

October 4, 2009

To: Royal LePage Estate Realty Agents
From: Thomas Gregoriades, DLC Estate Mortgages
Subject: Ontario and Toronto Land Transfer Tax Regimes

The information presented in this document on Ontario's Land Transfer Tax ("OLTT") and Toronto's Municipal Land Transfer Tax ("MLTT") regimes is intended to provide clarity on the subject for the most common situations encountered by our agents and their clients.

I took the liberty in preparing this document in response to enquiries from agents and clients on the subject – specifically the application of both the OLTT and MLTT in purchase transactions involving first- time homebuyers. However, I caution that this is not the definitive word on the subject as specific individual circumstances may vary. Your client should therefore be directed to consult their real estate legal adviser or the applicable government revenue authority and tax information circulars listed at the end of this document for certainty regarding their specific situation.

The information is being presented in a Q&A format which should cover the most common situations you may encounter in the field. If you have a specific question that is not addressed, please let me know and I will undertake to research the answer on your behalf.

General

The following series of questions and answers are applicable to both the OLTT and MLTT:

Q – When were these taxes introduced?

A – The OLTT has been in place for a number of years; however its rebate for first-time homebuyers on resale homes came into effect in 2008. Previously, rebates were only extended on newly constructed homes. The MLTT was introduced December 14, 2007 and became effective February 1, 2008 for both newly constructed and resale homes.

Q – What are the tax rates?

A – OLTT rates are: 0.5% on the first \$55,000 of property value; 1% on the value over \$55,000 to \$250,000; 1.5% on the value over \$250,000 to \$400,000; and 2% on the value over \$400,000 applicable on one but no more than two family residences.

- MLTT rates are: 0.5% on the first \$55,000 of property value; 1% on the value over \$55,000 to \$400,000 and 2% on the value over \$400,000 applicable on one but no more than two single family residences. MLTT rates on all other properties are 0.5% on the first \$55,000 of value; 1% on the value over \$55,000 to \$400,000; 1.5% on the value over \$400,000 to \$400,000,000 and 1% on the value over \$40,000,000.

Q – What is the minimum tax amount payable?

A – \$72.00. Amount less than \$72.00 is waived.

Q – When is the tax payable?

A – Both taxes are payable on closing.

Q – How do I pay the taxes?

A – The taxes usually form part of your closing costs with your lawyer, who in turn will remit them to the applicable authority on your behalf.

Rebates for First Time Homebuyers

Q – Who is considered a first time homebuyer eligible for the rebate?

- A –
1. Must be 18 years of age or over.
 2. Must be a principal residence being purchased.
 3. Must be occupied within 9 months of purchase.
 4. Must not have owned a home or an interest in a home previously at any time anywhere in the world.
 5. If he/she has a spouse, the spouse cannot have owned a home or an interest in a home at any time while they were spouses of one another.
 6. Must be an eligible property.
 7. In addition, for purposes of the OLTT, the purchaser cannot have previously received an Ontario Home Ownership Savings Plan (OHOSP) based refund of land transfer tax.

Q – What is considered an eligible property?

A – A detached single family dwelling, condominium, duplex, triplex, and fourplex are the most common eligible properties.

Q – What is the maximum rebate provided?

A – Maximum OLTT rebate is \$2,000 and maximum MLTT rebate is \$3,725.

Q – When will I get the rebate?

A – The rebate is immediate if you are eligible for the full amount of the rebate or less. In other words, you will not be required to pay the tax if the MLTT is \$3,725 or less and / or the OLTT is \$2,000 or less. If the land transfer taxes calculated are greater than the maximum rebate amounts, the full amount of the respective tax is payable at time of closing and an application to receive the rebates sent to the applicable tax authority. Your lawyer would normally handle the rebate application and its submission.

Q – How long does my lawyer have to submit my rebate application?

A – 18 months from the closing date of the purchase.

Q – My wife and I are buying our first home together but she owned a home before we were married. Do we qualify for the first-time homebuyer rebate?

A – Yes and no. You will qualify, but your wife will not. The amount of your rebate will be proportionate to your ownership interest in the property.

Q – My daughter is buying her first home, but for mortgage purposes her bank insisted that I be on title and signatory on the mortgage. (Daughter should have come to me for her mortgage!) Does my daughter qualify for the first-time homebuyers rebate?

A – Yes. She qualifies for the full amount of the rebate she is eligible for. Make sure your daughter has something in writing from the bank stating that you are on title and co-borrower at their request for mortgage purposes.

Q – I own a home with no mortgage on the property and want to transfer a half interest to my son who is 19 years of age. Does he/I have to pay land transfer tax on the transfer?

A – No. Transaction is considered exempt for land transfer tax purposes under the “Love and Affection” rules so long as there is no consideration paid. (I.e. Your son is not paying you anything for transferring half the house to him).

Q – I am transferring a half interest in my \$400,000 home to my 19 year old daughter for no consideration and the home has a \$150,000 mortgage on it. Will my daughter have to pay land transfer tax on the transfer?

A – Yes. The amount of the land transfer tax (both OLTT and MLTT) is based and calculated on one-half of the amount of the mortgage on the property. Technically, your daughter is giving you consideration for the transfer as she is now automatically jointly responsible with you for the mortgage.

Q – I am transferring full title of my house to my loving spouse. There is no mortgage on the property. Will she have to pay land transfer tax?

A – No. Transfers between spouses, whether there is a mortgage on the property or not, are exempt for land transfer tax purposes.

I hope you find the foregoing information useful. I would be pleased to respond to any questions you may have. Listed below are various sources that deal with this subject in greater detail should you wish to peruse them.

Tom

Sources

[Ontario Tax Bulletin LTT1 – 2008 “Land Transfer Tax for First Time Homebuyers”](#)

[Ontario Tax Bulletin LTT1 – 2005 “Conveyances Involving Trusts”](#)

[Ontario Tax Bulletin 2-2005 “Calculating Land Transfer Tax”](#)

[Ontario Tax Bulletin LTT 10-2000 “Transactions for Nominal Consideration”](#)

[Ontario Ministry of Revenue, Land and Resource Taxes – 1-866-668-8297](#)

[City of Toronto Act, 2006](#)

<http://www.toronto.ca/taxes/mltt.htm>