conveyed in error.

Disclaimer

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.

Yours truly,



Steven Emery
Executive Director, Property Taxation Branch

Ministry of Finance Revenue Division
Property Taxation Branch

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s.22

October 2, 2018

Dear s.22

Re: Property Transfer Tax Advance Ruling s.22 for property located on s.22
s.22 B.C.

I am responding to your email dated September 4, 2018 requesting an advance tax ruling on the application of the property transfer tax ("PTT") for a transfer proposed by your clients, s.22 Thank you for the payment received in full.

Background

I understand the facts of your request are as follows:

1. The property is legally described as:

s.22

2. The registered owners on title are s.22

s.22

and hold the Property In Trust ("the Trust").

3. The settlors and trustees of the Trust are:

s.22

4. s.22

both Canadian citizens, are also beneficiaries of the Trust.

5. s.22

Trust.

the sole trustee of the

6. Once ^{s.22} is the sole registered trustee on title for the Trust, ^{s.22} proposes to transfer the Trust's interest in the Property to ^{s.22} as a beneficiary of the Trust.

Ruling Request

You are requesting a ruling as to:

1. whether transferring ownership of the Property to ^{s.22} as sole trustee of the Trust is exempt from PTT.
2. whether the transfer of the Property from the Trust to ^{s.22} as a beneficiary of the Trust is exempt from PTT.

Ruling

It is my ruling that the proposed transfer of title to ^{s.22} as sole trustee is fully taxable.

It is my ruling that the proposed transfer to ^{s.22} as beneficiary of the Trust is exempt from PTT.

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 PTTA, all transfers are taxable, unless specifically exempt.

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* 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 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 property transfer tax return submitted with the application for registration at the LTO.

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

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person's child, grandchild or greatgrandchild; or the child, parent, grandparent or greatgrandparent of a person's spouse.

Analysis

The Trust instrument to be registered in s.22 name as sole trustee appears to have been rectified by Order of the BC Supreme Court and contains significant changes in relation to terms and the class of beneficiaries when compared to the Trust instrument registered on title with LTO s.22. As the terms of the Trust have changed, section 14(4)(q) does not apply to the proposed transaction. PTT is, therefore, payable on the FMV for the transfer to s.22 name as sole trustee.

The rectified Trust was settled during the lifetime of the settlors, s.22 s.22 is named as beneficiary under the terms of the rectified Trust and meets the relationship criterion outlined in section 14(3)(d) s.22 s.22 The Property to which s.22 would registered title in LTO as beneficiary of the rectified Trust will serve as the principal residence of s.22 for at least six months immediately before the date of transfer. All the criteria for the exemption under section 14(3)(d) seem to be met; hence no PTT is payable for the registration of title in the name of s.22 as beneficiary.

Disclaimer

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. If upon audit, the transactions are found to be part of an avoidance transaction – avoidance as defined in 2.002 – this ruling is nonbinding.

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 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.

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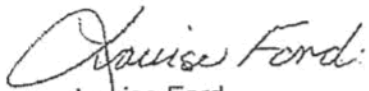
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Yours truly,



Louise Ford
A/Executive Director
Property Taxation Branch
Ministry of Finance

NULLIFIED

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April 3, 2017 ATT meeting Emily, Raluca, Benson, Bailey, Joanne, Yvonne

General application and policy Qs

PNP

1. When do we start process PNP refund applications?
We are arranging information sharing with JTST to verify PNP certificates information. We will start process PNP refund application after we have access to the PNP database.
2. We received refund applications of new PR. What we do?
Return the applications and explain that they only submit the refund applications after 12 months using the property as principle residences (must have moved in within 92 days & lived there for 1 year).
3. PNP confirmation of nomination list one nominee. Property was purchased under both spouses names. Refund will be issued to the nominee only or to the family?
Refund to nominee only.
4. If the PR application linking to the PNP nomination was declined or cancelled, but nomination is still valid, will purchasers qualify for PNP exemption? s.17
s.17
No.
5. s.17
6. Does PTB accept as proof of nomination the “work permit support letter for BC Provincial Nominee Program”?
NO.

The Work Permit Support Letter is used at a port of entry, and is not a BC PNP Confirmation of Nomination. PTB can verify PTT transferee’s status as PNP by using this document, BUT BC PNP program recommended that we require the Confirmation of Nomination letter as verification of their Provincial Nomination (for consistency).

Confirmations can be reissued at the request of the nominee (by emailing the helpdesk at PNPInfo@gov.bc.ca), although loss is rare as the document has been provided in an electronic format for roughly a year.

DECISION Emily: Given the above information from PNP, we will stick with our previous decision to only accept Confirmation of Nomination letters.

RESUBMISSION

Q. It seems that only change was in June purchaser registered with a wrong last name s.22 in Sep, resubmission showed last name s.17,s.22
s.17

RELATIONSHIPS

s.14,s.17,s.22

Scenarios

7. s.22

Ownership structures of 99% Not a Foreign Entity and 1 % Foreign Entity

Example:

s.22

The above example was discussed during a meeting with PTT staff and tax policy on May 2, 2017. It was determined that with the information available the case s.17
s.17

Further to the May 2, 2017 meeting with PTT staff and tax policy the following decisions were made on how to proceed with addressing 99:1 files.

Under the following conditions we will allow the 99:1 as filed:

- Both transferees live together in the house
- The Canadian (99%) lives alone in the house
- Both are receiving the rental income from the house
- The Canadian (99%) is the one receiving the rental income
- The rental income is applied to paying the mortgage

Under the following conditions we would want to further review the file:

- The foreign national (1%) is the one that lives in the house
- The foreign national is the one receiving the rental income.

To determine our position, we will need additional information:

- Property usage information – Investment property or principal residence
- Confirmation of who resides on the property.
- If Investment property – who receives the rent? Or is the rent applied to paying the mortgage?
- Information to determine who has control and beneficial interest.

100% ownership, with spouse contributing financially.

A case was received where a return was filed with 99% interest registered to a Canadian, and 1% to a foreign national. This was filed in error, as the contract of purchase and sale had been amended prior to closing to remove the 1% transferee and register in the Canadian's name alone. The case was audited and support for the financial contributions and relationship of the transferees was requested. The 1% transferee s.22 the 99% transferee and contributed 96% of the purchase of the property.



s.22

April 10, 2017

Dear s.22

Re: Property Transfer Tax Advance Ruling s.22

I am responding to your email requesting an advance tax ruling on the application of the property transfer tax ("PTT") for transfers proposed by your clients, s.22
s.22 Thank you for the payment received in full.

Background

I understand the facts of your request are as follows:

1. The property owned by s.22 is legally described as:
s.22

("Lot 1").

The property owned by s.22 immediately adjacent to Lot 1, is legally described as:
s.22

("Parcel B")

2. Lot 1 and Parcel B are both designated Agricultural Land Reserve properties which were classed as farm properties for 2016 and several prior years by BC Assessment. Both are leased and actively farmed by s.22
s.22
3. Your clients, s.22 are considering transferring both properties into joint tenancy between themselves.

Ruling Request

You are requesting a ruling as to whether the proposed transfers will be exempt from PTT. Your question was:

"Can the transfer of both Properties into joint tenancy between ^{s.22}
s.22 be accomplished on a fully Property Transfer Tax exempt basis
by claiming the exemption for the transfer of a family farm to a related
individual s. 14(3)(a)(i) of the Act?"

Ruling

It is my ruling that the proposed transfer is exempt from PTT.

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,

(i) an estate in fee simple referred to in section 23 (2) of the Land Title Act, ...

Section 14(3)(a) of the PTTA provides exemptions for certain transfers, provided that all of the criteria as described in each section and subsection are strictly met.

(3) 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, or

(ii) a related individual, if the land transferred is a recreational residence

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For the purposes of this ruling, the PTTA's definitions of "family farm", "family member" and "related individual" are:

"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...

"family member" means an individual who is a Canadian citizen or a permanent resident of Canada and 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;

"related individual" means a related individual who is a Canadian citizen or a permanent resident of Canada

Analysis

As per the facts presented, the proposed transfers are subject to Section 14(3)(a) of the PTTA, quoted in the preceding section. In order to be eligible for the family farm exemption, the proposed transfers and parties involved must strictly meet the definitions established above.

According to the documents you submitted on November 7, 2016, all transferors and transferees are Canadian citizens, and I am satisfied that they fulfil the PTTA's definitions of "family member". The Properties are classified under the *Assessment Act* as farm land, according to your correspondence with BC Assessment. As per the evidence and description provided, I am satisfied that they qualify under the PTTA's current definition of a family farm, i.e. used, owned and farmed by family members for the production of crops.

Disclaimer

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.

Yours truly,



Emily Lewis
Manager, Audit and Compliance



s.22

May 24, 2017

Dear ^{s.22}

Re: Property Transfer Tax Advance Ruling ^{s.22}
_{s.22}

I am responding to your letter dated December 2, 2016 requesting an advance tax ruling on the application of the property transfer tax ("PTT") for transfers proposed by your client, ^{s.22} - Thank you for the payment received in full and additional information provided.

Background

I understand the facts of your request are as follows:

1. There are two adjacent parcels at issue:

_{s.22}

and

(the "Properties").

2. ^{s.22} is the registered owner of the Properties.

3. The Properties have Class 09 farm land classification on the 2017 assessment roll. A ^{s.21} farm is operated on the Properties.

4, ^{s.21}

5.

6, ^{s.21,s.22}

7, ^{s.22}

8,

9, ^{s.22} are Canadian citizens or permanent residents of Canada.

Ruling Request

^{s.22} is proposing to transfer the Properties to ^{s.22}
^{s.22} You are requesting a ruling as to whether the proposed transfers will be exempt from PTT.

Ruling

Assuming the facts above are correct, it is my ruling that the proposed transfer of the Properties from ^{s.22} will be exempt from PTT.

Legislation

PTT is due at the time an application to register a taxable transaction is made at a 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)(a) of the PTTA provides an exemption for transfers of family farms:

14(3) 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:

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(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 [...]

For the purpose of this exemption, a **"related individual"** is defined in section 14(1) of the PTTA to mean a related individual who is a Canadian citizen or a permanent resident of Canada. **"Related individual"** is defined in section 1(1) of the PTTA to include a person's child.

A "family farm" is defined in section 14(1) of the PTTA, in part, 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,

...

"family farm corporation" means a corporation of which

- (a) the principal activity is farming farm land, and
- (b) no shareholder is a corporation;

"Farm land" is also defined in section 14(1) of the PTTA:

"farm land" means land classified under the *Assessment Act* as farm land;

Analysis

The Properties are a "family farm" because:

- they have farm classification on the 2017 assessment roll;
- s.21,s.22
- s.21,s.22 is a "family farm corporation" because its principal activity is farming farm land and no shareholder is a corporation.

The transfer of the Properties from s.22
s.22 will be exempt as a transfer of a family farm to related individuals under section 14(3)(a) of the PTTA.

Disclaimer

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.

Yours truly,

Emily Lewis
Manager, Audit and Compliance

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s.21

May 31, 2017

Dear ^{s.21}

Re: Property Transfer Tax Advance Ruling ^{s.21}

I am responding to your letter dated February 7, 2017, updated on April 25, 2017, requesting an advance tax ruling on the application of the property transfer tax ("PTT") to proposed leases on ^{s.21} Thank you for the payment received in full.

Background

I understand the salient facts of your request are as follows:

^{s.21}
1.

2.

3.

4.

5.

6.

7.

8.

9.

10^{s.21}

11

Ruling Request

You are requesting a ruling as to whether PTT will be payable on the registration of the Replacement Leases.

Ruling

It is my ruling that PTT will be payable on the registration of the Replacement Leases.

Legislation

Section 2 of the *Property Transfer Tax Act* (the "Act") requires the transferee to pay PTT on application for registration of a taxable transaction:

2 (1) Subject to subsection (2), on application for registration of a taxable transaction at a land title office, the transferee must

(a) pay tax to the government in accordance with section 3 or 38, ...

A lease agreement is a taxable transaction if the lease period exceeds 30 years as set out in the paragraph (e) of the definition of "taxable transaction" in section 1(1) of the Act.

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"taxable transaction" means a transaction

(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, or

A **"lease agreement"** is defined in section 1(1) of the Act to include an option to renew or extend the term or the lease as well as additional agreements to extend the term of the lease:

"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;

An option to lease is not in itself a "taxable transaction." An option to lease only becomes a "taxable transaction" under the circumstances set out in paragraph (g) of the definition of "taxable transaction" in section 1(1) of the Act as follows:

"taxable transaction" ...

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;

The purpose of paragraph (g) of the definition of "taxable transaction" is to prevent tax avoidance schemes in which multiple lease agreements and/or options to lease are registered on the same property, each with terms of less than 30 years, but with the cumulative effect of creating a single lease agreement in excess of 30 years ("Stacked Leases").

When Stacked Leases are deemed to be a single taxable transaction under paragraph (g), the PTT liability is calculated in accordance with section 3(6) of the Act:

3(6) The tax owing on a taxable transaction referred to in paragraph (g) of the definition of "taxable transaction" is to be calculated as if

(a) the taxable transaction were a single lease transaction referred to in paragraph (e) of the definition of "taxable transaction", and

(b) the term of the lease transaction were the total of the terms referred to in paragraph (g) (iii) of that definition.

(7) Each transferee under the taxable transaction referred to in subsection (6) is jointly and severally liable to pay the tax owing on that taxable transaction.

A person holding an option to lease that is part of a series of Stacked Leases is only liable to pay tax to the extent that the term of the option does not overlap other components of the Stacked Lease. This is set out in the definition of "transferee" in section 1(1) of the Act:

"transferee" means a person to whom land is transferred under a taxable transaction, and, for the purposes of section 3 (7), includes a person to whom an option to lease referred to in paragraph (g) (iii) of the definition of "taxable transaction" gives a right to enter into a lease agreement under which is given a right to occupy land for a term that is not the same as or included within a term provided by any other of the transactions that comprise the taxable transaction referred to in section 3 (7);

A transfer of an option to lease is not a taxable transaction. However, if the option to lease is exercised, the new lease agreement is a taxable transaction under paragraph (e) of the definition of "taxable transaction" in section 1(1) of the Act.

There is no exemption available for a lease agreement resulting from the exercise of an option to lease that was itself taxable as part of a series of Stacked Leases.

Analysis

The Original Leases fall within the definition of "taxable transaction" paragraph (e) in section 1(1) of the Act.

s.21

s.21

In this case, paragraph (g) of the definition of "taxable transaction" in section 1(1) of the Act is not applicable.

The Replacement Leases fall within the definition of "taxable transaction" paragraph (e) in section 1(1) of the Act.

There is no exemption available for the registration of the Replacement Leases.

There is no double taxation as the registration of the Original Leases is a separate transaction from the registration of the Replacement Leases.

Disclaimer

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.

Yours truly,



Emily Lewis
Manager, Audit and Compliance

Ministry of Finance Revenue Division
Property Taxation Branch

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s.22

By Email: s.22

July 20, 2017

Dear s.22

Re: Property Transfer Tax Advance Ruling s.22

I am responding to your letter dated May 19, 2017 requesting an advance tax ruling on the application of the property transfer tax ("PTT") for transfers proposed by your client, s.22
Thank you for the payment received in full.

Background

I understand the facts of your request are as follows:

1. The property at issue is s.22
s.22 (the
"Property")
2. The registered owner of the Property is s.22
s.22 (the "Trust").
3. The Trust was created on s.22 as documented in the
Agreement of Trust (the "Trust Deed").
4. The Trust Deed is registered in the Land Title Office (document s.22).
5. s.22
- 6.
- 7.
- 8.

s.22

9. The Trust acquired the Property on

10. ^{s.22} contributed the funds to the Trust which were used to acquire the Property.

11. In August 2003, the Property became the principal residence of ^{s.22}
_{s.22}

12. ^{s.22} is proposing to transfer the Property from the Trust to
_{s.22} at fair market value (the "**Proposed Transfer**").

13. ^{s.22} is a Canadian citizen.

14. The Property will continue to be ^{s.22} principal residence for at least six months immediately before the Proposed Transfer.

Ruling Request

You are requesting a ruling as to whether the Proposed Transfer will be exempt from PTT.

Ruling

It is my ruling that the Proposed Transfer will be exempt from PTT.

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)(d) of the PTTA provides an exemption for property transferred out of a trust under certain conditions as follows:

14(3) 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:

(d) a transfer from a transferor who is a trustee of a trust that is 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, if

(i) the transferee is a beneficiary of the trust,

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- (ii) the transferee beneficiary is a related individual of the settlor of the trust, and
- (iii) 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;

"Related individual" is defined in section 14(1) and 1(1):

14 (1) In this section:

"related individual" means a related individual who is a Canadian citizen or a permanent resident of Canada;

1 (1) In this Act:

"related individual" means

- (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;

"Settlor" is defined in section 1(1):

"settlor", in relation to land held in trust, means the person who

- (a) contributed the land to the trust estate, or
- (b) contributed to the trust estate the assets used to acquire the land,

whether or not that person is the creator of the trust;

Analysis

Although ^{s.22} is not named as the settlor in the Trust Deed, ^{s.22} contributed the assets to the trust estate that were used to acquire the Property, and so ^{s.22} is a "settlor" for the purpose of the PTTA.

All other criteria for the exemption are met:

- The trust was settled during the lifetime of ^{s.22}
- ^{s.22} is registered as trustee of the Property
- ^{s.22} is a beneficiary of the Trust
- is related individual to ^{s.22} and a Canadian citizen.

- The Property is the principal residence of s.22 and will continue to be so for at least the six months leading up to the Proposed Transfer.

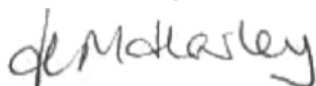
Disclaimer

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.

Yours truly,



Hilary Harley
Manager, Audit and Compliance

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s.22

BY EMAIL: s.22

July 20, 2017

Dear s.22

Re: Property Transfer Tax Advance Ruling s.22

I am responding to your letters dated May 30, 2017 and June 21, 2017 requesting an advance tax ruling on the application of the property transfer tax ("PTT") for transfers proposed by your client, s.22 . Thank you for the payment received in full.

Background

I understand the facts of your request are as follows:

1. The property at issue is s.22
s.22

s.22 (the "**Property**").
2. s.22 is the registered owner of the Property in trust as Trustee of the
s.22 (the "**Trust**").
3. The Trust was created by s.22
s.22
s.22 (the "**Trust Agreement**").
4. s.22 provided the funds to the Trust which the Trustees used to acquire the Property as documented in the *Resolution of the Trustees of the Family Trust* passed September 3, 2010.
5. s.22 appointed the Trust fund by a *Revocable Deed of Appointment of the Trust Fund* dated s.22 (the "**Deed of Appointment**").

6. ^{s.22} is a beneficiary named in the Deed of Appointment.
7. ^{s.22}
- 8.
9. ^{s.22} in her capacity as Trustee of the Trust, is proposing to transfer the Property to ^{s.22} (the “**Proposed Transfer**”).
10. ^{s.22} is a Canadian Citizen.
11. The Property has been ^{s.22} principal residence continuously since 2010 and will continue to be her principal residence for at least six months leading up to the Proposed Transfer.
12. ^{s.22}
- 13
- 14
- 15
- 16

Ruling Request

You are requesting a ruling as to whether the Proposed Transfer will be exempt from PTT.

Ruling

It is my ruling that the Proposed Transfer will be exempt.

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.

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Section 14(3)(d) of the PTTA provides an exemption for certain transfers out of a trust settled in the lifetime of the settlor; it states:

14 (3) 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:

- (d) a transfer from a transferor who is a trustee of a trust that is 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, if
 - (i) the transferee is a beneficiary of the trust,
 - (ii) the transferee beneficiary is a related individual of the settlor of the trust, and
 - (iii) 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;

A "related individual" is defined in section 14(1) and 1(1) of the PTTA:

14 (1) In this section:

"related individual" means a related individual who is a Canadian citizen or a permanent resident of Canada;

1 (1) In this Act:

"related individual" means

- (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;

A "settlor" is defined in section 1(1) of the PTTA:

"settlor", in relation to land held in trust, means the person who

- (a) contributed the land to the trust estate, or
- (b) contributed to the trust estate the assets used to acquire the land,

whether or not that person is the creator of the trust;

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Analysis

The criteria for the exemption are met:

- s.22 is the settlor and trustee of the Trust
- The Trust was settled in the lifetime of s.22
- s.22 is registered as the trustee under the Land Title Act
- s.22 is a related individual to s.22
- is a beneficiary
- The Property will be the principal residence of s.22 for a continuous period of at least 6 months before the Proposed Transfer.

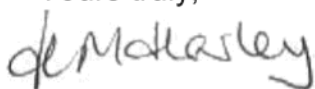
Disclaimer

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.

Yours truly,



Hilary Harley
Manager, Audit and Compliance

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s.22

July 20, 2017

Dear ^{s.22}

Re: Property Transfer Tax Advance Ruling ^{s.22}

I am responding to your letter dated June 6, 2017 requesting an advance tax ruling on the application of the property transfer tax ("PTT") for transfers proposed by your clients,
^{s.22} Thank you for the payment received in full.

Background

I understand the facts of your request are as follows:

1. The properties at issue are legally described as:

^{s.22}

(the "**Original Properties**").

2. ^{s.22}

3.

4.

5.

6. ^{s.22} is proposing to subdivide the Original Properties into the following lots:
^{s.22}

(the **"New Properties"**).

7. In order to effect the subdivision, the Life Estate will be extended over the following properties: ^{s.22} (the **"Extension Properties"**).

8. Upon completion of the subdivision the Life Estate will be discharged from ^{s.22} ^{s.22} only (the **"New Life Estate Property"**).

9. The New Life Estate Property will be 49.0 ha after registration of the subdivision.

Ruling Request

You are requesting a ruling as to whether the extension of the life estate will be exempt from PTT.

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Ruling

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

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 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)(r) exempts a transfer of a life estate, *if the transferee of that life estate transferred the fee simple estate in the same land to the transferor of the life estate in a concurrent transaction;*

Section 14(3)(r.1) exempts a transfer of a life estate, if

- (i) immediately before the transfer of the life estate, a mortgage is registered as a charge on the same land in respect of which that life estate is transferred to the transferee of that life estate,
- (ii) the transferee of the life estate was the tenant for life under a registered life estate in the same land but the registration of that life estate was cancelled immediately before the registration of the charge referred to in subparagraph (i), and
- (iii) the transfer of the life estate and the transfer of the registered life estate referred to in subparagraph (ii) involve a transfer by the same transferor of a life estate in the same land, on the same conditions to the same transferee.

Analysis

There is no exemption from PTT on the extension of the life estate. The proposed transfers do not meet the requirements for section 14(3)(r) or section 14(3)(r.1). PTT on the FMV of the entire Original Properties, including improvements, will be payable.

There is no provision in the PTTA whereby a life estate can be registered against only a portion of the Original Properties. 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 Land Title Office.

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

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- (a) as though the life estate did not exist, and
- (b) under paragraph (a) of "fair market value" in section 1 of the Act;

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

The Life Expectancy Table (Table 3 of the PTT Regulation) lists life expectancies by age and gender.

Disclaimer

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.

Yours truly,



Hilary Harley
Manager, Audit and Compliance



July 30, 2017

s.22

Re: Property Transfer Tax Advance Ruling s.22

Dear s.22

I am responding to your correspondence dated April 13, 2017, requesting an advance tax ruling on the application of the property transfer tax ("PTT") for transfers proposed by your clients, s.22
received in full. Thank you for the payment

Background

I understand the facts of your request are as follows:

1. The Property in question is legally described as:

s.22

2. s.22

3.

4. You are proposing to correct the error and convey the property with the intended undivided ownership interest, namely s.22 as the registered owner of an undivided 99/100 interest in the Property and s.22 as the registered owner of an undivided 1/100 interest in the Property.

Ruling Request

You are requesting a ruling as to whether the proposed transfers will be exempt from PTT.

Ruling

It is my ruling that *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.*

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 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”.

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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

As per the facts presented, the proposed transfers qualifies as a conveyance errors registered with the wrong ratio of ownership.

Section 3.1 of the PTTA applies in this case. The April 13 2017 transfer is an “original transaction” as defined in section 3.1(1) of the PTTA. The proposed transfer of registering the title with the intended ratio of ownership, i.e, ^{s.22}

s.22

s.22

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, the documents you have provided 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

Disclaimer

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.

Yours truly,

Emily Lewis
Manager, Audit and Compliance

Ministry of Finance Revenue Division
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s.22

By Email: s.22

September 1, 2017

Dear s.22

Re: Property Transfer Tax Advance Ruling s.22

I am responding to your letter dated June 8, 2017 requesting an advance tax ruling on the application of the property transfer tax ("PTT") for transfers proposed by your clients, s.22
s.22 Thank you for the payment received in full.

Background

I understand the facts of your request are as follows:

1. The property at issue is s.22
s.22 (the
"Property").
- 2 s.22 are the registered trustees of the
Property. s.22 (the "Trust").
3. s.22 and are Canadian citizens.
4. The Trust was created by s.22
in the trust agreement established on or about s.22 The Trust is
registered in the Land Title Office (document s.22
5. s.22 contributed funds to the Trust which
were used to acquire the Property, purchased on August 29, 2005.
6. On September 22, 2016 the Property became the principal residence of s.22
s.22 You have stated s.22 have resided on the Property since that
date.
7. s.22 proposing to dissolve the Trust and transfer the Property to
s.22 as joint tenants (the "Proposed Transfers").

8. Pursuant to section 6.02(e) of the Trust, ^{s.22} will resign as a trustee of the Trust and transfer title to the Property to ^{s.22} in trust. As the sole owner of the Property and sole trustee of the Trust, ^{s.22} will subsequently transfer the Property to ^{s.22} as sole owner. The trust will be dissolved.

9 ^{s.22}
^{s.22} as joint tenants. You have stated the Property will continue to be ^{s.22} principal residence for at least six months immediately before the Proposed Transfer.

Ruling Request

You are requesting a ruling as to whether the Proposed Transfers will be exempt from PTT.

Ruling

It is my ruling that the Proposed Transfers will be exempt from PTT as follows:

- Transfer from ^{s.22} as trustees of the trust to ^{s.22}
^{s.22} as beneficiary of the trust (s. 14(3)(d))
- Transfer from ^{s.22} as registered owner to ^{s.22} in joint tenancy for their principal residence (s. 14(3)(b)).

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)(d) of the PTTA provides an exemption for certain transfers out of a trust settled in the lifetime of the settlor as follows:

14(3) 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:

(d) a transfer from a transferor who is a trustee of a trust that is 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, if

- (i) the transferee is a beneficiary of the trust,
- (ii) the transferee beneficiary is a related individual of the settlor of the trust, and

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Courier Only:
 Property Taxation Branch
 1802 Douglas St
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Website: gov.bc.ca/propertytransfertax
 Email: PTTENQ@gov.bc.ca

(iii) 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;

"Related individual" is defined in section 14(1) and 1(1):

14 (1) In this section:

"related individual" means a related individual who is a Canadian citizen or a permanent resident of Canada;

1 (1) In this Act:

"related individual" means

- (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;

"Settlor" is defined in section 1(1):

"settlor", in relation to land held in trust, means the person who

- (a) contributed the land to the trust estate, or
- (b) contributed to the trust estate the assets used to acquire the land,

whether or not that person is the creator of the trust.

**Please note that the transfer from ^{s.22} as trustee to ^{s.22} as trustee is not necessary if the desired outcome is solely to obtain an exemption benefit under the PTTA. See analysis below.

Analysis

^{s.22} contributed the assets to the Trust that were used to acquire the Property; therefore, ^{s.22} is the "settlor" of the Trust for the purpose of the PTTA.

The following criteria for the exemption in section 14(3)(d) will be met:

- The Trust will be settled during the lifetime of the settlor
- ^{s.22} are registered as trustees under the *Land Title Act*
- is a beneficiary of the Trust

- As the spouse of s.22 is a related individual of the settlor, s.22
- s.22 is a Canadian citizen
- The Property will be the principal residence of s.22 for at least six months before the Proposed Transfer.

The above criteria satisfy the requirements of Exemption Code 41 (s. 14(3)(d)), for a transfer of a principal residence, or an interest in a principal residence, from a trustee of a trust created during the lifetime of the settlor to a beneficiary of the trust who is a related individual to the settlor of the trust. The Property has been the principal residence of the beneficiary, s.22 s.22, since September 22, 2016 and will continue to be immediately prior to the transfer.

The Property can be transferred by both current registered trustees, s.22 s.22 to the beneficiary of the trust according to the trust agreement.

The second proposed transfer, from s.22 as registered owner, to her spouse s.22 s.22 is exempt under section 14(3)(b) principal residence, provided that the property continues to be used as such by either the transferee or the transferor or both at least 6 months immediately before the date of transfer.

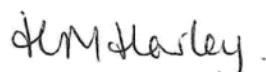
Disclaimer

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.

Yours truly,



Hilary Harley
Manager, Audit and Compliance

Ministry of Finance Revenue Division
Property Taxation Branch

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OUTLINES OF NEW CHANGES TO THE PTT RETURN VERSION 29

1. Live date of the PTT Return v. 29

Effective **November 27, 2017**, the PTT Return v. 29 must be used at the time of filing and registration of title with the LTSA.

Version 28 will no longer be accepted as of November 27, 2017.

Only the following versions of Adobe Acrobat can be used to complete v.29 of the PTT Return
--

- **Adobe Acrobat Pro/Standard DC 2015 Release (Classic)**
- **Adobe Acrobat Pro/Standard DC Continuous Release**
- **Adobe Acrobat Pro/Standard 2017**

To facilitate the transition, PTB accepts as the signed copy, to be kept in the lawyer/notary files, a V28 form if such form was signed by your client prior to November 27, 2017. However, in order to file with the LTSA you have to execute a V29 and collect the additional data before submitting that version. We will allow a grace period of 2 weeks after November 27, 2017. This is only a grace period for what version the lawyer needs to keep signed in their office and NOT what version can be filed with LTSA. Only V29 effective November 27, 2017.

2. Software upgrade and why only DC Standard or Professional Adobe?

Adobe 11 or prior versions are no longer supported by Adobe as of October 15 2017.

Due to the high sensitivity of the private information collected and submitted on the PTT Return, the Ministry of Finance stressed the importance of using software that is supported by Acrobat. **The use of the Acrobat DC Standard or Professional versions enhances the protection of citizens' sensitive personal information such as SIN, citizenship etc. and minimizes potential privacy breaches.**

3. Did the Ministry consider using software platforms other than Adobe for the tax return?

The property transfer tax return contains highly sensitive data and strict security is required both for the safekeeping of the data and encryption in the signing. In addition, the tax return is extremely complex in terms of the number of lines of coding. Other pdf platforms did not meet our needs in terms of the security features required.

4. Does the change in Adobe software impact my ability to digitally sign the return?

The following is information communicated to the legal community by the Law Society:

Customers who need to upgrade their Adobe Acrobat version, and who electronically sign from their workstation, will need to re-establish their Juricert Digital ID in the new version of Adobe Acrobat.

- Find your Juricert certificate file (.pfx file extension) and the password associated with that file. View digital certificate installation instructions.
- If you are unable to locate your existing certificate file and password, please contact the Law Society of BC's Juricert Services to have your certificate re-issued. The replacement certificate file must be downloaded from Juricert no later than November 28, 2017 to ensure it becomes valid in time to process PTT returns before the end of the month.

5. When will the new form be available?

The new form was posted on the Ministry of Finance and LTSA's websites on November 20, 2017.

Please note: When preparing the PTT Return (Version 29), please ensure **it is NOT electronically signed prior to submission on November 27, 2017.**

6. When will the Instruction Guides be available (yellow links on top left hand side of tax return?)

The links will become active on November 27, 2017.

We do have an information sheet on our website that identifies the changes to the version 29.

7. Importance of correct collection of address in PART A- Purchaser/Transferee Information

The address collected at the purchaser level in PART A is intended to collect information on the purchaser's principal residence. If the purchased/transferred property is not intended to be used by the transferee as their principal residence after registration of title, the address that needs to be reported in PART A is the current principal residence of the transferee.

**** NOTE:** if at the time of purchase/transfer, the transferee is not sure whether the property is going to be used as their principal residence or not, then the address field should be completed with the current transferee's principal residence address as of the date of registration, regardless of whether the transferred property will possibly become their principal residence in the future.

• Is the principal residence address the same as the mailing address?

Short answer: In most cases, yes, but there are instances when these addresses are different.

The address in PART A is the transferee's principal residence address and can be the same address as the civic address of the purchased/transferred property only if the transferred property will be used by the transferee as their principal residence after the registration date. The mailing address can coincide with the principal residence address; however the contact/ mailing address can be different than the address of the principal residence. If that is the case, the mailing/contact address is reported in PART B.

- In what **PART** of the **PTT Return v. 29** is the civic address of the property captured, if the transferred/purchased property is not intended to be used as the transferee's principal residence?

The civic address of the transferred property is reported in **PART D- Description of Property and Transfer**.

8. What information is collected in PART C- Vendor/ Transferor Information and under PTTA what authority?

The information to be completed in PART C is:

- Confirmation of vendor's residency status
- Vendor's contact information

This information is collected by vendor and purchaser legal representatives in the course of a property purchase/transaction. The information should be available from the Contract of Purchase and Sale. The information should be transposed from the Contract of Purchase and Sale (CPS) into the PTT Return.

Should a conveyancer not have access to this information or the information was not readily available to them, the purchaser should be contacted to provide the information. The vendor's legal representative as well as the realtor should be able to assist. Ensuring that the vendor has reported on their residency status on the CPS is safe practise in the real estate world and the information is present in the most updated versions of the CPS posted by the Real Estate Association. The collection of this information is part of general guidelines of drafting a CPS in the course of a transaction.

9. Why is the purchaser asked to report information about the vendor?

- The purchaser of a property has a responsibility under the Income Tax Act (Canada) to do a reasonable inquiry as to the vendor's tax residency and to withhold and remit tax in the case that the vendor is a non-resident.
- As a result, we are asking for information on the property transfer tax return that should be known to your client at the time of closing. The vendor information will be shared with the Canada Revenue Agency.
- We understand that the contract of purchase and sale is not always complete. In these cases, you or your client should reach out to the vendor's lawyer or the vendor's realtor to ensure that a reasonable effort has been made by the purchaser to gather the information.

10. What if the vendor's address has changed from the contract?

In Part C of the property transfer tax return, the purchaser is making a reasonable effort to confirm the residency status of the vendor using information known to the purchase at the time of transfer. Information on the vendor's address, phone number and tax status may be readily available on the contract of purchase and sale. If the purchaser becomes aware that information on the contract is inaccurate they should make

reasonable efforts to provide updated details. An example would be if the contract of purchase and sale has the vendor's address as the address of the property being transferred and the purchaser is moving into that property, the purchaser should follow up to obtain correct information. The purchaser is signing the tax return that they certify the information to be complete and correct therefore if they are aware something isn't correct, they would need to follow up. The vendor address to be recorded is where the vendor can be contacted after date of closing and not the principal residence address of the vendor although they could be the same.

11. Calculation of FMV in PART I- Property Transfer Tax Calculation

The property transfer tax is a registration tax remitted on the FMV of the taxable transaction. The tax should be calculated on the full FMV of the property and is then apportioned to the % interest registered by each purchaser/ transferee.

The Act is clear that the **tax payable** is calculated by using the full FMV of the property and any exemption claimed applies against the tax payable and not the FMV; hence the requirement to report the full FMV (in I(4)) for tax calculation purposes. **NEW CHANGE in reporting values for calculation of tax liability.**

Example: When there are multiple purchasers and one of the purchasers is exempt, the exemption applies against the tax payable and the tax exemption amount is calculated based on the % interest registered.

****Consistent with the calculations of tax payable when a FTHB or code 49 (NBH) exemptions are claimed.**

Meeting Minutes

Date: Thursday January 4, 2018

Time: 2:00pm – 3:00pm

Location: Leslie's office

Expected Participants: Leslie, Raluca, Bailey, Devon

Minute Taker: Devon

PNP Intention to Inhabit:

Policy:

- Policy consciously used the term “intend” to remove “after the fact” audits.
- More emphasis was put on the status as a provincial nominee than that of their residency in the property.
- However, the transferee needs to show enough intention.

s.13,s.17

Discussion:

- Three scenarios were provided of real life audit situations and how to proceed:

s.13,s.17

- If a taxpayer does not move onto the property, and is unable to support their intention at the date of registration, then their PNP exemption will be denied.

PR Refund – Continuously Inhabited Requirements

Legislation: “as the transferee's principal residence throughout a period of not less than one year beginning on a date that is not more than 92 days after the registration date”

Website: “continued to live in the home as your principal residence for at least one full year after the date the property transfer was registered”

s.13,s.17

Addendum:

PNP Case example

A PNP case was audited where the contract of purchase and sale included a clause that the purchaser was to rent the property to the seller for a period of 8 months after the closing date to wait for the completion of the condo that the sellers were purchasing. The transferee provided a statutory declaration that he intended at all times to inhabit the property.

The case was discussed with the director as well as policy to confirm our position. Although the taxpayer provided sufficient support that he did intend to eventually inhabit the property, his intended first use of the property was that of a rental property. The home insurance on the property was for a rental property, and six months after the registration date, the transferee had still not inhabited the property.

Changing the use of a property is a significant event and for income tax purposes requires a deemed disposition and reacquisition as it converts from an income property to a personal use property. The asset is treated as two different properties. This concept can be applied to the PNP provisions. Although the taxpayer had intent to use the property as a principal residence, that is after a change of use.

The transferee's PNP exemption was denied as on the date of registration, he did not intend to inhabit the dwelling as his principal residence as the first use of the property.

FREQUENTLY ASKED QUESTIONS: BUDGET MEASURES FEBRUARY 2018

THE ADDITIONAL TAX

The changes to the additional transfer tax are effective on February 21, 2018.

ATT- TAX RATE

Q: What is the new rate of tax?

A: The new additional transfer tax rate is 20%.

Q: What is the effective date of the new rate of tax?

A: The rate is in effect on February 21, 2018. There are some transitional rules related only to the new specified areas.

ATT- FOUR NEW REGIONAL DISTRICTS - “specified area”

Q: What are the new taxable regions/specified areas?

A: The definition of “specified area” in section 2.01 of the *Property Transfer Tax Act* has been expanded to include each of the following areas:

- Capital Regional District
- Regional District of Central Okanagan
- Fraser Valley Regional District
- Regional District of Nanaimo.

A list of all communities included in the specified area can be found on the website:

<https://www2.gov.bc.ca/gov/content/taxes/property-taxes/property-transfer-tax/understand/additional-property-transfer-tax#specified-areas>

ATT- TRANSITIONAL RULES FOR transactions in the NEW 4 SPECIFIED AREAS ONLY

Q: What are the transitional rules?

A: The transfers of residential property to foreign entities or taxable trustees are not liable for the payment of the additional 20% interest, if, the transfers are:

- (a) pursuant to a court order, order of foreclosure, separation agreement - must be court order/separation agreement/written agreement BEFORE February 21, 2018.

- (b) to a surviving joint tenant or to the beneficiaries of a deceased's estate – death of the deceased is BEFORE February 21, 2018,
- (c) pursuant to a written agreement – see notes below.

Q: What is meant by written agreement in (c) of the question above?

A: If a contract or written agreement is entered into prior to Feb 21, 2018 but doesn't close until Feb 21, 2018 or up to May 18, 2018, an exemption from the 20% rate will apply if the property is in one of the four new specified areas. This will NOT apply if you are a foreign entity and the contract was assigned to you after Feb 21, 2018.

Q: What does the date of May 18, 2018 represent?

A: The transfers of residential properties to foreign entities or taxable trustees pursuant to a written agreement (dated prior to Feb 21, 2018) are exempt from ATT if the registration occurs no later than May 18, 2018, that is, **before or on May 18, 2018**.

If the written agreement was before Feb 21, 2018 but was assigned to you after Feb 20, 2018, and you are a foreign entity, you will have to pay the 20% ATT.

All transfers pursuant to a written agreement registered after May 18, 2018 are subject to 20% ATT.

Transfer pursuant to a court order, order of foreclosure or a separation agreement or to a surviving joint tenant or the beneficiaries of a deceased's estate are not subject to the May 18, 2018 filing and registration rule.

Q: I am a foreign individual and signed my contract Feb 5, 2018. The transfer of title will register on March 15, 2018. My property is in Vancouver. What rate of ATT will I pay?

A: As your property is in the Metro Vancouver Regional District you will pay 20% ATT as your transfer is February 21, 2018 or later. The date of your written agreement isn't taken into account.

Q: I am a foreign individual and signed my contract Jan 15, 2018. The transfer of title will register on April 23, 2018. My property is in Nanaimo. What rate of ATT will I pay?

A: Your property is in the Regional District of Nanaimo which is one of the four new specified areas. As your written agreement was dated before February 21, 2018 and you are closing on or before May 18, 2018, you will not have to pay ATT.

Q: I am a foreign individual and I became the assignee on a contract. The contract was originally signed Jan 28, 2018 and assigned to me on March 1, 2018. The transfer of title will register on April 23, 2018. My property is in Kelowna. What rate of ATT will I pay?

A: Your property is in the Regional District of Central Okanagan which is one of the four new specified areas. While your written agreement is dated before February 21, 2018, it was assigned to you after Feb 20, 2018. You will pay the 20% ATT.

BILL # and ATT Regulation

Q: Where can one read the detailed proposed legislation as implementable starting Feb 21, 2018?

A: The changes to the Property Transfer Tax Act can be found in the Bill posted on the website ([LINK](#)); once the link is accessed, scroll down to find the Property Transfer Tax Amendments.

Q: Where can the new sections pertaining to the ATT changes be found?

A: The changes to the ATT sections have been implemented through an amendment to the PTT Regulation (PTTA Reg. 74/88). Once the Order in Council is deposited, the new Regulation will be updated on the website. [LINK](#) :

Authoritative Provisions

Q: What provision gives the authority to collect information?

A: SECTION 59: *[Property Transfer Tax Act, section 12.13] of Bill 2 – 2018*

Link: <https://www.leg.bc.ca/parliamentary-business/legislation-debates-proceedings/41st-parliament/3rd-session/bills/first-reading/gov02-1>

Q: Doesn't the Bill have to go through 2nd and 3rd reading, be passed by the legislature and be proclaimed into force before it becomes law?

A: The requirements are in the legislation and the effective date is Royal Assent. However it was implemented immediately after the budget speech. Should the Bill not receive Royal Assent, appropriate steps will be taken to ensure the information submitted is not used for the purposes it was collected in the first place.



s.22

June 26, 2018

Dear s.22

Re: Property Transfer Tax Advance Ruling s.22 for s.22
s.22 **BC.**

I am responding to your original email dated February 21, 2018 requesting an advance tax ruling on the application of the property transfer tax ("PTT") for transfers proposed by your clients. s.22 . Thank you for the payment received in full.

Background

I understand the facts of your request are as follows:

1. The property at issue is s.22
s.22
2. The Property is approximately 0.57 hectares and has been used by s.22 as her principal residence since August 2014.
3. The Property was registered on August 6, 2014 in the name of s.22
s.22 has always been the sole director, officer and shareholder of the company. The property is currently still registered in the name of s.22
4. s.22 signed a Declaration of Bare Trust with an effective date of August 6, 2014, acknowledging and declaring that s.22 defined as the Settlor, has requested, and s.22 defined as the Trustee, has agreed to hold the Property in trust for s.22 defined as the Beneficiary.

5. s.22 is proposing to make an application to have the title to the property registered in the name of s.22 in Trust, pursuant to section 180(9) of the *Land Title Act*.
6. After the Property is registered in the name of s.22 in Trust, the property would then be transferred to s.22

Ruling Request

You are requesting that the ruling answers the following questions:

- (a) Are either of the transactions fully or partially exempt from property transfer tax and if so, what exemption code should be used for the property transfer tax form?
- (b) Alternatively with respect to the first proposed transaction, can I state that a 0% interest is being transferred, as there is no beneficial interest being transferred, and therefore there would be no property transfer tax payable?

Ruling

It is my ruling that the proposed transfer from s.22 in Trust is fully taxable. In addition, the proposed transfer from s.22 s.22 is also fully taxable.

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 unless specifically exempt.

In regard to the first proposed transfer of title from s.22 s.22 in Trust, this is considered a taxable transaction because the registrar is required to issue a new Certificate of Title in the name of the trustee and there is no exemption under the PTTA for this type of transfer.

In regard to the second proposed transaction from s.22 in Trust to s.22 s.22 Section 14(3) (d) of the PTTA provides an exemption for certain transfers, provided that all of the criteria as described in each section and subsection are strictly met.

14 (3)(d) a transfer from a transferor who is a trustee of a trust that is 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, if

- (i) the transferee is a beneficiary of the trust,

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- (ii) the transferee beneficiary is a related individual of the settlor of the trust, and
- (iii) 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;

"Related individual" is defined in section 14(1) and 1(1):

14 (1) in this section:

"related individual" means a related individual who is a Canadian citizen or a permanent resident of Canada;

1 (1) In this Act:

"related individual" means

- (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;

"Settlor" is defined in section 1(1):

"settlor", in relation to land held in trust, means the person who

- (a) contributed the land to the trust estate, or
- (b) contributed to the trust estate the assets used to acquire the land,

whether or not that person is the creator of the trust.

Analysis

The proposed transfer from ^{s.22} in Trust requires the Registrar of Land Titles to issue a new Certificate of Title in the name of ^{s.22} in Trust. Under the PTTA this is a taxable transaction. There is no exemption available for the transfer from ^{s.22} ^{s.22} in Trust, so property transfer tax would be fully payable.

The second proposed transfer from ^{s.22} in Trust to ^{s.22} would be subject to the provisions of section 14 (3) (d) as it involves the transfer of a property from a trust to a beneficiary of that trust. However, this transfer would not qualify for the exemption because section 14 (3) (d) (ii) requires that the beneficiary be a related individual to the settlor of the trust. In this case, ^{s.22}

s.22 is both the settlor and beneficiary, and therefore not a related individual. Under the PTTA, you cannot be a related individual to yourself.

In summary, the answers to the questions requested in your ruling are:

- (a) Are either of the transactions fully or partially exempt from property transfer tax and if so, what exemption code should be used for the property transfer tax form?

Answer – No, these proposed transactions would not qualify for an exemption.

- (b) Alternatively with respect to the first proposed transaction, can I state that a 0% interest is being transferred, as there is no beneficial interest being transferred, and therefore there would be no property transfer tax payable?

Answer – No. There is a taxable transfer because a new Certificate of Title will be issued and there is no exemption available.

Disclaimer

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.

Yours truly,



Leslie Guthrie
Director, Property Transfer Tax



s.21

July 27, 2018

Dear s.21

Re: Property Transfer Tax Advance Ruling s.21

I am responding to your letter dated January 22, 2018 requesting an advance tax ruling on the application of the property transfer tax ("PTT") to the lease proposed by your client, s.21. Thank you for the payment received in full.

Background

I understand the facts of your request are as follows:

1. The property of the lease is s.21
s.21

s.21 holds a Lease of the Lands ("Lease") registered with the Land Title Office on August 29, 1995 (LTO Registration # s.21). The Lease originally had a five-year term from March 1, 1993 to February 28, 1998 with an option to renew for five years.

2. On May 25, 1998, Lease Modification s.21 (LTO Registration # s.21) modifying the Lease was registered with the Land Title Office. This modification contained a ten-year term starting March 1, 1993 and ending February 28, 2003. Further, s.21 contained a right to renew until February 28, 2008. s.21 contained two additional rights to renew for five-year periods until February 28, 2018.

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3. On October 6, 2008, Lease Modification ^{s.21} (LTO Registration #
s.21 contained a right to renew for a further five-year term until February
28, 2023.

Ruling Request

s.21 proposed to enter into a new lease agreement for a period to commence March 1, 2018 and end February 28, 2023, with a right to renew for a further 5-year period ending February 28, 2028.

You are requesting that the ruling answer the following question:

- (a) Is the Lease exempt from payment under section 14(4)(o) of the *Property Transfer Tax Act*?

Ruling

It is my ruling that the proposed new lease is a lease modification agreement, and so fully taxable.

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 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(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...

(c) extending the term of a lease agreement by a lease modification 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...

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".

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 of the *Property Transfer Tax Regulation* ("PTT Regulation") outlines the criteria for determining the fair market value (FMV) of a lease modification agreement.

Specifically, section 10(1) establishes 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.

Under section 10(2) of the PTT Regulation, 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, and
- (b) the number of years by which the lease agreement is extended by the lease modification agreement.

Section 10(3) prescribes that options or rights to renew or extend the lease agreement pursuant to the lease modification agreement shall be deemed to be exercised to give the maximum possible extension.

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

Section 9 of the PTT Regulation sets out the criteria for determining the "term" of a lease.

Under section 9(1), the term of a lease agreement is calculated from the date the application is made to register the lease in the Land Title Office, 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, and
- (b) The maximum number of years that, by the exercise of options to renew the lease, that the lessee may occupy the demised premises.

Section 9(2) establishes that the term of a lease agreement shall be the unexpired portion of the term on the date application is made to register or transfer the lease agreement under the *Land Title Act*.

As well, section 9(4) prescribes that where the term of a lease agreement would otherwise be expressed as a fraction of the 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

In your letter, you state that the Lease is a taxable transaction pursuant to paragraph (a)(iii) of the definition of "taxable transaction", but eligible for an exemption under section 14(4)(o) of the PTTA.

You further state that paragraphs (c), (e) and (g) of the definition of "taxable transaction" are not relevant, and that the definitions of "lease agreement" and "lease modification" contained in the PTTA "would not apply to construe the New Lease as part of the Lease."

As well, you state that "Section 10 of the Property Transfer Tax Regulation does not apply as the New Lease will be an entirely new lease and not an extension or modification of the Lease."

Depending on the circumstances, a lease agreement may be considered a lease modification agreement. A lease agreement may contain no reference to an earlier lease agreement on the same property, but may still be considered a lease modification agreement. If a lease agreement essentially extends a right to occupy under an existing lease, then that lease agreement is considered a lease modification agreement.

I note the following facts:

- Proposed new lease and Lease apply to the same Lands;
- Proposed new lease commences on March 1, 2018, immediately after the expiry of Lease (February 28, 2018);
- names of the lessor and the lessee are the same in the proposed new lease and the Lease; and
- terms of the proposed new lease do not place significant new obligations on the lessor and the lessee. Specifically, I find that the Tenant's Covenants

and the Landlord's Covenants are similar in both the Lease and the proposed new lease.

Accordingly, I find that the proposed new lease is an extension of the Lease. The proposed new lease meets the definition of a "lease modification agreement", and falls within paragraph (c) of the definition of "taxable transaction."

The term of the Lease is for a period of 35 years.

Accordingly, I find that paragraphs (c) and (e) of the definition of "taxable transaction" are applicable. The Lease does not, therefore, qualify for an exemption under PTTA, section 14(4)(o).

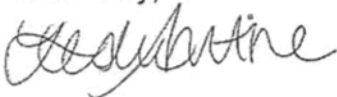
The amount of tax payable is determined according to the formula set out in section 14 of the Regulation. The Lease is extended by five years. In the Regulation, Table 1, Column 2, amount payable for a period of five years or less is 40 percent. In total, 40 percent of the fair market value of the Property is payable as tax.

Disclaimer

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.

Yours truly,



Leslie Guthrie
Director, Property Transfer Tax



s.21

August 13, 2018

Dear ^{s.21}

Re: Property Transfer Tax Advance Ruling ^{s.21} for ^{s.21}
^{s.21}

I am responding to your email dated May 11, 2018 requesting an advance tax ruling on the application of the property transfer tax ("PTT") for a transfer proposed by your client, ^{s.21} (the "Company"). Thank you for the payment received in full.

Background

I understand the facts of your request are as follows:

1. The property is legally described as:

^{s.21}

The property's address is ^{s.21} (the "Property")

2. The registered owner on title is ^{s.21} (the "Company"), a family farm corporation.

3. The Company's shareholders are:

a. ^{s.21}

b.

c. ^{s.21} Family Trust for the benefit of ^{s.21}
^{s.21}

d. s.21
s.21

Revocable Family Trust for the benefit of s.21

e.
f.
g.

4. Two of the shareholders, s.22 have resided on the Property for s.21
s.21

5. The Company proposes to transfer a life estate interest in the Property to
s.22

Ruling Request

You are requesting a ruling as to whether the transfer of the life estate interest in the Property from the Company to s.22 is exempt from PTT.

Ruling

It is my ruling that the proposed transfer of a life estate interest in the Property is fully taxable.

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 land transferred. The transferee is subject to the tax. Under the *Property Transfer Tax Act* ("PTTA") all transfers are taxable, unless specifically exempt.

The PTTA provides a number of exemptions for transfers involving a family farm corporation. The relevant sections involving transfers of a family farm from a family farm corporation are as follows:

Section 14(3)(g) provides an exemption from PTT for the transfer from a transferor that is a family farm corporation to a transferee. The transferee must either be the sole shareholder of the family farm corporation, or the relationship between the transferee and each other person who is a shareholder of the family farm corporation must be 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.

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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.

PTTA provides an exemption for transfers of life estate interests under limited circumstances. Section 14(3)(r) exempts a transfer of a life estate, if the transferee of a life estate transferred the fee simple estate in the same land to the transferor of the life estate in a concurrent transaction:

14(3)(r) a transfer of a life estate, if the transferee of that life estate transferred the fee simple estate in the same land to the transferor of the life estate in a concurrent transaction.

Analysis

In the proposed transaction, the Company is the transferor and ^{s.22} is the transferee.

An exemption under section 14(3)(g) of the PTTA does not apply in the proposed transfer because two of the Company's stakeholders are trusts. This exemption requires that the transferee be a "related individual" to each other person who is a shareholder of the family farm corporation. Under the PTTA, a person cannot be a "related individual" to a trust.

Accordingly, the PTT exemption does not apply.

The proposed transfer is not exempt under section 14(3)(r) as no concurrent transaction for the transfer of the fee simple and the life estate between the proposed transferor and transferee will occur.

The proposed transfer from the Company to ^{s.22} is, therefore, fully taxable.

The fair market value of life estates is determined as per the valuation outlined in section 11 of the PTTA 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
where P = the percentage of FMV of the land subject to the life estate in Column 2 that corresponds to the term of the life estate from Column 1 (Table 1 in the PTT Regulation).

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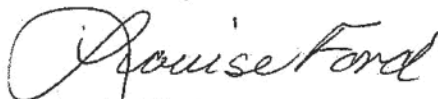
The Life Expectancy Table (Table 3 of the PTT Regulation) lists life expectancies by age and gender.

Disclaimer

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.

Yours truly,



Louise Ford
A/Executive Director
Property Taxation Branch
Ministry of Finance

Ministry of Finance Revenue Division
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s.22

August 17, 2018

Dear ^{s.22}

Re: Property Transfer Tax Advance Ruling ^{s.22} **for** ^{s.22}
^{s.22}

I am responding to your original email, dated November 16, 2017, requesting an advance tax ruling on the application of the property transfer tax ("PTT") for transfers proposed by your clients, ^{s.22} Thank you for the payment received in full.

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 District of New Westminster, BC and are legally described as:

^{s.22}

2. ^{s.22} a permanent resident.

3. ^{s.22} a Canadian citizen.

4. ^{s.22} propose to subdivide the two lots into four lots.

5. ^{s.22} will be transferred from the registered owners to a trustee to facilitate the subdivision. The trustee will be registered under the Land Title Act (LTA).

6. The trustee will register a subdivision plan with the Registrar of Land Titles and complete the plan by subdividing^{s.22} into four lots: A, B, C, and D.
7. Following the subdivision into four lots, the trustee will transfer Lot A and Lot C to^{s.22} and Lot B and Lot D to^{s.22}

Ruling Request

You are requesting a ruling as to whether the proposed transfers, as described above, will be exempt from PTT.

Ruling

It is my ruling that:

- (a) the transfer of title for^{s.22} to a trustee, for the purpose of completing a plan of subdivision will be exempt from PTT;
- (b) the registration of a subdivision plan by the trustee, and the subsequent subdivision of the two lots into four parcels of land, will be exempt from PTT.
- (c) any increase in the proportionate share of the fair market values of the new lots will be taxable.

Legislation

PTT is payable 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 if 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 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 subsequent transfer of all 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, provided that there is no change in each owner's proportionate share of the fair market value of the land before and after the subdivision.

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If there is a gain in proportionate share of the fair market values as of after the subdivision as compared to the proportionate share of the fair market values, as of immediately before the subdivision, PTT will be payable on the net increase in the proportionate share of the fair market values under section 3(3.4) of the PTTA.

Analysis

Based on the facts provided the proposed transfers will be exempt provided that: the trustee is registered under the LTA; the adjacent parcels are transferred to the trustee to facilitate the subdivision; and, all of the new parcels created by the subdivision plan are transferred back to the original owners from the trustee after the subdivision plan is registered.

If the proportionate share of the fair market values of the new lots has not increased, no PTT is payable. Any increase in the proportionate share of the fair market values of the lots is taxable.

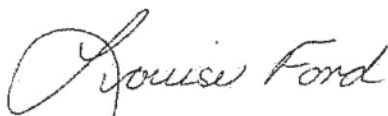
Disclaimer

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.

Yours truly,



Louise Ford,
A/Executive Director
Property Taxation Branch
Ministry of Finance

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s.22

September 25, 2018

Dear ^{s.22}

Re: Property Transfer Tax Advance Ruling ^{s.22} for ^{s.22}
^{s.22}

I am responding to your letter dated August 14, 2018 requesting an advance tax ruling on the application of the property transfer tax ("PTT") for a transfer proposed by your clients, ^{s.22} Thank you for the payment received in full.

Background

I understand the facts of your request are as follows:

1. The property is legally described as:
^{s.22}

(the "Farm")

2. The registered owner on title is ^{s.22} a family farm corporation.
3. The Farm operates as ^{s.22}
4. ^{s.22} sole shareholders are:
 - a. ^{s.22}
 - b.
5. ^{s.22}

6. s.22 proposes to transfer its interest in the Farm to s.22

Ruling Request

s.22 You are requesting a ruling as to whether the transfer of the interest in the Farm from s.22 is exempt from PTT.

Ruling

s.22 It is my ruling that the proposed transfer of interest in the Farm from s.22 is exempt from PTT.

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 PTTA, all transfers are taxable, unless specifically exempt.

The PTTA provides a number of exemptions for transfers involving a family farm corporation. Section 14(3)(g) provides an exemption from PTT for the transfer from a transferor that is a family farm corporation to a transferee. The transferee must either be the sole shareholder of the family farm corporation, or the relationship between the transferee and each other person who is a shareholder of the family farm corporation must be 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 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.

Analysis

In the proposed transaction, s.22 is the transferor and s.22 are the transferees. s.22 is a family farm corporation as defined in section 14(1) of the Act. s.22 are related individuals as defined in section 1 of the PTTA and are also the sole shareholders of s.22. Accordingly, no PTT is payable on the transaction.

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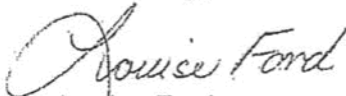
Disclaimer

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.

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.

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.

Yours truly,



Louise Ford
A/Executive Director
Property Taxation Branch
Ministry of Finance

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s.21

October 2, 2018

Dear s.21

Re: Property Transfer Tax Advance Ruling s.21 for s.21
s.21

I am responding to your email dated August 16, 2018 requesting an advance tax ruling on the application of the property transfer tax ("PTT") for a transaction proposed by your clients, s.21 ("the Partnership"), including its general partner, s.21 (the "General Partnership") and its sole limited partner, s.21 (the "Limited Partnership").
Thank you for the payment received in full.

Background

I understand the facts of your request are as follows:

1. The property is legally described as:
s.21
2. The registered owner on title is HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, as represented by the Minister responsible for the Land Act ("the Minister").
3. The General Partnership, acting as agent and bare trustee for the Partnership, has entered into a 37-year lease (the "Lease") agreement on the Land, a lease with an effective date of December 18, 2016 and end date of December 18, 2053. The Lease contains no rights to renew. The Lease is not currently registered at the Land Title Office (LTO).

4. The Lease is not a prepaid lease.
5. Under the terms of the Lease, the General Partnership is responsible for all costs of developing the Land and the improvements. The General Partnership improved the Land by constructing a powerhouse on the Land. The Minister has leased the Land to the General Partnership for powerhouse purposes.

Ruling Request

Your request is for a ruling confirming that the fair market value (FMV) of the Lease will exclude the FMV of the improvements paid for by the General Partnership.

Ruling

It is my ruling that the FMV of the Lease will be determined based on the value of the Land, inclusive of the value of the improvements.

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 *Interpretation Act* clarifies that "*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 *Property Transfer Tax Act* (PTTA), all transfers are taxable, unless specifically exempt. Under the PTTA, the definition of a taxable transaction includes a lease agreement. Under section 1(1) of the Act, a taxable transaction includes a right to occupy land under a lease agreement. A "lease agreement" under section 1 of the Act is defined "as 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".

Section 14(1) of the PTTA Regulation provides the formula that applies in the determination of the FMV of lease agreements, except for prepaid lease agreements. Section 12 of the PTTA Regulation sets the formula for determining FMV for prepaid leases; section 12 uses the amount of rent to establish the FMV for prepaid leases and section 7 provides clarification for determining the amount of rent paid only for prepaid leases.

Analysis

The proposed Lease is not a prepaid lease; therefore sections 12 and 7 in the PTTA Regulation do not apply for determining the FMV and the PTT liability.

The amount of PTT payable at the time of registration of the proposed Lease should be determined in accordance with the formula set out in section 14 of the PTTA Regulation.

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Section 14 clarifies that the amount of PTT payable is determined with reference to the fee simple interest in the land – as defined in section 1 of the Act.

The formula in section 14 states that FMV of a lease agreement is determined as:

$V.S.I \times P$ where

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

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

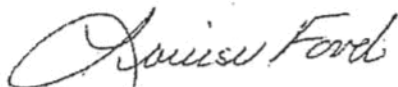
By using the percentages in Column 2 of Table 1 in the Regulation, the percentage of FMV taxable that corresponds to the term of the Lease (more than 30 years but not more than 40 years) is 80 percent.

Disclaimer

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 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 PTTA 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.

Yours truly,



Louise Ford
A/Executive Director
Property Taxation Branch
Ministry of Finance

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Withheld pursuant to/removed as

s.22;s.21;s.17

However, we wish to determine if the above is sufficient to recommend application of GAAR.

POLICY RESPONSE:

Section 34.2 has been introduced in the Budget 2018 to enable the PTT Administrator to apply administrative penalties. The intent of the section is to allow the PTT Administrator penalize those transferees (or by expansion any other person) that evaded or avoided the tax (or resulted in tax evasion or avoidance by the transferee). The section offers the framework and enumerates actions that can be subject to penalties; such actions/events included :

1. False or deceptive statements on the return, including in regards to the information required to be provided on the return (s. 34.2 (a)/(c))
 - (a) made, or participated in, assented to or acquiesced in the making of, a false or deceptive statement in a return or record required to be made or provided under this Act, or in information required to be provided under this Act
 - (c) made, or participated in, assented to or acquiesced in the making of, a false or deceptive **entry in a record** or return of a transferor or transferee, (this is similar to the above but intended to capture also third parties/legal representative who collect and make the data entry on the return on behalf of either the transferor or the transferee, or both)
2. Destroy, hide or alter a return or records that are evidence of true tax liability; these records or the information concern either the transferor or the transferee (s. 34.2 (b))
 - (b) destroyed, altered, mutilated, hidden or otherwise disposed of a return or record of a transferor or transferee
3. Omit or are aware of the omission of essential materials (or the records) that are otherwise required on the return (s. 34.2(d))
 - (d) omitted, or assented to or acquiesced in the omission of, a material particular in a record or return of a transferor or transferee
4. **Wilful avoidance or evasion or tax non-compliance**- which includes all of the above and also non remittance of payment of tax as required under the Act or the Regulations (s. 34.2(e))
 - (e) willfully, in any manner, avoided or evaded or attempted to avoid or evade
 - (i) compliance with this Act or the regulations, or
 - (ii) remittance or payment of taxes required by this Act or the regulations

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Withheld pursuant to/removed as

s.13;s.17

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THE ADDITIONAL TAX

ANTI-AVOIDANCE SECTIONS IN THE ACT

AREA AFFECTED

Q: Can you please confirm the areas that are affected by the new PTT surcharge on Foreign Entity purchase of residential real estate?

A: Metro Vancouver Regional District
Capital Regional District
Fraser Valley Regional District
Regional District of Central Okanagan
Regional District of Nanaimo

BILL 28

Q: Is the new legislation concerning foreign investors available in draft legislation (a link to it?) where one can read the detailed legislation as implementable starting Aug. 2/2016?

A: This is the link to the webpage so you can see the Bill. It is in the first table at the bottom - Bill number 28, the Miscellaneous Statutes (Housing Priority Initiatives) Amendment Act, 2016. Click on the date in the third column (1st reading) and you will get to the Bill: <https://www.leg.bc.ca/parliamentary-business/legislation-debates-proceedings/40th-parliament/5th-session/bills/progress-of-bills>

There are changes to other Acts as well so you have to scroll down to find the Property Transfer Tax Amendments.

COLLECTION OF CITIZENSHIP AND SIN-verification and other

Q: What is the legal basis to collect SIN numbers

A: The SIN is a mandatory field on the form as prescribed by the Minister. The citizenship information is collected on all the purchasers regardless of the location of the property. Under section 2 of the Property Transfer Tax Act on application for registration, a transferee must file a return in the prescribed manner:

2 (1) Subject to subsection (2), on application for registration of a taxable transaction at a land title office, the transferee must

- (a) Pay tax to the government in accordance with section 3 or 38, and
- (b) File a return, in the prescribed manner, whether or not the taxable transaction is exempt under this Act.

Q: Invalid or expired SIN card and/or permanent resident card

Q: Verification of the SIN at the time of transfer by the legal representative

s.13

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Q: I am a Canadian citizen/PR who is a non-resident s.22

s.22 I would like to confirm that I would not be subject to the new additional property transfer tax.

A: As long as one maintains their Canadian citizenship and/or permanent resident status (as defined in *Immigration and Refugee Protection Act*) and holds a valid Canadian passport the additional tax does not apply even when not residing in Canada. To file the transfer the transferee will have to provide their SIN to confirm the affirmation of the citizenship status.

If the transferee has not got a valid SIN card or any documentation from CRA that confirms it, the transferee can contact the Federal government to get confirmation of the SIN from them so, PTB can be assured it is the correct one.

Q: My clients are Canadian Citizens with Canadian Passports and SIN Numbers but are currently working abroad and for taxes purposes are non-residents. They plan to purchase a residential property in Vancouver for themselves when they return to Canada. Is the new 20% PPT applicable to them?

A: If a transferee is a Canadian citizen or has maintained their permanent residence status, the 20% additional tax does not apply to the purchase of a residence in the MVRD area.

Q: How would the additional tax of 20% apply if the buyers are a family of three with the daughter being permanent resident of Canada with valid PR Card purchasing and her parents holding foreign passport residents? How does the tax apply when one of the buyers on title is a PR of Canada?

A: The two family members who are foreign nationals would be liable for the additional tax on their share of the property. The share acquired in the property by the permanent resident of Canada would not be liable for the additional tax of 20%.

Q: If a foreign buyer purchases a property in partnership with a Canadian permanent resident in Greater Vancouver area, how it would be taxed under both the PTT and the additional tax?

A: Property Transfer Tax is payable on the property on the FMV of the entire property. The Additional tax is payable solely on the share acquired by the foreign buyer. So, if the purchasers hold the property as joint tenants, the Additional tax is payable on 50% of the fair market value of the property (usually the purchase price).

Q: How would the additional tax apply in the circumstance when I am not Canadian, but my spouse is and he is on to hold the property for both of our benefit?

A: If the title is only in your husband's name (i.e., Canadian citizen), then it is not subject to the Additional tax. However, if the person registered on title is holding title as a trustee for the benefit of others, then the beneficiary, if not Canadian or PR, is still liable for the payment of the Additional tax on the beneficial interest/share in the property.

Q: What is the minimum share of the ownership of this property the foreign individual can have, before being liable for the Additional tax?

A: There are no limitations (minimum or maximum) of ownership that triggers or relieves the purchaser from the liability to pay the Additional tax, if applicable. The Additional tax applies on

the interests acquired by the purchasers. If there are two and they take title to the property as joint tenants then the foreign individual will be liable for the tax on 50% of the fair market value. If they are tenants in common it depends on what percentage interest each of them has, so if the foreign individual took 75% and the Canadian 25%, for example, the Additional tax would be payable on 75% of the fair market value.

CLASSIFICATION

Q: Would the new 20% tax apply to the purchase of a residential apartment building?

A: If the property is or, if it is new and it has yet to be classified would be, classified as residential under the BC Assessment Act the tax would apply.

Q: Based on the new property transfer tax, I was wondering what classifies as "non-residential properties"?

A: The additional tax is imposed on the purchase of all properties that are (or would be if they are new and not yet classed) **classed as Class 1 (residential) under the BC Assessment Act.** All other classifications are considered "non-residential". Please check the BC Assessment details to determine if the property falls **within Class 1.**

Q: A foreign client wants to purchase a piece of agriculture land with market value around 8 million. Would the 20% tax apply on top of the regular PTT?

A: Please confirm the BC Assessment information for the property: if any property is classed as residential (including portion of the farm land) the transferee needs to pay the additional tax on the residential improvements and on 0.5 ha of the land. The form that they need to complete when they register the purchase is on our website at the link below and the apportionment calculation is in Part E:

<http://www2.gov.bc.ca/assets/gov/taxes/property-taxes/property-transfer-tax/forms-publications/fin-532-additional-property-transfer-tax-return.pdf>

Q: Would the additional PTT apply to the sales of Multi-family buildings?

A: If a multi-family dwelling is classed as residential by BC Assessment (Class 1) and foreign entities are the transferees then, the additional tax of 20% would be payable.

Q: Would the additional PTT apply to the mixed-use buildings?

A: The additional tax applies on all properties that are (or would be if they are new and not yet classed) classed as Class 1 (residential) under the BC Assessment Act. All other classifications are considered "non-residential".

If a property has mixed use and part of it is classified as residential then tax is payable on that part of the land and improvements unless the property has farm class. In that case the tax is payable on the residential improvements and/or the farmer's dwelling and 0.5ha of the land. The definition under the new legislation is:

"residential property" means any of the following:

- a) land or improvements, or both, as defined in section 1 (1) of the Assessment Act, that are described as class 1 property in section 1 of the Prescribed Classes of Property Regulation, B.C. Reg. 438/81, but does not include prescribed land or improvements;
- (b) an area of land, not including improvements, that
 - (i) is not larger than 0.5 ha in area, and
 - (ii) is classified as a farm under the Assessment Act only because the land is used for
 - (A) an owner's dwelling as defined in section 23 (0.1) of the Assessment Act, or
 - (B) a farmer's dwelling as defined in section 1 (1) of the Classification of Land as a Farm Regulation, B.C. Reg. 411/95;

Q: Is agricultural land exempt from the foreign transfer tax since the legislation is for residential zoned properties?

A: Tax is payable on residential property classified under Class 1 of the BC Assessment Act rather than on the zoning.

- If the land is classed as farm land but there are residential improvements the tax would be payable on the value of the residential improvements plus 0.5ha of the land.
- If the property is mixed class the tax is payable on any residential improvement and land classed as residential.
- If there is no residential component the tax does not apply.

CORPORATION(s) and PARTNERSHIPS

EXEMPTIONS UNDER THE PTTA and APPLICATION OF THE ADDITIONAL TAX

FARMS

Q: Can you please clarify if this tax is applicable on a purchase in the ALR, such as for example Blueberry Farm in the Agricultural Land Reserve?

A: The additional tax is payable on any land or improvement classed as residential (Class 1 under the BC Assessment Act) in the specified areas of B.C. MVRD, CRD, FVRD, RDCO and RDN; therefore, it would be payable if there are residential improvements and land with that classification.

If all the land is classed as farm land but there is a residential improvement then the additional tax is payable on the value of the improvement plus 0.5 ha of land.

FORM AND PTT RETURN V.27

GENERAL

MULTIPLE BUYERS

Q:

PRESOLDS pre and post- AUG 2/ 2016 AND SELLING CONTRACTS

Q: Can a pre-sold contract entered into after August 2nd, be assigned/sold before registration of the property at the Land Title Office? If so, is the Additional tax still payable by the first pre-sold purchaser?

A: If the contract allows an assignment to a third party, you will not be liable for the Additional tax as it will not be registered in your name. However, if you retain any sort of interest in the property (even if you are not on title) you will be liable for the Additional tax and also may be liable to penalties under the Act if there is proof the assignment of the contract is done for tax avoidance purposes and not a real assignment of the contract.

Q: Can a foreign individual buy a pre-sale, assign the property to another individual (Cdn citizen, e.g. boyfriend & girlfriend) and not pay the additional tax and PTT?

A: If a developer allows the assignment of a contract, the PTT is payable by the purchaser who finally registers the purchase at the Land Title Office. However if it is determined that this was done purely to avoid the tax there are penalties under that Act that can be imposed along with the tax and any interest owing.

Q: Can you please clarify, whether the Additional tax applies to new built and/or pre-sale condos?

A: The tax is applied when the property is registered at the Land Title Office, so on completion of the sale. Any transaction registered on or after August 2nd 2016 where one or more of the purchasers are **not a** Canadian citizen or permanent resident, they are subject to the additional tax, regardless of when the contract to purchase was signed.

Q: The transferees s.22 bought a pre-sale property that will be finished in mid-2017; one of the buyers s.22 is a Canadian and s.22 is American. Would the PTT and the Additional tax apply?

A: PTT is payable at the time of registration of the contract by both purchaser and the additional tax would apply on the interest gained by s.22 (non-Canadian), who is considered a foreign national. The amount payable depends on the share that she acquires when the transaction is registered at the Land Title Office.

Q: If a foreign person has signed a purchase agreement before Aug 2, 2016 and complete the purchase (registration on title) in another name (for e.g., his/her spouse who is Canadian citizen), is this an illegal act?

A: If there is a clause in the purchase agreement that allows assignments, and a couple decide to arrange the registration on, for example, a property they were intending to occupy so the additional tax is not payable, that in itself is not something that would be considered tax evasion.

Q: Basically, a foreign buyer purchased a condo from a developer a few years ago (before the ATT was introduced). The completion date of the condo is in 2019. That foreign buyer now wants to sell (or Assign the contract) s.22 The developer has requested that the Assigner (the original purchaser) and Assignee s.22 sign a contract witnessed by a Notary; indicating the two of them are responsible for the foreign buyer's tax – if any. The developers want to protect themselves from owing any ATT as a result of the transaction.

s.22 wants us to confirm in writing that he is not liable for the ATT, so that he does not have to sign the form for the developer. s.22 advised me on the phone that he is a Canadian Citizen (of course I have not verified this).

A: Thank you for your email. The additional transfer tax applies when a title to property is registered at the Land Title Office, so on completion of the sale. Any transaction registered on or after August 2nd 2016 where one or more of the purchasers is not a Canadian citizen or permanent resident is subject to the additional tax, regardless of when the contract to purchase was signed.

The rights and obligations of the vendor/developer and purchaser are agreed upon by the contract parties. It is the developer's responsibility to decide under what circumstances they will consent to an assignment of a contract. The Ministry of Finance cannot comment on how contracts or transactions should be structured or under what circumstances/conditions an assignment of a contract can occur. **We advise you seek independent legal advice in regards to your query.**

If the contract allows an assignment to a third party, the assignee (third party purchaser) might not be liable for the Additional tax. However, if the assignor retains any sort of interest in the property (even if they are not on title) the registered purchaser will be liable for the Additional tax. In addition, under section 2.04 of the Property Transfer Tax Act, penalties are applicable if upon review of the transactions there is proof that the assignment of the contract is done for tax avoidance purposes and it is not a real, open market assignment of the contract.

PRINCIPAL RESIDENCE

Q: Are leases under 30 years taxable for the additional tax when the purchaser qualifies for an exemption under the PTT Act,

A: Yes to both ATT and PTT

Q: Canadian company has two directors (each 50% shareholder) - one of the directors is not Canadian Citizen or permanent residence. Will additional tax applies?

A: Based on the above question it isn't enough information to provide a binding legal decision. I would refer caller to the PTT website, go to the Additional Property Transfer Tax.

Q: One of the partners in a limited partnership is non Canadian (non-controlling interest). The transferee is a Canadian corporation holding property for limited partnership. Will additional tax applies?

REFUNDS

Also, what about people who have already applied for Permanent Residency, but are waiting for their application to be processed & accepted?

s.13

Q: Do I need to submit a specific form for refunds?

A:

<u>Situation</u>	<u>Refund Application Form Required</u>
Refund for tax paid in error – Calculation	No
Refund for tax paid in error – CC/PR/PNP at date of registration	YES
Refund for becoming a PR/CC within a year etc	Yes
PNP Retro Exemption	YES

Q: I am a temporary foreign worker and my Permanent Resident Application was submitted and I expect to become a PR by 2017. My pre-sold contract is to be registered prior to that and, if I have to pay for the Additional tax of 20% and the PTT by closing day, can I claim a refund at the time I become a permanent resident?

A: There are no provisions to provide a refund of the Additional Tax payable or paid at the time of registration of title. If one is not a permanent resident of Canada at the time of registration at the Land Title Office, they are liable for the payment of the Additional tax and are entitled to apply for a refund of the tax paid within one year of the registration with LTO and must move into the property within 92 days after the registration took place. Also the party needs to provide proof of Permanent Residency Application.

SUBDIVISIONS

TRUSTS

Q: I notice that section 2.02(5)(b)(i) and (ii) are identical after the comma. Is the intention of the provision is to collect 20% additional PTT on a foreign entity's beneficial interest through the taxable trustee.

A: Thank you for the feedback – the term "taxable trustee" is defined in S2.01 as:

"taxable trustee", in relation to a taxable transaction, means a trustee of a trust in respect of which

(a) any trustee is a foreign entity, or

(b) no trustee is a foreign entity but, immediately after the registration of the taxable transaction, a beneficiary of the trust who is a foreign entity holds a beneficial interest in the residential property to which that taxable transaction relates;

This renders any further wording around the application of the tax to trusts in 2.02(5)(b) superfluous.

The new Additional Tax form is filled out manually so the lawyers can use the fields provided to accommodate corporations etc.

Q: We have a client who is a Canadian citizen, and who would like to transfer her home to a principal residence trust of which s.22 a Canadian citizen, would be the trustee. During her lifetime, the only beneficiary of the trust will be the client. On her death, she has a power of appointment over the trust property but, as drafted, if she fails to exercise her power of appointment, the trust property will be divided among s.22 s.22

Our office is unclear about the definition of "taxable trustee", and in particular in (b), how broadly a "beneficiary of the trust" and "holds a beneficial interest in the residential property" is intended to apply. In the case at hand, the only non-Canadian citizens or permanent residents who could receive any assets of the trust (and of course not necessarily any interest in the residential property) are contingent successor beneficiaries who many never receive any portion of the residence either (1) by exercise of the power of appointment and (2) because the residence could be sold before any assets of the trust are distributed after the client's death.

Is it the new 20% PTT intended to apply to this circumstance or can we file and know that the 20% would not apply?

A. Yes, it is taxable. Nevertheless, in the scenario where a person's s.22 not sure the trustee would qualify as taxable(Advice from Tax Policy on Aug 29, 2016)

- **BARE TRUSTS**

SCENARIO: the buyer of land is acquiring the land the title to which is already held by a bare trustee corporation, while the beneficial ownership of the land is owned by someone different than the bare trustee corporation. Typically, a buyer may decide to acquire the beneficial ownership from the beneficial owner and the shares of the bare trustee corporation, such that there is no registered transfer of title and therefore no property transfer tax.

We are wondering what the BC government's position will be on how the tax applies to a foreign entity who acquires, on or after August 2, 2016, the beneficial interest to land and the shares of a pre-existing bare trustee corporation that holds registered title. On its face, new s. 2.02(3) will not apply because there is no application for registration, that's the case even though the definition of "taxable trustee" is broad enough that the bare trustee corporation might be a taxable trustee. However, the new GAAR, which is applicable to only the new 20% tax, is creating uncertainty. Even if the new 20% tax were to apply to such a scenario, we are not sure how the tax would be paid, since the PPTA contemplates payment triggered by application at the land title office for registration (e.g. new s. 2.02(3)).

Hilary Harley response on July 29, 2016-

You are correct – the Additional Tax, like Property Transfer Tax, is payable only if the transfer of the interest is registered at the Land Title Office so a change in beneficiaries of a bare trust is not taxable under the new provisions and would not contravene the anti-avoidance provisions.

PR SUPPORT DOCUMENT

Q. Is a PR Travel Document sufficient proof of PR status for an exemption to the foreign buyer's tax?

One of our clients holds a valid PR Travel Document in lieu of a PR Card. PR Travel Documents are issued to PRs who meet all the usual PR Card requirements but are currently residing outside Canada with the intent to eventually return to Canada as a PR. E.g. where a s.22

s.22

In these cases, Immigration Canada allows for PRs to apply for a long-term multiple-entry PR Travel Document as proof of PR status to allow for the individual to retain their PR status and travel in and out of Canada as a PR.

A. The travel documentation for principal resident individuals who do not have a valid PR card are based on specific facts and are unique to the circumstances of each individual as indeed outlined in your example. Therefore, we are auditing each file to determine how the travel documents are indicative of the valid permanent status of each taxpayer and whether the taxpayer meets the definition of permanent resident as defined in the *Property Transfer Tax Act*.

PROVINCIAL NOMINEE EXEMPTION

Q: My client has an existing work permit that will expire in 2018. Does he have to pay ATT?

A: Yes there is no exemption for those holding a work permit or a student visa.

Q: My clients who are foreign buyers want to purchase a 15 acre parcel of land that will eventually be developed. Do they have to pay ATT?

Q: A BC PNP Work Permit holder is now able to benefit from the exemption of the 20% additional foreigner's PTT for the purchase of his/her principal residence. What would happen if his/her BC PNP is revoked or cancelled after the completion/registration of their title transfer? In this case, would he/she be responsible for remitting the 20% additional tax?

A: Status at the date of registration is relevant for the liability and remittance of 20% ATT. However, the PTT Administrator under section 17 has the ability to investigate whether at the time of registration there was indication that the status would be cancelled or revoked, potentially making the transferee unqualifiable for the exemption. Under the current provisions of the PTTA there are tax avoidance and offence provisions that should prevent taxpayer to withhold information that might impact their qualifications under any of the PTTA exemptions.

Q: BC PNP nominee is applying for a full refund. Nomination has only main applicant's name. However, the property was bought under the main applicant and spouse's name, joint tenant. Main applicant paid 20% ATT at the time of registration. Shall we issue full refund or only 50% to the main applicant?

A: After the BC PNP nominates one for permanent residence, the nominated person and all the dependants, if applicable, must apply for permanent residence to CIC Under the Provincial Nominee Class. The nominee has six months from the date of nomination to apply to CIC. Application for permanent residence allows one to include their family members on one's nomination, but that does not mean that the nomination extends to the family members/dependants. Therefore the dependants are not nominated as PNPs and are not eligible for an exemption of the Additional transfer tax.

[Link](#)- BC PNP skill immigration and express entry BC Guide

Q: BC PNP nominee who purchases property after nomination expires. Is ATT applicable?

A: We need certainty that the BC PNP applied for PR before the expiration date of the certificate of nomination. The expiry date listed on the Confirmation of Nomination only refers to the date that the nominee must submit a formal application for permanent residency to the federal government. Nominees who have applied for permanent residency **prior to the expiry date** will continue to be considered nominees after the expiry date of the Confirmation of Nomination has passed.

PERMANENT RESIDENT OR CANADIAN REFUND APPLICATION

Q: We are representing a non-resident purchaser. The tax certificate from the Township shows there is no portion of the land that is residential, but conversely allows for a Home Owner's grant, and designates a value for Residential Improvements. How do I determine which portion of the land is residential and which portion is subject to the 20% additional transfer tax?

A. For properties with farm class, the additional tax is payable on the residential improvements and/or the farmer's dwelling and 0.5 ha of the land. The form that needs to be completed when the purchase is registered is on our website at the link below and the apportionment calculation is in Part E: <http://www2.gov.bc.ca/assets/gov/taxes/property-taxes/property-transfer-tax/forms-publications/fin-532-additional-property-transfer-tax-return.pdf>

Q: Can you please provide guidance on whether the Additional Property Transfer Tax applies to the purchase of taxable real property by a limited partnership where a limited partner is a foreign entity? If so, how is the tax calculated (ie. to their proportionate share of unit investment or to the entire purchase, regardless of the level of Canadian investment)?

Assume the property is purchased by a Canadian/BC controlled bare trustee acting on behalf of a Canadian/BC controlled and owned (exempt) general partner

A. Thank you for your inquiry. The question you have asked is hypothetical. In the absence of specific evidence and facts we could not comment on the application of the Additional Transfer Tax. Should you require more information, please submit all the relevant documentation and an explanatory letter in regards to the structure of the proposed transaction and apply for an Advance Tax Ruling. For more information on Advance Tax Ruling process, visit <http://www2.gov.bc.ca/assets/gov/taxes/property-taxes/property-transfer-tax/forms-publications/ptt-021-advance-tax-rulings.pdf>

Q: To date, has the BC government issued any support documentation, bulletins or publicly accessible advance rulings/decisions with respect to the application of Additional Property Transfer Tax to partnerships or limited partnerships?

A. Thank you for your email. Due to the complexity of the corporate structures involving partnerships and corporations, we cannot comment in detail on the application of the additional transfer tax, hence the advice to apply for an Advance Tax Ruling attaching all the supportive documentation for the proposed transactions. The facts of each type of transaction and structure can trigger different tax liabilities under the Act.

Q: Is a corporation incorporated in Canada whose shareholders and directors are Canadian citizens but declared as non-residents for income tax purpose subject to pay the additional 20% property transfer tax when the corporation purchases commercial properties in MVRD?

A. A foreign national is a person who is not a Canadian citizen or permanent resident of Canada, including a stateless person. As long as one maintains their Canadian citizenship and/or permanent resident status (as defined in the Immigration and Refugee Protection Act), the additional tax does not apply even when not residing in Canada.

The additional property transfer tax only applies to transfers of properties that are (or would be if they are new and not yet classed) as Class 1 (residential) under the BC Assessment Act. All other classifications are considered "non-residential". If a property has mixed use and part of it is classified as residential and part of it is classified as commercial, then the additional tax is payable on the part of the land and improvements that are classified as residential.

ADVANCED TAX RULING INFORMATION

As discussed, the ministry will provide an advance ruling on how the tax and exemption provisions of the Property Transfer Tax Act will be applied to a transaction proposed by the taxpayer. For more information on the advance tax ruling process please visit <http://www2.gov.bc.ca/assets/gov/taxes/property-taxes/property-transfer-tax/forms-publications/ptt-021-advance-tax-rulings.pdf>

BENEFICIARIES AND EXECUTORS

Q. I am writing to obtain clarification on the following questions:

a) whether the additional 20% PTT is payable when a residential property in Vancouver is being registered in the name of an Executor who is not a Canadian citizen or permanent resident?

b) whether the additional 20% PTT is payable when an Executor under a Will transfers a residential property in Vancouver to a beneficiary who is not a Canadian citizen or permanent resident but who pays tax in Canada? Would it make a difference if it is a specific bequest in accordance to the Will?

A. (a) A transfer into the name of an executor who is not a Canadian Citizen or Permanent Resident would *not* be subject to the Additional 20% tax and EX 09 would apply. A PTT form is completed claiming the exemption and no ATT form is required. The transferee ticks NO to the CDN citizen question and in section I6 (b), \$0.001 is entered in the Additional Tax box so the form will validate.

(b) ATT is payable when an executor under a will transfers a residential property in Vancouver to a beneficiary of the will who is *not* a Canadian Citizen or Permanent Resident.

OPEN DATA

Q. Hi, I am looking for data for foreign buyers in Vancouver and B.C. Where can I track this data on your website.

A. Please refer to the following link & click on the first report called Provincial Monthly 2017 to access.

<https://catalogue.data.gov.bc.ca/dataset/property-transfer-tax-data-2017>

TIPS

Q. Hello, how do I report realtors and other who I believe may be engaging in or otherwise encouraging foreign buyer tax avoidance? This isn't very well document (sic) on your web site.

A. You may direct any tips or leads to this email address, attenq@gov.bc.ca. Please include as much information as you have available, such as names, addresses, and dates.

Q&A's

1. What is this new tax?

The additional property transfer tax applies to residential property when the title is transferred to a foreign national, foreign corporation and a taxable trustee. The amount of the tax is 20% of the fair market value of the residential property.

The tax applies if the residential property is in Metro Vancouver Regional District, Capital Regional District, Fraser Valley Regional District, Regional District of Central Okanagan and Regional District of Nanaimo and is payable at the time of registration at a land title office. The tax is effective August 2, 2016.

2. In which situations would a trustee be liable for the additional tax?

A trustee would be liable if the trustee is a foreign entity, or if a beneficiary of the trust is a foreign entity.

3. Why do you need to look at beneficiaries of a trust?

The look through Canadian trustees to beneficiaries of the trust is an anti-avoidance mechanism. A transferee who would otherwise be taxable cannot hide behind a local trustee. The bill includes provisions to tax a transaction where there is a foreign beneficiary of a trust. If the trustee is foreign, the transaction is taxable even if the beneficiaries are not.

4. What if there are Canadian beneficiaries as well as foreign entity beneficiaries in the trust.

The transferee of a trust is considered to fully be a foreign entity if at least one beneficiary is a foreign entity.

5. In which situations would a corporation be liable for the additional tax?

A corporation would be liable if it is not incorporated in Canada, or if the corporation is incorporated in Canada but is controlled by foreign entities.

6. Do I need to pay additional tax when I register the property?

Yes, if the transaction is subject to the additional tax, you must make payment for both the general and additional tax with your general return filed at the time of registration, and mail in the form for the additional tax on the same day.

7. How do I file if there is more than one taxable transferee on the transaction?

Transferees must file a single return for the general tax, including payment for additional tax owed, and submit one form for the additional tax.

8. Why can't I submit my additional tax form electronically?

To implement the additional tax in a timely manner, we require a manual filing of the additional tax form for transferees of residential property in Greater Vancouver who are subject to the tax. At some point next year we will combine the additional tax form with the electronic filing of the general tax.

9. Why did you pick August 2 as the effective date? Why is the transition period so short?

August 2 is the first business day following the anticipated passage of the legislation. It is important that there isn't a delay in implementing the new tax so that some buyers don't receive an unfair advantage.

10. I am a foreign entity making a purchase of a business property that has a small amount of residential property associated with it. Do I need to pay the tax?

Yes, the foreign entity as defined in the tax must pay additional property transfer tax on the residential portion, but not on the business portion of the transaction.

11. I am not sure my property meets the definition of residential

Refer to the most recent assessment notice from BC Assessment. Or, contact the Property Taxation Branch – property transfer tax enquiries – at: 250 387-0604, 1 888 355-2700 (Toll free), or pttenq@gov.bc.ca.

Information Collection Regulation Frequently Asked Questions

1. What is the Information Collection Regulation?

This new regulation forms part of the Property Transfer Tax Regulations and will require additional information to be collected on the property transfer tax return about the beneficial owners behind corporations and trusts that acquire real estate.

2. Where can I find a copy of the Regulation?

http://www.bclaws.ca/civix/document/id/mo/mo/2018_m287

3. Who does the regulation apply to?

All purchasers/transferees will be asked questions on the property transfer tax return. The additional information will apply to certain trustees and corporations.

4. The data collected is personal information. How do I know that it won't be provided to someone I don't want it to go to?

Section 32 of the *Property Transfer Tax Act* outlines the confidential use of all information on the property transfer tax return. The information collected on the property transfer tax return is confidential and taxpayer information and will not be publicly available.

5. Will the information be shared with the Canada Revenue Agency?

Yes. All information on the property transfer tax return is shared with CRA.

6. Does the collection of this information only apply to residential properties?

No. It applies to all property types. The government is gathering information to understand the ownership structure of all property types.

7. Is the collection of the information retroactive?

No. This is a change to the property transfer tax return effective September 17, 2018. It will apply to any registered legal title change from that date forward. However, the B.C. government is developing a registry of beneficial ownership for existing properties, and that consultation is open until August 20, 2018: www.fin.gov.bc.ca/pld/fcsp/consultLOTA.htm

Trustees/Trusts

8. Currently you ask questions about trusts. What has changed?

Currently we ask whether the transfer is part of a bare trust and if the answer is yes, information is required regarding the settlors and beneficiaries. With the changes, each purchaser will need to identify if they are a trustee. Trustees will be required to provide information on the settlors/beneficiaries (bare trust) or beneficiaries (non- bare trusts).

9. Are there any exemptions for trusts?

There is a list of 8 exempt trusts in the regulations (Section 4). In addition if the trustee is administering a trust for an Indigenous nation, it is excluded from the additional disclosure requirements (section 5).

10. Why are only these trusts exempt?

They were considered by the legislators to be low risk trusts and therefore information is not required.

Corporations

11. Currently you collect information on the directors of corporations. What has changed?

In addition to gathering information on directors, you will also need to identify if there are corporate interest holders. If yes, you will need to provide the name, birthdate, citizenship (Canadian or perm resident – SIN. Not Cdn – foreign country/state and SIN or ITN), and contact information.

12. What is corporate interest holder?

This is defined in the definitions of the Regulation. A “corporate interest holder” is an individual who controls, directly or indirectly, at least 25% of a corporation or otherwise has the ability to exert significant control over the corporation (for example, through a right to appoint or remove the majority of directors).

13. Is a corporate interest holder a shareholder?

It is important to review the specific definition of corporate interest holder in the regulation as it doesn’t necessarily directly relate to whether someone is a shareholder.

14. Are there any corporations that are exempt?

There is a list of 16 exempt corporations in the regulations (Section 3). In addition there is an exemption for a corporation where all of the shares are owned by an Indigenous Nation or band. (Section 5)

15. Why are only these corporations exempt?

They were considered by the legislators to be low risk corporations and therefore information is not required.

What if the new information is not available?

16. What if I can’t obtain the additional information from my clients or the transferee doesn’t have the information?

The transferee has a responsibility to provide the information in the required format on the property transfer tax return. Under section 10 of the regulations, if the transferee has not obtained the information despite having made every reasonable effort to do so, they are not required to provide the information AND must add an attachment to the return to provide a description of the their efforts.

New Version of Property Transfer Tax Return

17. When will the information start being collected?

The regulation comes into effect September 17, 2018. V31 of the return will be required to be filed starting on this date.

18. Can I begin using the new version of the property transfer tax return (V31) now?

No. V30 of the tax return is currently in use and you must continue to use it up to the end of day September 16, 2018. V31 is required to be used for all transactions with a land title registration date of September 17, 2018 or later.

19. When will I receive V31 of the tax return?

We are currently updating the property transfer tax return to reflect the changes in the Regulation and aim to publish a working copy by the end of August.

20. Have there been any changes in the software requirements needed to use V31?

No. There have been no changes to the software requirements to use V31.

More Information

21. I have a question about one of the definitions in the regulation. How can I get more information?

Please send your questions to PTTENQ@gov.bc.ca and we will provide a response.

22. What is the definition of “significant interest”?

The determination of whether an individual is a corporate interest holder is complex and fact specific to the structure of each corporation. The test set out in the definition of corporate interest holder, section (2) of the *Information Collection Regulation* should be carefully applied to each corporate structure and the terms “interest, power, right” should be read in the context of the definitions in itself as outlined in the subsection 2(1)(a) and (b).

23. What is the definition of “equity”?

The word “equity” in the definition of “corporate interest holder” should be read by referencing the meaning of equity as defined in the *Income Tax Act* (Canada). Please refer to the relevant section of the ITA, including s.122.1 and 122.1(1)

The issue of influent and control are more evidence based and fact specific to each corporation and their structure. This is supported by the multitude of case law and I’m not in the position to offer general interpretation without a thorough review of facts.

24. What is the definition for “common interest”?

The determination of whether an individual is a corporate interest holder is complex and fact specific to each structure of each corporation. The tests set out in the definition of corporate interest holder, section 2 of the *Information Collection Regulation* should be carefully applied to each corporate structure and the terms “power, right” should be read in the context of the definition in itself with attention to circumstances outlined in subsections 2(101)(a) and (b).

25. What if the interest holder is a corporation?

The current definition of corporate interest holder (CIH) in the *Information Collection Regulation* requires that the corporate interest holder to be identified is the individual (at the end of the chain

of ownership), an individual who has ownership, or direct/indirect control, influence or exercisable right in a corporation.

In your example, it appears that the CIH (ultimate owner in the ownership chain) is a public company, which generally does not fall under the disclosure requirements. That being said, when submitting the PTT return, you would have to identify all entities in the ownership chain. Before you ultimately reach the public company. To do so on the PTT return;

On the corporate interest holder page, click **Yes** to the Q: *Have you made reasonable effort to identify and report all of your corporate interest holders?* Leave the rest of the page blank.

Attach an appendix to the PTT return identifying the exact ownership chain, relationships, the names of corporation/subsidiaries and the BN as applicable. Explain in detail how the identified entities are structured, and once you identify the public company as the true legal and beneficial owner (or CIH), disclose the name of the public company.

26. What if the executor is a trustee?

If the executor transfer and they indicate they are a trustee (click settlors and beneficiary page), however there is a section that they can check if the trust is exempt from additional information disclosure. Depending on the type of trust... nothing further is required.

27. How do I fill out the form when there is a corporation with 4 shareholders who are holding the shares in trust for a union?

The answer of who the CIH are, depends on the trust relationship set between the shareholders and the union (is this a beneficiary of the trust?). If the shareholders trustees fall under the definition of section 2(1) of the Regulation (for example, they have full control over the decisions, or over the corporation etc...) and, if the trust is not a bare trust, then the 4 shareholders are the CIH to be identified on the PTT Return. An addendum can be attached to the PTT Return and explain that these shareholders are trustees of a trust whose beneficiary is a union. Provide the name of the union and any other relevant information (e.g., trust name, date of trust instrument), as applicable.

28. Is the executor of a deceased's estate exempt from disclosing information on the Settlor/Beneficiary page on the PTT Return?

No. An executor is a trustee of a relevant trust (as defined in the Regulation) and **is not exempt from** disclosure requirements. The executor will have to provide information about the beneficiaries of the will/estate on the settlor/beneficiary page of the PTT return.

29. What if the executor is registered as “executor in trust” on title?

The executor serves two functions when registered as such on title.

- First they are registered as executor and need to disclose the information on the beneficiaries of the will/estate.
- Second, the executor also registered title as trustee (i.e., already established a trust at the time of registration- possibly for the will’s beneficiaries or other?) The information on the beneficiary of that trust would have to be identified (in addition to the beneficiaries of the will) on the settlor/beneficiary page; the executor will answer Yes to the question Are you a trustee? on the first page of the PTT return to identify themselves also as trustee in addition to their function as executor.

*In circumstances when additional information needs to be provided and cannot be inserted on the PTT return, ask that an addendum is attached to the settlor/beneficiary page and the additional information is provided with complete explanation of the title trail.