

PART V

DEED TRANSFERS

Deed transfer affidavit

101 (1) Notwithstanding the *Registry Act*, the registrar of deeds shall not ~~receive~~ **accept** for registration a deed

(a) where the property, or any part thereof, is situate within a municipality that levies a deed transfer tax, unless it ~~bears~~ **is accompanied by the affidavit required pursuant to this Part and** a certificate ~~signed~~ **issued** by the treasurer stating that the deed transfer tax has been paid in full or that no deed transfer tax is payable;

(b) where the whole of the property is situate within a municipality that does not levy a deed transfer tax, unless it is accompanied by the affidavit required pursuant to this Part.

(2) The grantee shall file an affidavit made by the grantee or by someone having full knowledge of the facts setting out

(a) the names of the parties;

(b) the location of the property;

(c) the sale price of the property with full details of the consideration, including the amount of any lien or encumbrance subject to which the transfer was made; and

(d) any other information prescribed by the Minister.

(3) The affidavit shall be filed within ten days of the transfer.

(4) Where the affidavit is not made by the grantee, it shall state that the person making it has personal knowledge of the facts stated therein.

(5) Where the affidavit is made by a person other than the grantee, that person is personally liable, jointly and severally, with the grantee for payment of any deed transfer tax.

(6) Where the grantee claims exemption from the deed transfer tax, the affidavit shall set out the facts on which the grantee claims to be exempt and, in the case of a registered Canadian charitable organization, shall give the number of its registration pursuant to the *Income Tax Act* (Canada).

(7) Where it appears from the face of the certificates of execution that a deed was executed prior to the time that a municipality imposed a deed transfer tax and it is not practical to ascertain from any of the parties to the deed particulars of the sale price of the property, the affidavit may set out those facts in lieu of the sale price.

(8) Where the municipality levies a deed transfer tax, the affidavit shall be filed with the treasurer and where the municipality does not levy a deed transfer tax, the affidavit shall be filed in the registries for every registration district within which a part of the property is situate.

(9) The affidavit shall be in the form, and contain the information, prescribed by the Minister.

(10) The exercise by the Minister of the authority contained in subsection (9) is regulations within the meaning of the *Regulations Act*.

(11) Notwithstanding subsection (2), the treasurer may require that the affidavit be filed electronically.

(12) Notwithstanding subsection (2), the registrar may require that the affidavit or the affidavit and certificate, as the case may be, be filed electronically.

(13) An affidavit, including all signatures and the certificate of execution that is filed electronically, is deemed to be the original affidavit for all purposes.

(14) Where there is a difference between a copy of an affidavit that is filed electronically and one that is filed in writing, the copy that is filed electronically is deemed to be the original, even if the written copy contains an original signature of a party or witness.

(15) An affidavit or certificate filed electronically has the same legal effect as an affidavit or certificate filed in writing.

(16) An affidavit or certificate filed electronically that is certified as a true copy by the treasurer or registrar is admissible in court in the same manner as the original.

(17) Every person who makes an affidavit that contains a false statement is guilty of an offence.

Deed transfer tax by-law

102 (1) A council may determine, by by-law, that a deed transfer tax applies in the municipality and the rate of the deed transfer tax, but the rate of the deed transfer tax shall not exceed one and one half per cent of the value of the property transferred.

(2) A deed transfer tax applies to the sale price of every property that is transferred by deed.

Apportionment of deed transfer tax

103 Where only part of a property is within a municipality, the deed transfer tax applies to that part of the value that is apportioned by the Director of Assessment to the part of the property within the municipality, and the decision of the Director of Assessment on such apportionment is final.

Deed transfer tax payment

104 The deed transfer tax shall be paid by the grantee named in the deed within ten days of the transfer .

Incorrect property sale price

105 (1) Where the treasurer is not satisfied that the affidavit sets out the correct sale price or is not able to determine the sale price from the affidavit, the treasurer may refuse to accept the affidavit and ~~endorse the deed~~ *issue the certificate* and shall so advise the grantee.

(2) The grantee may either tender a revised affidavit or may tender the affidavit to the regional assessment appeal court that has jurisdiction over the assessment appeal region that includes the municipality.

(3) The regional assessment appeal court shall proceed to

determine the sale price and for that purpose may examine persons on oath.

(4) The determination of the regional assessment appeal court is final.

Treasurer to endorse deed

106 Where the municipality levies a deed transfer tax, the treasurer shall ~~endorse the deed with~~ *issue in writing, or electronically*, a certificate stating that, as computed from the affidavit filed, the deed transfer tax is paid in full or no deed transfer tax is payable.

Interest on deed transfer tax

107 Where the grantee does not pay the deed transfer tax when due, the grantee shall pay interest at the rate determined by the council, by policy, until paid, beginning ten days after the transfer and shall pay an additional penalty of ten per cent on any deed transfer tax that remains unpaid after thirty days from the transfer.

Deed transfer tax is a lien

108 (1) The deed transfer tax, with interest and penalty, is a lien upon the property transferred.

(2) The lien attaches on the date when the deed transfer tax is due and may be collected in the same manner as taxes.

(3) The tax is a first lien on the real property and may be collected in the same manner as taxes.

Deed transfer tax exemptions

109 (1) Where a deed transfers property

(a) between persons married to one another;

(aa) *to a municipality;*

(b) between persons formerly married to one another, if the transfer is for the purpose of division of marital

assets; or

(c) by way of gift, notwithstanding that

(i) the deed transfers property subject to an encumbrance, including a mortgage or a tax lien, and the grantee assumes the amount of the encumbrance, including interest and expenses, or

(ii) there is a nominal consideration therefor,

it is exempt from deed transfer tax.

(2) Where

(a) a deed merely confirms, corrects, modifies or supplements a deed previously given;

(b) there is no consideration beyond one dollar;
and

(c) the deed does not include more property than the deed previously given,

it is exempt from deed transfer tax.

(3) A deed from the Nova Scotia Farm Loan Board to a borrower under the *Agriculture and Rural Credit Act* is not subject to deed transfer tax.

(4) A deed given pursuant to a tax sale is not subject to deed transfer tax.

(5) A deed is not subject to deed transfer tax if the certificates of execution for the deed show, on their face, that they were signed by the official prior to the date on which the municipality adopted a deed transfer tax.

(6) A deed which transfers property pursuant to an agreement of purchase and sale entered into prior to the date on which the

municipality adopted a deed transfer tax, is not subject to deed transfer tax.

(7) Where the grantee is a registered Canadian charitable organization, a deed is exempt from the deed transfer tax if the property is not to be used for any commercial, industrial, rental or other business purpose and if an officer of the grantee makes and files an affidavit to that effect.

(8) Notwithstanding subsection ~~(3)~~ (7), where, within three years after the filing of the affidavit, the property is used by the grantee for a commercial, industrial, rental or other business purpose or is sold or conveyed by the grantee, the treasurer shall compute the deed transfer tax for which the grantee would have been liable if the grantee had not been a registered Canadian charitable organization and the grantee is liable to pay the amount of the tax and interest on it at the rate of ten per cent per annum computed from the date of the deed referred to in subsection ~~(3)~~ (7).

Registrar of Deeds as agent and collector

110 Where the council and the Minister agree that the Registrar of Deeds is to be the municipality's agent and collector of the deed transfer tax, the Registrar is the municipality's agent and collector and has all of the powers of the treasurer pursuant to this Part.