

## **Town of Stewiacke Deed Transfer Tax Bylaw**

This bylaw shall be known, and may be cited, as the Deed Transfer Tax Bylaw for the Town of Stewiacke. (Reference Part V, Section 102, Municipal Government Act, April 01, 1999).

### **DEFINITIONS**

1. In this bylaw:
  - (a) "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 a lease for a term less than twenty five years or a deed given by the Clerk in pursuance of a sale for rates and taxes.
  - (b) "Designated Authority" means the Registrar of Deeds, where the Council and the Minister agree that the Registrar will act as the Municipality's agent and collect Deed Transfer Tax on behalf of the Municipality.
  - (c) "Director" means the Director of Assessment of the Department of Housing and Municipal Affairs for the Province of Nova Scotia.
  - (d) "Grantee" means the person to whom property is transferred by deed for value or otherwise.
  - (e) "Grantor" means the transferor, or the person who transfers property by deed for value or otherwise.
  - (f) "Person" includes a corporation and the heirs, executors, administrators or other legal representatives of a person.
  - (g) "Property" means real property of any kind including any right, easement or power in respect thereof or any interest therein.
  - (h) "Sale Price" means the entire consideration for the sale of the property, and without restricting the generality of the foregoing, includes:
    - (i) 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,
    - (ii) the gross value of 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.
    - (iii) outstanding obligations or accounts cancelled, satisfied or assumed, or
    - (iv) the amount of rates, taxes, liens mortgages and encumbrances, including interest and expenses thereon assumed by the grantee at the date of transfer.

- (i) "Transfer" means real property of any kind including any right, easement or power in respect thereof or any interest therein.

**DEED TRANSFER TAX**

- 2. On every deed, a tax of One Percent (1%) of the sale price of the property thereby conveyed is imposed and levied.
- 3. Where the property is situated partly within any other municipality, the deed transfer tax is applicable to that part of the sale price which has been apportioned by the Director of Assessment to the part of the property within the municipality.

**EXEMPTIONS**

- 4. A deed is exempt from the tax imposed by this bylaw for the following reasons:
  - (a) Where the grantee is a Registered Canadian Charitable Organization, provided the property is not to be used for any commercial, industrial, rental or other business purpose, and an officer of the grantee makes and files with the Clerk, or the designated authority, an affidavit to this effect, stating the registration number of the Registered Canadian Charitable Organization pursuant to the Income Tax Act (Canada),
  - (b) where 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,
  - (c) where a deed transfers property by way of a gift, or between persons married to one another, and
  - (d) where a deed on which the certificates of execution indicate that the deed was executed by the grantor prior to the date on which the municipality adopted a deed transfer tax bylaw.

**FILING OF AFFIDAVIT**

- 5. Within ten (10) days of the transfer of any property, and whether or not a tax is payable thereon, the grantee shall file with the clerk, or the designated authority, an affidavit made by the grantee or by someone having a full knowledge of the facts, setting out the names of the grantor and grantee, the location and civic address of the property, the sale price of the property with full details of the consideration, including the amount of any lien or encumbrance; and if the affidavit is not made by the grantee it shall state that the person making it has personal knowledge of the facts stated therein.

6. The affidavit shall be in the form set forth in Schedule "A" to this bylaw.
7. The tax shall be paid by the grantee named in the deed and shall be due and payable at the time of transfer of the property.
8. Where an affidavit is made by a person other than the grantee, that person is personally liable, jointly and severally with the grantee for payment of any deed transfer tax.
9. If the Clerk or the designated authority is not satisfied that the affidavit sets out the true and complete sale price, or if for any reason is unable from the information set forth in the affidavit to determine the sale price, then the Clerk, or the designated authority, may refuse to accept the affidavit and to endorse the deed, and shall so advise the grantee.
10. Upon payment of the tax, or if the Clerk or the designated authority determines that the deed is exempt from tax, the Clerk or the designated authority shall endorse the deed with a certificate in the form set forth in Schedule "B" to this bylaw, and shall complete part 5 of the affidavit of value.
11. If the Grantee does not pay the tax when due, the interest on the unpaid tax shall accrue thereon at the rate 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 shall be assessed after the expiry of thirty days from the date of transfer.

**LIEN**

12. The tax together with any interest and penalties constitutes a lien on the property, or that part of the property which, as determined by the Director of Assessment, lies within the municipality, and attaches on the date when the tax is due and continues until discharged by payment, or in accordance with the law. The lien may be collected and payable in the same manner as annual rates and taxes collected.

**PENALTY**

13. Any person who makes a false statement in an affidavit of value or any person who violates any provision of this bylaw shall be liable on summary conviction to a penalty not exceeding five hundred dollars and, in default of payment, for a term 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 the deed.

**MUNICIPAL GOVERNMENT ACT**

14. In the event of any conflict arising between the provisions of this bylaw and the Municipal Government Act, the provisions of the Municipal Government Act shall prevail.

**REPEAL**

15. All bylaws respecting Deed Transfer Tax in the Town of Stewiacke, heretofore enacted, are hereby repealed.

I, Lillian A. Smith, Clerk of the Town of Stewiacke, do hereby certify that the foregoing is a true copy of a Bylaw passed by the Council of the Town of Stewiacke at a Council Meeting, duly held and convened on the 13th day of May, 1999.

Given under the hand of the Town Clerk and under the Corporate Seal of the said Town this 13th day of May, 1999.

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TOWN CLERK