

Land Transfer Tax



By Brian Madigan LL.B

In Ontario, there is a land transfer tax which is imposed when transfers of land take place. A key concept is the actual transfer of land. So, the registration of a deed in favour of a third party will precipitate the imposition of the tax, whereas a mortgage or a change of control in a corporation will not.

Until 1997, the Land Transfer Tax Act, imposed a tax burden equal to 20% of the purchase price upon non-residents. That tax has now been eliminated. Non-residents pay the same tax as residents.

The amount of the tax graduates from one-half of one percent to two per cent of the purchase price

Here are the rates:

\$0 to \$55,000 .005 275
\$55,000 to \$250,000 .01 1,950
\$250,000 to \$400,000 .015 2,250
\$400,000 plus .015 plus.005 1,000

The additional .005% applies only to single family houses with values in excess of \$400,000. Other properties continue at the high rate of .015%. So, that means a Pension plan or insurance company purchasing a \$ 20 million commercial plaza will pay the high rate of 0.15% on the value in excess of the first \$250,000, however a single family homeowner will pay the high rate at .02% for the value above \$400,000.

Using a quick example, a single family homeowner would pay \$ 5,475 in land transfer tax on a \$450,000 home. The amount of the purchase price is required to be disclosed in an Affidavit of Value and Consideration. The only items excluded are chattels and the tax payable upon them is the Retail Sales Tax which is computed at the rate of 8%. So, it's generally better to allocate value to the land and buildings, since the rate is much lower.

There is a government incentive to encourage first time home buyers to acquire new homes. New homes means "newly constructed. It means a house that has a warranty issued under the Ontario New Homes Warranties Plan Act. There are a few matters to ensure that the buyer is entitled to a refund:

- It must be a principal residence

- It must be occupied within 9 months of the closing date
- The buyer must be 18 years of age\
- The buyer must not have owned a home (or even a %)
- The buyer's spouse must not have owned a home (or even a %)

If the buyer acquires the property with someone who does not qualify for a rebate, they will still be entitled to a rebate in accordance with their percentage interest in the property.

If you are planning to avoid the imposition of land transfer tax, be careful. You will require legal counsel since the act has been amended to include beneficial acquisitions.

*Brian Madigan LL.B., Realtor is an author and commentator on real estate matters, Coldwell Banker Innovators Realty
905-796-8888
www.OntarioRealEstateSource.com*