

MUNICIPAL LAND TRANSFER TAX BY-LAW

1. In this By-law:
 - a. "Clerk" means the Town Clerk of the Town of Port Hawkesbury
 - b. "Deed" means any instrument or writing not testamentary in character, whereby property is conveyed, transferred, assigned or vested in any person, but does not include a mortgage or an agreement of sale or lease for a term less than 25 years, or a deed given by the Clerk in pursuance of sale for rates and taxes;
 - c. "Grantee" means the person to whom property is transferred by deed for value or otherwise;
 - d. "Grantor" means the transferor or the person who transfers property by deed for value or otherwise;
 - e. "Person" includes a corporation and the heirs, executors, administrators or other legal representatives of a person;
 - f. "Property" means real property of any kind including any right, easement or power in respect thereof or interest therein;
 - g. "Sale Price" means the entire consideration for the sale of the property and, without restricting the generality of the foregoing includes:
 - money consideration paid together with the par or face value of promissory notes, cheques, bills of exchange, agreements and securities forming part of the consideration.
 - the gross value or real or personal property given in exchange in whole or in part including mortgages made by the grantee in favour of the grantor or his executor, nominee, assignee, trustee or anyone on his behalf.
 - outstanding obligations or accounts cancelled, satisfied or assumed;
 - the amount of rates, taxes, liens, mortgages and encumbrances, including interest and expenses thereon assumed by the grantee at the date of transfer;
 - h. "Transfer" means a transaction whereby property is transferred or conveyed by deed;
 - i. "Value" means the sale price.
2.
 - a. On every deed a tax of one-half of one per cent of the value of the property thereby conveyed is imposed and levied.
 - b. Where the property is situated partly within any other Municipal units whether or not the Municipal Land Transfer Tax Act applies to such other units the value

shall be apportioned and the tax shall be computed on that part of the value that has been apportioned to the Municipality of the Town or Port Hawkesbury in accordance with subsection (2), (3), and (4) of Section 3 of the Municipal Land Transfer Tax Act, S.N.S., 1968, Chapter 10.

3. When the grantee is a Canadian charitable organization registered under the Income Tax Act (Canada) and the regulations made under that Act, a deed is exempt from the tax imposed 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 with the Clerk an affidavit to this effect and sets out the number of its registration under The Income Tax Act (Canada). The affidavit may be in the form of Schedule "A" of this By-law or to the like effect.
4. When a deed transfers property between a wholly-owned subsidiary company and its parent company or between companies that are wholly owned by another company or person then it is exempt from tax.
5. When a deed merely confirms, corrects, modifies, or supplements a deed previously given and there is no consideration therefor beyond one dollar and it does not include more property than the deed previously given, then it is exempt for the tax.
6. Not later than seventy two hours after a transfer and whether or not a tax is payable thereon, the grantee shall file with the clerk an affidavit made by himself or by someone having the full knowledge of the facts, setting out the names of the parties, the location of the property, 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 that the person making it has personal knowledge of the facts stated therein. The affidavit may be in the form in Schedule "A" of this By-law or to the like effect.
7. The tax shall be paid by the grantee named in the deed and shall be due and payable by him at the time of making transfer.
8. If the clerk is not satisfied that the affidavit sets out the true and complete sale price or if for any reason he is not able from the affidavit to determine the sale price then such tax shall be determined in accordance with Section 9 of said Municipal Land Transfer Tax Act.
9. Upon payment of the tax the Clerk shall endorse the deed with a certificate in the form of Schedule "B" of this By-law or to the like effect.
10. If the Clerk finds that the deed is exempt from Tax, he shall endorse the deed with a certificate in the form of Schedule "C" of this By-law or to the like effect.
11. If the grantee does not pay the tax when due he shall pay interest thereon at the

rate of one half of one percent per month until paid, beginning ten days after the transfer, and a penalty of ten percent on any tax or portion thereof which remains unpaid after thirty days from the date of the transfer.

12. The tax with interest and penalty constitutes a lien upon the property situate wholly or in part within the Municipality of the Town of Port Hawkesbury which is conveyed by the Deed. The lien attaches on the date when the tax is due and continues until discharged by payment or in accordance with law, and may be collected in the same manner as annual rates and taxes of the Town are collected.
13. Any person who makes any false statement in an affidavit or any person who violates any provision of this Act shall be liable on summary conviction to a penalty not exceeding three months, and further shall be liable to pay the amount of the tax, together with interest and penalty that should have been paid upon such deed.
14. The provision of this By-law are to take effect as of the 1st day of June, 1982. Section 14 is not approved. *repealed June 15th, 1982.

SCHEDULE "A"

Affidavit of Value

The Grantee, the Solicitor for the Grantee, or the duly authorized agent of the Grantee must fill out this form and present the same, together with the instruments under which title has been acquired, to the Town Clerk.

If the property has been acquired by Will, said date of probate and book and page where Will is recorded.

If property has been inherited by intestacy, give date of death of former owner as date of acquiring title.

If property has been acquired through partition, court order, or in any manner other than by deed, state nature of proceedings, date of final order and number and page of book where final order is recorded.

I, _____, hereby make oath and say that I am _____
_____ (the Grantee, Solicitor for the Grantee, or duly authorized agent of the Grantee) herein and that the information hereinafter contained is true to the best of my knowledge and belief.

Manner of Acquiring Title _____
(Deed, Will, intestacy, court order, etc...)

Present Owner
(Grantee) _____
Name and Mailing Address in full _____

Former Owner(Grantor) _____
Street and Number (of property conveyed) _____

Sale Price \$ _____ Transfer Tax \$ _____

Date of Acquiring Title _____

Explain if property is exempt form Transfer Tax _____

DESCRIPTION OF PROPERTY

(This must be exact copy of legal description, recital paragraph, and all easements, restrictions, reservations and right of way. Describe only one property on this form. Description of separate pieces of land

used
as
one
prop
erty
may
be
regist
ered
on one form.

ALL

(Use reverse side if not space enough here for description)

Sworn to at _____
in the County of _____
Province of _____
Before me, _____
(a Barrister, Commissioner, Notary Public, etc.....)

SCHEDULE "B"

I, _____, Clerk of the Town of Port
Hawkesbury, do hereby certify that the Deed Transfer Tax on this deed has been paid in
full on the _____ day of
_____ A.D., 19____

OWN CLERK T

SCHEDULE "C"

I, _____, Clerk of the Town of Port Hawkesbury, do
hereby certify that no Deed Transfer Tax is due or payable on this deed.

TOWN CLERK
