1974

c 8 The Land Transfer Tax Act, 1974

Ontario

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CHAPTER 8

The Land Transfer Tax Act, 1974

Assented to April 26th, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

(a) "collector" means any land registrar to whom any conveyance to which this Act applies is tendered for registration;

(b) "convey" includes the granting, assigning, releasing, surrendering, leasing or disposing of land in Ontario, agreeing to sell land in Ontario, or the giving of an option upon or with respect to any land in Ontario, whether the effect of any of the foregoing is to bring into existence an interest of any kind in land or is only for the purpose of giving effect to or formal recognition to any interest of whatsoever kind that theretofore existed in land, but "convey" does not include any transfer of land for the purpose only of securing a debt or loan, or any transfer by a creditor for the purpose only of returning land that had been used as security for a debt or loan, or any transfer of land by virtue of which there is a change in the legal ownership of the land without any change in its beneficial ownership;

(c) "conveyance" includes any instrument or writing by which land is conveyed and includes a final order of foreclosure under any mortgage or charge affecting land;

(d) "land" includes lands, tenements and hereditaments and any estate, right or interest therein, a household interest or estate, the interest of an optionee, the interest of a purchaser under an agreement to sell land, or goodwill attributable to the location
of land or to the existence thereon of any building or fixture, and fixtures;

(e) "Minister" means the Minister of Revenue;

(f) "non-resident corporation" means a corporation incorporated, formed or otherwise organized in Canada or elsewhere,

(i) that has issued or allotted shares to which are attached 50 per cent or more of the voting rights ordinarily exercisable at meetings of the shareholders of the corporation and that are owned by one or more individuals who are non-resident persons, or by one or more corporations incorporated, formed or organized elsewhere than in Canada, or by any combination of such individuals and corporations,

(ii) that has issued or allotted shares to which are attached 25 per cent or more of the voting rights ordinarily exercisable at meetings of the shareholders of the corporation and that are owned by any one individual who is a non-resident person, or by any one corporation incorporated, formed or organized elsewhere than in Canada, but this subclause does not apply where it is established to the satisfaction of the Minister that such individual or corporation does not in fact exercise control, directly or indirectly, over the corporation that has issued or allotted to such individual or corporation shares to which are attached 25 per cent or more of the voting rights ordinarily exercisable at meetings of the shareholders of the corporation,

(iii) one-half or more of the directors of which, or of the persons occupying the position of director by whatever name called, are individuals who are non-resident persons,

(iv) without share capital and one-half or more of the members of which are non-resident persons, or

(v) that is controlled directly or indirectly by one or more non-resident persons, including a non-resident corporation within the definition contained in the provisions of this clause other than this subclause;
(g) "non-resident person" means,

(i) an individual who is not ordinarily resident in Canada or who, if ordinarily resident in Canada, is neither a Canadian citizen nor an individual who has been lawfully admitted to Canada for permanent residence in Canada,

(ii) a partnership, syndicate, association or other organization of whatsoever kind of which one-half or more of the members are non-resident persons within the meaning of subclause i, iii or iv or in which interests representing in value 50 per cent or more of the total value of the partnership property are beneficially owned by non-resident persons within the meaning of subclause i, iii or iv,

(iii) a trust established by a non-resident person within the meaning of subclause i, ii or iv or in which non-resident persons within the meaning of subclause i, ii or iv have 50 per cent or more of the beneficial interests in the corpus of the trust or in the income arising therefrom, and "trust" includes the trustees under such a trust in their capacity as the trustees thereof, or

(iv) a non-resident corporation;

(h) "prescribed" means prescribed by regulations made under this Act;

(i) "tax" means the tax imposed by this Act;

(j) "transferee" includes a person to whom land is conveyed and any person whose interest in land is increased, created or given effect to as the result of a conveyance;

(k) "transferor" includes any person making a conveyance of land to a transferee;

(l) "Treasurer" means the Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs;

(m) "value of the consideration" includes,

(i) moneys paid in cash,
(ii) the value of any property or security exchanged for the conveyance of land,

(iii) the value of any encumbrance, charge or other liability to which the land being conveyed is subject at the time of registration, or

(iv) in the case of a final order of foreclosure under any mortgage or charge affecting land, the amount owed under the mortgage at the time it was foreclosed, including principal, interest and all costs and expenses, other than municipal taxes, secured by the mortgage and owing at that time.

(2) For the purposes of clause f of subsection 1, “control” means control by another corporation, individual or trust that is in fact exercising effective control either directly or indirectly and either through the holding of shares of the corporation or of any other corporation or through the holding of a significant portion of any class of shares of the corporation or of the outstanding debt of the corporation or of any shareholder or member of the corporation, or by any other means whether of a like or different nature.

(3) For the purpose of clause g of subsection 1, an individual shall be considered to be ordinarily resident in Canada if, at the time the expression is being applied,

(a) he has been lawfully admitted to Canada for permanent residence in Canada;

(b) he has sojourned in Canada during the next preceding 24 months for a period of, or periods the aggregate of which is, 366 days or more;

(c) he is a member of the Canadian Forces required to reside outside Canada;

(d) he is an ambassador, minister, high commissioner, officer or servant of Canada, or is an agent-general, officer or servant of a province of Canada, and resided in Canada immediately prior to appointment or employment by Canada or a province of Canada or is entitled to receive representation allowances;

(e) he is performing services in a country other than Canada under an international development assistance program of the Government of Canada that is
prescribed for the purposes of paragraph d of subsection 1 of section 250 of the Income Tax Act (Canada), 1970-71, c. 83 (Can.) and resided in Canada at any time in the three month period preceding the day on which such services commenced; or

(f) he resides outside Canada and is the spouse or child of, and is living with, an individual described in clause c, d or e.

2.—(1) Every person who tenders for registration in Ontario a conveyance whereby any land is conveyed to or in trust for any transferee who is not a non-resident person shall, before the conveyance is registered, pay a tax computed at the rate of three-tenths of 1 per cent of the value of the consideration for the conveyance up to and including $35,000, and at the rate of six-tenths of 1 per cent upon the remainder of the value of the consideration.

(2) Every person who tenders for registration in Ontario a conveyance whereby any land is conveyed to or in trust for any transferee who is a non-resident person shall, before the conveyance is registered, pay a tax computed at the rate of 20 per cent of the value of the consideration for the conveyance.

(3) Where the same conveyance may be registered in more than one office under the registry system, in more than one office under the land titles system, or under both the registry system and the land titles system, the tax is payable only once in respect of the first of such conveyances tendered for registration.

(4) No tax is payable where the only transferee in a conveyance that is tendered for registration is the Crown or a Crown agency within the meaning of The Crown Agency Act, R.S.O. 1979, c. 100.

(5) Where the Minister or some person authorized by him in writing to do so has indicated over his signature upon any conveyance that such tax as is payable has been paid, the conveyance may be registered without the payment of tax to the collector and without the production of the affidavits required by this Act, but the Minister or a person acting under his authority shall make the certification provided for by this subsection only when he is satisfied that all tax is paid or that security for the payment of the tax has been furnished to the Minister or to a collector in a form and of a kind that is acceptable to the Minister.
3. Every collector shall, in the first week of each month or at such other time as the Minister may from time to time require in writing, send to the Minister a statement of the amount of tax collected by him during the previous month or during such other period of time as the Minister shall in writing specify, and the collector shall pay over the amount of such tax to the Treasurer for the uses of Ontario.

4.—(1) There shall be filed with the collector and attached by him to the conveyance to which it relates an affidavit in the prescribed form setting out the true value of the consideration for the conveyance, the true amount in cash and the value of any property or security included in the value of the consideration, the amount or value of any lien or encumbrance subject to which the conveyance was made, and such other information as the Minister may prescribe to be disclosed in the affidavit.

(2) The affidavit required by subsection 1 may be made by the person making the conveyance or by the transferee or by any person acting for either of them under a power of attorney or as an agent authorized in writing so to act, or by the solicitor for the person making the conveyance or for the transferee, or by some other person authorized in writing by the Minister to make the affidavit.

(3) In addition to the affidavit required by subsection 1, there shall be filed with the collector and attached by him to the conveyance to which it relates an affidavit in Form 1 or in such other form as is prescribed, and the affidavit shall be made by,

(a) the transferee to whom or in trust for whom any land is conveyed;

(b) a trustee to whom any land is conveyed and who is shown as a trustee in the conveyance;

(c) the transferee named in the conveyance;

(d) an agent of any person referred to in clause a, b or c, if the agent is authorized in writing to make the affidavit; or

(e) the solicitor acting in the transaction as the solicitor for any person referred to in clause a, b or c,

and such affidavit shall state whether the transferee to whom the land is being conveyed is a non-resident person or the trustee for a non-resident person, and shall state such other information as is required in order to complete the affidavit.
(4) The affidavit required by subsection 1 or 3 shall state that the person making it has personal knowledge of the facts stated in it, and there shall be filed with the affidavit the power of attorney or written authorization, if any, referred to in subsection 2 or 3.

(5) If the collector is not satisfied that the affidavit required by subsection 1 sets out the true value of the consideration for the conveyance, he may refuse to register the conveyance to which the affidavit relates until the Minister has signified over his signature that he is satisfied that the value of the consideration stated in the affidavit is the true value of the consideration.

(6) Where a conveyance is tendered for registration without the affidavit required by subsection 3, tax is payable at the rate provided in subsection 2 of section 2, and the collector shall not register the conveyance until such tax is paid, but if it is subsequently established to the satisfaction of the Minister that, had the affidavit required by subsection 3 been furnished to the collector, tax would have been payable as provided in subsection 1 of section 2, the Minister may refund the amount paid under this subsection in excess of the tax provided for in subsection 1 of section 2.

5.—(1) Where the right of the collector to require payment of the tax is disputed by the person tendering a conveyance for registration, 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 Minister or of such official as the Minister appoints, who may order the refund of the tax or any part thereof to the person who paid it.

(2) In any dispute over the liability to tax of any person, the Minister may, after the tax has been paid, and if the dispute involves the interpretation of a provision of this Act, or involves an issue of law in which no facts are in dispute, or involves the proper inference to be drawn from facts that are not in dispute, agree in writing with the disputing party as to the undisputed facts and thereafter apply to the Supreme Court to have the issue in dispute determined, and if the Minister does not make the application within six weeks of the date upon which the undisputed facts have been agreed upon in writing, the other party to the dispute may apply to the court to have the issue determined.

6.—(1) Upon this Act receiving Royal Assent, every tax lien payable under this Act as a result of the tender of any tax
conveyance for registration after the 9th day of April, 1974 and before the day on which this Act receives Royal Assent that was not paid as herein provided for shall form a special lien upon the land conveyed by any such conveyance, and the special lien shall be in favour of Her Majesty in right of Ontario and has complete priority over every encumbrance of whatsoever kind that affects the land and that arose or came into existence on or after the 9th day of April, 1974 as part of or subsequent to the transaction or series of transactions that resulted in the tender for registration of the conveyance evidencing or carrying into effect the transaction or series of transactions.

(2) The special lien conferred on the Crown by this section expires on the 30th day of September, 1974, unless prior to the expiry of the special lien, there is registered against the land affected by the special lien a notice of lien in prescribed form.

(3) Before the issue of a warrant under subsection 4, the Minister shall send by mail or by registered mail, or deliver by personal service, a notice to all persons who have an interest, encumbrance or charge registered under the land titles system or the registry system against the land for the sale of which the warrant is to be issued that he intends to have the land that is subject to the special lien conferred by this Act sold pursuant to subsection 4, and such notice shall be given not less than thirty days or more than sixty days before the issue of the warrant, and shall be sent, in the case of a notice sent by mail, to the latest known address of each person to whom notice is to be given and to such other address as, in the opinion of the Minister, may be more likely to bring the notice to the person's attention.

(4) Subject to subsection 3, the Minister may, by his warrant directed to the sheriff of the county, district or judicial district in which is situate any land that is subject to the special lien conferred by this Act, require the sheriff to sell the land within six months or such longer period as is stated in the warrant, and the sheriff, upon receiving the warrant, shall proceed within the period specified to sell the land in the same manner as for a sale under a writ of execution issued out of the Supreme Court, and any person purchasing from the sheriff at such a sale shall take good title to the land free and clear of all encumbrances and claims of any kind of all persons whatsoever that do not have priority over the special lien but subject to all the rights and encumbrances of persons who have an interest in the land that have priority over the special lien.
(5) The proceeds of sale received by the sheriff from a sale under a warrant authorized by subsection 4 shall be applied first to pay the costs and expenses of the sheriff in conducting the sale and next in payment of the amount of tax that was a special lien on the land conferred by this Act, and any surplus thereafter remaining shall be paid, in order of their priorities, to those whose rights in the land were subject to the special lien, and, if the order of those priorities cannot be established by the sheriff, shall be paid into court to be dealt with as the court shall direct.

(6) At any time prior to a sale authorized by subsection 4, any person interested in the land affected by the special lien conferred by this Act may pay to the Minister a sum sufficient to discharge the special lien, and if the special lien is discharged by some person having an encumbrance against the land, the amount accepted by the Minister may be added to that person's encumbrance and shall, for all purposes and in every court, thereafter be treated as part of the encumbrance and shall bear interest at the rate provided for in the encumbrance and shall be collectable in the same way as the encumbrance is enforceable.

(7) Upon such conditions as he may impose, the Minister may abandon, postpone, release or waive with respect to all or any part of any land any special lien conferred by this Act.

7.—(1) Every person who knowingly contravenes any provision of this Act or who knowingly makes an affidavit required by this Act that falsely discloses the value of the consideration for any conveyance of land or falsely states that a person who is a non-resident person is not a non-resident person, is guilty of an offence and on summary conviction is liable to a fine of not less than the amount of tax that was not paid to the collector as provided for in this Act plus an amount of not less than $50 and not more than $1,000.

(2) For the purpose of any proceeding taken under this Act, the facts necessary to establish compliance on the part of the Minister with this Act as well as the failure of any person to comply with the requirements of this Act shall, unless evidence to the contrary satisfactory to the court is adduced, be sufficiently proved in any court of law by affidavit of the Minister or of any officer of the Ministry of Revenue.

(3) An information in respect of an offence under this Act shall be laid within six years of the time when the matter of the information arose.
8. — (1) Where a person has paid an amount under this Act as tax that is not payable as tax under this Act, the Minister may, upon receipt of satisfactory evidence that the amount was wrongly paid, authorize the Treasurer to refund such amount or any part thereof, but no refund shall be made unless it is applied for within three years after the date of the payment of any amount that is alleged not to have been payable as tax under this Act.

(2) Where a conveyance has been tendered for registration that conveys land both to non-resident persons and to persons who are not non-resident persons, the Minister may refund to the persons who are not non-resident persons an amount equal to the difference between,

(a) the amount that would result from the application of the rates of tax in subsection 1 of section 2 to the value of the consideration attributable in the opinion of the Minister to the land conveyed to persons who are not non-resident persons; and

(b) the amount of tax paid on the value of the consideration attributable in the opinion of the Minister to land conveyed to persons who are not non-resident persons,

but no refund under this subsection shall be made if the land is held in joint tenancy by the non-resident person and the persons who are not non-resident persons or if the Minister is of the opinion that the land conveyed to persons who are not non-resident persons cannot readily be distinguished from the land conveyed to non-resident persons.

9. — (1) Any person thereunto authorized by the Minister for any purpose related to the administration or enforcement of this Act may at all reasonable times enter into any premises or place where any business is carried on or any property is kept or where anything is done in connection with any business or where any books or records are or should be kept and,

(a) audit or examine the books and records and any account, voucher, letter, telegram or other document that relates or may relate to the information that is or should be in the books or records or to the amount of tax payable under this Act;
(b) examine property described in any conveyance or any property, process or matter an examination of which may, in his opinion, assist him in determining the accuracy of any affidavit required by this Act or in ascertaining the information that is or should be in the books or records or in such affidavit, or the amount of any tax payable under this Act;

(c) require any officer, director, agent or representative of a transferee a conveyance to whom has been registered as a result of which there may be a possible liability to pay tax under this Act, and any person on the premises to give him all reasonable assistance with his audit or examination and to answer all questions relating to the audit or examination either orally or, if he so requires, in writing, on oath or by statutory declaration and, for that purpose, he may require such person to attend at the premises or place with him; and

(d) if during the course of any audit or examination it appears to him that there has been a violation of this Act or the regulations made under this Act, seize and take away any of the records, books, accounts, vouchers, letters, telegrams and other documents and retain them until they are produced in any court proceedings.

(2) The Minister may, for any purpose relating to the administration or enforcement of this Act, by registered letter or by a demand served personally, require from any person any information or additional information, or the production, or production on oath, of any books, letters, accounts, invoices, statements (financial or otherwise) or other documents within such reasonable time as is stipulated therein, provided that, in the opinion of the Minister or of the person authorized by him, it is necessary to make the demand in order to determine the liability or possible liability to tax under this Act.

(3) Where a book, record or other document has been seized, examined or produced under this section, the person by whom it is seized or examined or to whom it is produced, or any officer of the Ministry of Revenue, may make or cause to be made one or more copies thereof, and a document purporting to be certified by the Minister or a person thereunto authorized by the Minister to be a copy
made pursuant to this section is admissible in evidence and has the same probative force as the original document would have had if it had been proven in the ordinary way.

(4) No person shall hinder or molest or interfere with any person doing anything that he is authorized by this section to do or shall prevent or attempt to prevent any person doing any such thing, and notwithstanding any other law to the contrary, every person shall, unless he is unable to do so, do everything he is required by this section to do.

(5) Every person who has failed to comply with or has contravened this section is guilty of an offence and, in addition to any penalty otherwise provided, is liable on summary conviction to a fine of $25 for each day during which the default continues.

10. Until a different form is prescribed, the form of affidavit prescribed by Ontario Regulation 251/73 made under The Land Transfer Tax Act shall be the form of affidavit required by subsection 1 of section 4.

11. A person authorized to administer an oath under The Land Titles Act or The Registry Act may administer an oath for any of the purposes of this Act.

12.—(1) Where any person responsible for the payment of tax fails to pay it as required under this Act, the Minister may make an assessment of the tax for which such person is responsible and which has not been paid.

(2) Where the Minister has made an assessment under subsection 1, he shall send by mail or by registered mail or deliver by personal service a notice of assessment to the person so assessed, and the amount of the assessment shall be remitted to the Minister by the person so assessed within thirty days from the date of mailing or delivery of the notice of assessment.

(3) Where the Minister has made an assessment under subsection 1, the notice of assessment may provide that the amount assessed is payable forthwith.

(4) The Minister may, at any time he considers reasonable, assess or reassess any tax payable by any person under this Act.
(5) Where it appears from an inspection, audit or examination of the books of account, records or documents of any person that this Act or the regulations have not been complied with, the person making the inspection, audit or examination shall calculate the tax payable in such manner and form and by such procedure as the Minister considers adequate and expedient, and the Minister shall assess the amount of the tax.

(6) The Minister shall send by mail or by registered mail or deliver by personal service a notice of the assessment made under subsection 4 or 5 to the person so assessed at his latest known address, and the notice may provide that the amount assessed is payable forthwith.

(7) Liability for tax is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made.

(8) The Minister is not bound by any information delivered by or on behalf of any person responsible for the payment of the tax and may, notwithstanding any information that has been delivered or if no information has been delivered, assess the tax payable under this Act.

(9) An assessment, subject to being varied or vacated on an objection or appeal and subject to a reassessment shall be deemed to be valid and binding notwithstanding any error, defect or omission therein or in any proceeding under this Act relating thereto.

(10) The amount of any assessment is payable within the time required by the notice of assessment whether or not an objection or appeal from the assessment is made or taken.

13.—(1) Where a person objects to an assessment made under section 12 he may, within ninety days after the day of mailing or delivery by personal service of the notice of assessment, serve on the Minister a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts.

(2) A notice of objection under this section shall be served by being sent by registered mail addressed to the Minister.

(3) Upon receipt of a notice of objection, the Minister shall with all due despatch reconsider the assessment and vacate, confirm or vary the assessment or reassess, and he shall thereupon notify the person who has made the objection of his action by registered mail.
Appeal

1. After the Minister has given the notification required by subsection 3 of section 13, a person who has served notice of objection under section 13 may appeal to the Supreme Court to have the assessment vacated or varied or reassessed, but no appeal under this section shall be instituted after the expiration of ninety days from the day on which notice has been mailed to such person under subsection 3 of section 13 and an appeal under this section shall not be made to the Divisional Court.

(2) An appeal to the Supreme Court shall be instituted by serving on the Minister a notice of appeal in duplicate in the prescribed form and by filing a copy thereof with the Registrar of the Supreme Court or with the Local Registrar of the Supreme Court for the county, district or judicial district in which is situate the designated land the tax imposed on which is under appeal.

(3) A notice of appeal shall be served on the Minister by being sent by registered mail addressed to the Minister.

(4) The person appealing shall set out in his notice of appeal a statement of the allegations of fact and the statutory provisions and reasons that he intends to submit in support of his appeal.

(5) After the service on him of a notice of appeal under this section, the Minister shall with all due despatch serve on the person appealing and file in the Supreme Court where the notice of appeal was filed a reply to the notice of appeal admitting or denying the facts alleged and containing a statement of such further allegations of fact and of such statutory provisions and reasons as he considers relevant.

(6) Upon the filing in the Supreme Court of the material referred to in subsection 5, the matter shall be deemed to be an action in the court, and the practice and procedure of the court, including the right of appeal and the practice and procedure relating to appeals, apply to every matter that is deemed to be an action under this subsection, and every judgment and order given or made in every such action may be enforced in the same manner and by the like process as a judgment or order given or made in an action commenced in the court.

(7) The court may dispose of an appeal by allowing it, by dismissing it, or by allowing it in part and directing the Minister to vacate the assessment, vary the assessment or reconsider the assessment and reassess as indicated by the judgment of the court.
(8) In delivering judgment disposing of an appeal, the court may order payment or refund of tax by the appellant or by the Treasurer, as the case may be, and may make such order as to costs as is considered proper.

(9) No assessment shall be vacated or varied on appeal by reason only of an irregularity, informality, omission or error on the part of any person in the observance of any directory provision of this Act.

(10) The time within which a notice of objection under subsection 1 of section 13 or a notice of appeal under subsection 1 of this section is to be served may be extended by the Minister if application for extension is made before expiration of the time for service of the notice of objection or notice of appeal, as the case may be.

15.—(1) Where the tax imposed by this Act is not paid at the time provided for, interest on the unpaid tax shall be paid to the Treasurer at the rate of 9 per cent per annum or at such other rate as may be prescribed by the Lieutenant Governor in Council by regulation but no interest is payable for any period of time prior to the day upon which this Act receives Royal Assent.

(2) Any payment received by the Treasurer or a collector on account of any tax under this Act shall first be applied to any interest payable on the tax with respect to which the payment is made, but this subsection does not apply to payments on account of any fine or penalty payable under this Act.

16.—(1) Where tax has been paid or may be payable on the registration of a conveyance of land to a non-resident person, and that non-resident person satisfies the Minister that the land was or is to be acquired for the purpose of residential, commercial or industrial development and for resale to persons who are not non-resident persons, the Minister may, with the approval of the Lieutenant Governor in Council, defer the payment of the tax, or remit the tax paid, on such conditions as to the use and development of the land or otherwise as are considered advisable and sufficient to ensure the development of the land as proposed and its conveyance to persons who are not non-resident persons, and any tax deferred or remitted under this subsection constitutes a first lien and charge in favour of Her Majesty in right of Ontario on the land so acquired or to be acquired, and the lien and charge shall be effective upon registration by the Minister of a notice of such lien and charge, and the Minister may discharge the lien and charge in
whole or in part as the conditions that he has imposed
are fulfilled.

(2) A deferral or remission under subsection 1, or a rebate
under subsection 4, may not exceed the amount by which
the rate of tax imposed by subsection 2 of section 2 exceeds
the rate of tax imposed by subsection 1 of section 2, but
may otherwise be for all or any part of the tax.

(3) Where tax is deferred under subsection 1 upon condi-
tions that are fulfilled, the amount of the tax so deferred
is thereupon cancelled and no longer owing as tax under
this Act, and where the conditions upon which any tax has
been remitted under subsection 1 are not fulfilled, the tax
so remitted thereupon becomes payable.

(4) Where tax is paid under subsection 2 of section 2
as the result of the tender for registration of a final order of
foreclosure under a mortgage or charge affecting land, and
where the mortgagee or chargee who acquires the beneficial
interest in the land by virtue of the final order of fore-
closure sells, within three years after the date on which the
final order of foreclosure was given, all or any part of the
land so acquired to a person who is not a non-resident
person, the Minister may, subject to subsection 2, rebate
to the mortgagee or chargee the tax that was paid on the
tender for registration of the final order of foreclosure and
that is, in the opinion of the Minister, referable to the value
of the consideration for the final order of foreclosure attribu-
table to the portion of the land sold, and in addition
to the amount of the rebate, the Minister may authorize
payment to the mortgagee or chargee to whom the rebate
is made of interest on the amount rebated at the rate of
4 per cent per annum or at such other rate as may be
prescribed by the Lieutenant Governor in Council by regu-
lation.

17. Where a conveyance is tendered for registration,
(a) after the 9th day of April, 1974 and before the
16th day of May, 1974, and is the result of an
agreement that is proved to the satisfaction of the
Minister to have been reduced to writing and executed
by the parties to it before the 10th day of April,
1974; or
(b) after the 15th day of May, 1974, and is the result
of an agreement that is proved to the satisfaction
of the Minister to have been reduced to writing and
executed by the parties to it before the 10th day of
April, 1974 and that has been filed with the Minister before the 16th day of May, 1974, the tax payable by the person tendering the conveyance for registration shall be the tax provided for in The Land Transfer Tax Act, as amended by The Land Transfer Tax Amendment Act, 1972, notwithstanding the repeal of those Acts, and the tax provided for in this Act does not apply to the person tendering the conveyance for registration.

18.—(1) The Minister may make regulations,

(a) prescribing any form required by this Act or that, in his opinion, will assist in the administration of this Act, and prescribing how and by whom any prescribed form shall be completed and what information it shall contain;

(b) repealing Form 1 and substituting another Form therefor.

(2) The Lieutenant Governor in Council may make regulations,

(a) exempting from tax any person tendering for registration any class of conveyance to which it is determined that this Act was not intended to apply, or any conveyance to persons prescribed for the purpose of this clause;

(b) providing for the collection of tax, the appointment of persons other than collectors to collect the tax, and establishing procedures for the collection of the tax;

(c) providing for the refund of tax in whole or in part owing to special circumstances, and prescribing the terms and conditions under which such refund may be made;

(d) authorizing or requiring the Deputy Minister of Revenue or any officer of the Ministry of Revenue to exercise any power or perform any duty conferred or imposed upon the Minister by this Act;

(e) providing for the method of calculating and ascertaining the value of the consideration in any case or class of cases;

(f) authorizing any person or persons, on such conditions and subject to such rules as may be specified,
to exempt from the tax or any part thereof imposed by subsection 2 of section 2, or to refund such tax or any part thereof to, any person tendering for registration any class of conveyance to which it is determined that this Act was not intended to apply, or any conveyance to any non-resident person;

(g) providing for the payment of interest on any refund or rebate of tax authorized by this Act or the regulations, and prescribing the rate of such interest and the method by which it is to be calculated;

(h) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

(3) A regulation is, if it so provides, effective with reference to a period before it was filed.


20.—(1) Upon receiving Royal Assent, this Act shall be deemed to have come into force on the 10th day of April, 1974, and the tax imposed by this Act shall be levied and paid as herein provided notwithstanding that this Act receives Royal Assent after the 10th day of April, 1974.

(2) Where any act or thing that is required by this Act is done or omitted to be done on or after the 10th day of April, 1974 and before the day upon which this Act receives Royal Assent, the fact that this Act was not in force at the time the act or thing was done or omitted to be done shall not relieve any person from the liability to tax imposed by this Act or from liability to any penalty or offence provided for in this Act.

21. This Act may be cited as The Land Transfer Tax Act, 1974.
Form 1

The Land Transfer Tax Act, 1974

AFFIDAVIT OF RESIDENCE

IN THE MATTER OF THE CONVEYANCE OF

(insert brief description of land)

To

(insert names of all transferees)

I

(print name)

(print address)

MAKE OATH AND SAY THAT:

1. I am (place a clear mark within the square opposite that one of the following paragraphs that describes the capacity of the deponent):

   (a) A person to whom or in trust for whom the land conveyed in the above-described conveyance is being conveyed
   (b) One of the trustees named in the above-described conveyance to whom the land is being conveyed
   (c) A transferee named in the above-described conveyance
   (d) An agent authorized in writing to act for

       who is a person described in paragraph........ above (insert only one of paragraph (a), (b), or (c) above)

   (e) The solicitor acting in this matter for

       who is a person described in paragraph........ above (insert only one of paragraph (a), (b) or (c) above);

and as such, I have personal knowledge of the facts herein deposed to.

2. None of the transferees to whom or in trust for whom the land conveyed in the above-described conveyance is being conveyed is, within the meaning of the Act, a non-resident person (strike out this paragraph if inapplicable).
3. The following persons to whom or in trust for whom the land conveyed in the above-described conveyance is being conveyed are non-resident persons within the meaning of the Act.

(insert the name and place of residence—or in the case of a corporation, the place of incorporation of any transferee who is a non-resident person. If space is insufficient, attach a list of those transferees who are non-resident persons.)

4. I have read and considered the definitions of "non-resident corporation" and "non-resident person" set out respectively in clauses f and g of subsection 1 of section 1 of the Act.

Sworn before me

in the

of

this
day of

19

A Commissioner, etc.