



## Exemption for Certain Transfers of Life Lease Interests under the *Land Transfer Tax Act*

This bulletin was revised June 2008 to incorporate formatting changes and changes in ministry name and contact information only.

- Tax Bulletin LTT 2-2003, issued March 2003, and gave notice of the proposed exemption from land transfer tax for certain transfers of life lease interests.
- This bulletin provides highlights of the conditions and procedures to obtain the land transfer tax exemption for certain transfers of life lease interests as provided for by O. Reg. 88/04.
- The information in this bulletin does not replace the law found in the *Land Transfer Tax Act* (Act) and related Regulations.
- This bulletin provides general information. It is not exhaustive and should not be considered as a substitute for the *Land Transfer Tax Act* and its regulations.

### General

**Introduction** O. Reg. 88/04, filed on April 2, 2004, provides for an exemption from land transfer tax for transfers of life lease interests under certain conditions.

**Effective Date** The exemption is effective from **July 19, 1989**.

**Definitions**

**“life lease development”** means land with self-contained units, organized as what is commonly known as a life lease project, where the right to occupy a unit is solely for the lifetime of an individual or for a term of at least 20 years.

**“life lease interest”** means the exclusive right to occupy a unit in a life lease development.

**“non-profit organization”** means a non-profit organization within the meaning of paragraph 149(1)(l) of the *Income Tax Act* (Canada) and includes a municipality.

**“registered charity”** means a charitable organization registered under subsection 248(1) of the *Income Tax Act* (Canada).

**“spouse”** means spouse as defined in section 29 of the *Family Law Act*. At present, this means either of a man or a woman who are married to each other, or who are not married to each other and who have cohabited,

- a) continuously for a period of not less than three years, or
- b) in a relationship of some permanence, if they are the natural or adoptive parents of a child.

In addition, under O. Reg. 88/04, **“spouse”** includes either of two persons who are married to each other.

## Requirements to Qualify for Exemption

General Conditions	<p>The acquisition by an individual or individuals of a “life lease interest” is exempt from tax where:</p> <ul style="list-style-type: none"> <li>• the owner of the “life lease development” is a “non-profit organization” or a “registered charity”; and</li> <li>• each transferee acquired the “life lease interest” in order to use the unit as his or her principal residence or as the principal residence of each transferee’s parent or spouse or, in the case of an acquisition after March 1, 2000, as the principal residence of the transferee’s same-sex partner.</li> </ul>
Reversion of a Life Lease Interest	<p>The reversion of a “life lease interest”, in a unit in a “life lease development”, to the owner of the “life lease development” is exempt from tax where:</p> <ul style="list-style-type: none"> <li>• the owner of the “life lease development” is a “non-profit organization” or a “registered charity”;</li> <li>• the reversion occurs pursuant to the terms of the agreement under which the “life lease interest” in the unit was originally acquired; and</li> <li>• the reversion occurs for the purpose of enabling the owner of the “life lease development” to sell the “life lease interest” to another purchaser.</li> </ul>

## Procedures for Claiming Land Transfer Tax Exemption

Paper Registration	<p>To claim the exemption and register a conveyance without the payment of tax, the value of the consideration must be shown on the <a href="#">Land Transfer Tax Affidavit</a> which is attached to the conveyance and one of the following explanations must also be included.</p> <ul style="list-style-type: none"> <li>• For the acquisition of a life lease interest: <p style="margin-left: 40px;">“This is the acquisition of a life lease interest where the owner of the life lease development is a non-profit organization (<i>or a municipality - whichever is applicable</i>). Each transferee is acquiring the life interest in order to use the unit as his or her principal residence (<i>or the principal residence of each transferee’s parent, spouse or same sex partner - whichever is applicable</i>). Exemption from tax is claimed pursuant to section 2 of O. Reg. 88/04 under the <i>Land Transfer Tax Act</i>.”</p> </li> <li>• For the reversion of a life lease interest: <p style="margin-left: 40px;">“This is a reversion of a life lease interest to a qualifying owner of a life lease development pursuant to the terms of the agreement under which the life lease interest in the unit was originally acquired and the reversion is occurring for the purpose of enabling the owner of the life lease development to sell the life lease interest to another purchaser and is exempt from tax pursuant to section 3 of O. Reg. 88/04 under the <i>Land Transfer Tax Act</i>.”</p> </li> </ul>
Electronic Registration	<p>Until changes to the electronic registration system are complete, the exemption cannot be claimed electronically. In this case, the following two options are currently available:</p>

1. Pay the tax at the time of electronic registration, and then apply for a refund. (See "[Procedures for Claiming Tax Refunds](#)" below.)
2. Prior to electronic registration, provide the following documents to the Ministry of Revenue at the address below to obtain an endorsement to indicate that no land transfer tax is payable on registration:
  - two hard copies of the document to be submitted for registration. The land transfer tax statements must be completed on the hard copies,
  - a copy of all agreements between the parties, and
  - supplementary affidavit signed by the transferee(s) setting out that the provisions of O. Reg. 88/04 have been met.

One hard copy of the document to be submitted for registration will be endorsed and returned. This endorsed document must then be submitted to the Land Registrar as evidence that the endorsement from the Ministry of Revenue was received.

#### Unregistered Disposition

Where the transfer of land is not registered, the exemption is still available.

In these cases, the following documents must be submitted to the Ministry within 30 days of the date of the disposition:

- completed [Return on the Acquisition of a Beneficial Interest in Land](#) form
  - a. photocopy of all agreements between the parties, and
  - b. supplementary affidavit signed by the transferee(s) setting out that the provisions of O. Reg. 88/04 have been met.

### Procedures for Claiming Tax Refunds

<b>Application for Refund</b>	If land transfer tax has been paid on a transfer of a life lease interest and the qualification criteria for the land transfer tax exemption have been met, an application for a land transfer tax refund may be made directly to the Ministry of Revenue at the address at the end of this bulletin. The exemption is effective from <b>July 19, 1989</b> .
<b>Documentation Required for Refund</b>	<p>The documentation required for the Ministry to consider a refund of land transfer tax is as follows:</p> <ol style="list-style-type: none"> <li>1. supplementary affidavit signed by the transferee(s) setting out that the provisions of O. Reg. 88/04 have been met;</li> <li>2. photocopy of all agreements between the parties; and           <ol style="list-style-type: none"> <li>a. in the case of a registered conveyance, a copy of the registered instrument upon which land transfer tax was paid; or</li> <li>b. in the case of electronic registration, a copy of the docket summary which relates to the transaction; or</li> <li>c. in the case of an unregistered disposition, details of the payment made.</li> </ol> </li> </ol>

**Limitation** Where the payment of tax was made on or after July 19, 1989 but before March 28, 2003, the application for the refund must be received by the Ministry before March 28, 2007. Applications for refunds of payments made from March 28, 2003, must be made within four years of payment of the tax.

### Additional Information

If this bulletin does not completely address your particular situation, refer to the Act and related regulations, or contact the:

Ministry of Revenue  
Land Transfer Tax Program  
33 King Street West  
Oshawa, ON L1H 8H9

Tel.: 1 866 ONT-TAXS (1 866 668-8297)  
Fax: 905 436-4511  
Teletypewriter (TTY): 1 800 263-7776

This bulletin and various other English and French tax materials published by the Ministry of Revenue may be obtained online at [ontario.ca/revenue](http://ontario.ca/revenue).

The *Land Transfer Tax Act* and Ontario's other public statutes and regulations may be obtained online at [www.e-laws.gov.on.ca](http://www.e-laws.gov.on.ca).

***Ce bulletin est disponible en français.***

ISBN: 0-7794-5731-5

© Queen's Printer for Ontario, 2004