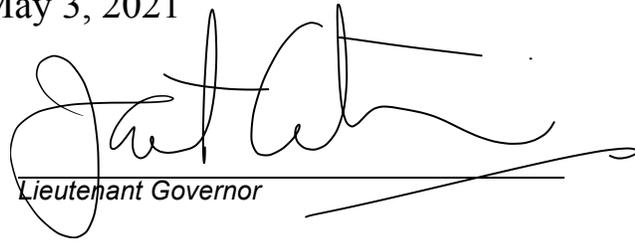


PROVINCE OF BRITISH COLUMBIA

ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 277

, Approved and Ordered May 3, 2021



Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that, effective June 1, 2020, the Property Transfer Tax Regulation, B.C. Reg 74/88, is amended as set out in the attached Schedule.



Minister of Finance



Presiding Member of the Executive Council

*(This part is for administrative purposes only and is not part of the Order.)*

Authority under which Order is made:

Act and section: *Property Transfer Tax Act*, R.S.B.C. 1996, c. 378, s. 37

Other: OIC 364/88

R10485710

## SCHEDULE

- 1 **Section 17.1 of the Property Transfer Tax Regulation, B.C. Reg. 74/88, is amended in the definition of “registration date” by adding the following paragraph:**
  - (c) in relation to a taxable transaction to which section 21 (2) or 22 (2) (a) or (b) applies, the date on which the application for registration of the taxable transaction is made at a land title office; .
- 2 **Section 21 (1) is repealed.**
- 3 **Section 22 is repealed and the following substituted:**

### **Exemption for general partner or bare trustee of limited partnership**

- 22 (1) In this section:
- “**bare trustee**” has the same meaning as in section 12.13 (1) of the Act;
  - “**foreign limited partner**” means a limited partner that
    - (a) is a foreign entity, or
    - (b) holds an interest in the limited partnership in trust for a foreign entity;
  - “**general partner**” has the same meaning as in Part 3 of the *Partnership Act*;
  - “**limited partner**” has the same meaning as in Part 3 of the *Partnership Act*;
  - “**limited partnership**” means a limited partnership
    - (a) formed under section 51 of the *Partnership Act*, or
    - (b) registered under section 80 of the *Partnership Act*;
  - “**profit**” includes compensation in the form of income on contributions made by limited partners;
  - “**taxation year**” has the same meaning as in section 249 (1) of the *Income Tax Act* (Canada).
- (2) Subject to the conditions set out in subsection (3), a transferee is exempt from the obligation to pay tax under section 2.02 (3) (a) of the Act in respect of the transferee’s proportionate share of a taxable transaction’s fair market value if the transferee is one of the following:
    - (a) a general partner in a limited partnership;
    - (b) a corporation, other than a foreign corporation, and a bare trustee of a trust in respect of which the beneficiaries include one or more general partners or limited partners in a limited partnership.
  - (3) The exemption under subsection (2) (a) or (b) applies if all of the following conditions are met in relation to the limited partnership and the residential property to which the taxable transaction relates:
    - (a) on the registration date, each general partner in that limited partnership is
      - (i) a Canadian citizen,
      - (ii) a permanent resident of Canada, or
      - (iii) a corporation other than a foreign corporation;

- (b) on the registration date, the combined interest of all foreign limited partners accounts for less than half of the entitlement of all partners to share in the profits of that limited partnership;
  - (c) immediately after the registration of the taxable transaction,
    - (i) the transferee's interest in that residential property is limited partnership property, and
    - (ii) no person has a beneficial interest in respect of the transferee's interest in that residential property other than as a general partner or limited partner in that limited partnership;
  - (d) each partner in that limited partnership is or will be resident in Canada, for income tax purposes, throughout the taxation year in which the taxable transaction occurs.
- (4) For the purposes of subsection (3) (d), if
- (a) a person is a partner in a partnership, and
  - (b) the partnership referred to in paragraph (a) is a partner in another partnership,
- the person referred to in paragraph (a) is deemed to be a partner in the other partnership referred to in paragraph (b).
- (5) An application for an exemption under subsection (2) (a) or (b) must
- (a) be tendered with the transferee's application for registration of the taxable transaction,
  - (b) be in the form required by the administrator, and
  - (c) include a consent, in the form required by the administrator, by which the transferee consents to the administrator conducting inquiries that the administrator considers necessary to confirm that the transferee qualifies for the exemption.

**4**     *The following section is added:*

**Refund for general partner or bare trustee of limited partnership**

- 23**     (1) A transferee who is entitled to an exemption under section 22 (2) (a) or (b) in respect of a taxable transaction and who fails to apply for that exemption on the registration date may, within 6 years after that date, apply to the administrator for a refund of the tax paid by the transferee under section 2.02 (3) (a) of the Act on the registration of the taxable transaction.
- (2) On receiving an application for a refund under subsection (1), the administrator must do one of the following:
- (a) if satisfied that the transferee would have qualified for an exemption under section 22 (2) (a) or (b) on the registration date, refund to the transferee the portion of the amount of tax paid by the transferee that is equivalent to the amount of the exemption to which the transferee would have been entitled had the application for the exemption been made on the registration date;

- (b) if not satisfied that the transferee would have qualified for an exemption under section 22 (a) or (b) on the registration date,
    - (i) refuse the application, and
    - (ii) send to the transferee a letter setting out the reasons for the refusal.
- (3) A letter sent under subsection (2) (b) is deemed be a notice of assessment made under section 18 of the Act for the purposes of allowing the applicant to file a notice of objection under section 19 (1) of the Act.