

1960

## c 205 Land Transfer Tax Act

Ontario

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### Bibliographic Citation

*Land Transfer Tax Act*, SO 1966, c 205

### Repository Citation

Ontario (1960) "c 205 Land Transfer Tax Act," *Ontario: Revised Statutes*: Vol. 1960: Iss. 2, Article 80.

Available at: <http://digitalcommons.osgoode.yorku.ca/rso/vol1960/iss2/80>

## CHAPTER 205

## The Land Transfer Tax Act

## 1. In this Act,

Interpretation

- (a) "collector" means the registrar of deeds, master of titles or local master of titles, as the case may be, to whom an instrument to which this Act applies is tendered for registration;
- (b) "land" includes tenements, realty, fixtures and good will;
- (c) "tax" means the tax imposed by this Act;
- (d) "Treasurer" means the Treasurer of Ontario. *New.*

2.—(1) Every person who tenders for registration a conveyance, deed, transfer or other instrument or writing whereby any land is granted, assigned, conveyed or otherwise transferred shall, before the conveyance, deed, transfer, instrument or writing is registered, pay a tax of one-fifth of 1 per cent upon the value of the consideration for the grant, assignment, conveyance or other transfer. R.S.O. 1950, c. 198, ss. 1 (1), 2; 1951, c. 44, s. 1, *amended.*

Imposition of tax

(2) Where such an instrument may be registered in more than one registry office or land titles office, or in a registry office and a land titles office, the tax is payable once only in respect of any one transfer or conveyance, and is payable upon the first instrument registered in the transaction. R.S.O. 1950, c. 198, s. 1 (1, 2), *amended.*

Tax to be payable on one registration only

(3) No tax is payable by the Crown or by any foreign state. R.S.O. 1950, c. 198, s. 1 (3).

Exception

3. Every collector shall in the first week of each month send to the Treasurer a statement of the amount of tax collected by him during the previous month and shall pay over the amount thereof to the Treasurer for the uses of Ontario. R.S.O. 1950, c. 198, s. 3; 1951, c. 44, s. 2, *amended.*

Monthly returns

4.—(1) There shall be filed with the collector an affidavit setting out the true consideration for the transfer or conveyance, and the true amount in cash and the value of any prop-

Affidavit

erty or security included in the consideration, and the amount or value of any lien or encumbrance subject to which the transfer or conveyance was made.

By whom to be made

(2) The affidavit may be made by the transferor or transferee or by any person acting for either of them under a power of attorney, or by an agent accredited in writing by the transferor or transferee, or by the solicitor for either of them, or by some other person approved by the Treasurer.

What to contain

(3) The affidavit shall state that the person making it has personal knowledge of the facts stated in it, and there shall be filed with it the power of attorney or the accredited agent's authority, if any, referred to in subsection 2.

Reference to Comptroller of Revenue

(4) If the collector is not satisfied that the affidavit sets out the true consideration for the transfer or conveyance, he may refuse to register the instrument to which the affidavit relates until the Comptroller of Revenue has signified over his signature that he is satisfied that the consideration stated in the affidavit is the true consideration.

When vendor liable for tax

(5) Where the affidavit is made by the transferor or a person acting as attorney, agent or solicitor for the transferor, the transferor is personally liable to the Treasurer jointly and severally with the transferee for the amount of the tax.

Right of vendor to recover

(6) Where the transferor is compelled to pay the tax or a part thereof, he has the right to recover the amount so paid from the transferee in an action in any court of competent jurisdiction. R.S.O. 1950, c. 198, s. 4, *amended*.

Payment of tax under protest

5. Where the right of the collector to require payment of the tax is disputed by the person registering an instrument, the tax may be paid under protest and the collector shall give a receipt in writing signed by him for the amount paid and stating that it was paid under protest and he shall thereupon refer the matter for the decision of the Treasurer or such official as the Treasurer appoints, who may order the refund of the tax or any part thereof to the person who paid it. R.S.O. 1950, c. 198, s. 7, *amended*.

Administration of oaths R.S.O. 1960, cc. 204, 348

6. A person authorized for a like purpose under *The Land Titles Act* or *The Registry Act* may administer an oath for any of the purposes of this Act. R.S.O. 1950, c. 198, s. 8.

Regulations

7. The Lieutenant Governor in Council may make regulations prescribing the form of affidavit referred to in section 4, and generally for the better carrying out of this Act. R.S.O. 1950, c. 198, s. 5.