



THE LEGAL MEMO

LAND TRANSFER TAX

- On any purchase of real estate, you need to calculate into your plans whether or not you have the obligation to pay land transfer tax (“LTT”) to the Province of Ontario, since it is often an amount that your mortgage lending may not have taken into consideration.
- The Province, by way of the *Land Transfer Tax Act*, imposes LTT on all conveyances of land for value of consideration and the terms “conveyances”, “land” and “value of consideration” are all broadly interpreted.

“Conveyances” include without limitation, sales, leases, the surrender of leases, options regarding land and agreements of purchase and sale.

“Land” includes, without limitation, all land, buildings, fixtures and leasehold interests.

“Value of Consideration” includes without limitation, any cash paid, mortgage assumed or any other benefit transferred.

- LTT applies at the following rates:

½% on the first \$55,000.00;

1% on the amount between \$55,000.00 and \$250,000.00;

1 ½% on the amount between \$250,000.00 and \$400,000.00;

2% on the amount between \$400,000.00 and \$2,000,000.00;

2.5% on amounts over \$2,000,000.00.

So for example: a \$250,000.00 purchase price will result in \$2,225.00 LTT and a \$400,000.00 purchase will result in \$4,475.00 LTT.

- LTT Exemptions:

There are several LTT exemptions. The main one is the **First-Time Home Purchase Rebate**. This is a refund of LTT that as of January 2017 is up to



\$4000.00 if the home-buyer and his spouse have neither previously owned a home or had an interest in a home anywhere in the world, provided they personally occupy the new home within nine months of the date of registration of the transfer. Other conditions may apply. Other common exemptions are that no LTT applies to a transfer for “love and affection”, or to a transfer between “Spouses”, provided there is no mortgage registered on title. If there is a mortgage, LTT applies to the extent of the mortgage. In certain cases, if one of two purchasers is a first time buyer, the LTT rebate applies proportionately.

- LTT is not applicable on the HST portion of a purchase or a portion of the price attributable to an assigned HST rebate.
- LTT applies to non-residents; the rate may differ from that charged to residents.

In some inter-corporate transfers, there is no LTT payable.

- Non-payment of LTT will result in the Ministry being able to register a lien on the property.

Remember that every situation is different and this article deals only with generalities. If you are uncertain as to your legal rights in a certain situation you should always consult your lawyer.