

ONTARIO EXPANDS LAND TRANSFER TAX REFUND PROGRAM

On December 13, 2007, proposed amendments to the *Land Transfer Tax Act* were announced in the 2007 Ontario Economic Outlook and Fiscal Review. The proposed amendments must be passed by the Legislature and receive Royal Assent to become law. This article provides general information. It is not exhaustive and should not be considered as a substitute for the legislation.

Proposal to include Resale Homes

It is proposed that the Land Transfer Tax Refund Program for First-Time Homebuyers be expanded to include purchases of resale homes. The maximum refund would be \$2000.

Agreements After December 13, 2007

This proposal to include resale homes would be effective for agreements of purchase and sale entered into **after** December 13, 2007.

How to Claim the Refund Until the Proposed Amendments Become Law

Newly Constructed Homes

Eligible first-time homebuyers of **newly constructed homes** should continue to have their lawyers claim the refund under current procedures at the time of registration. The date the agreement of purchase and sale is entered into is not a factor with respect to newly constructed homes.

Resale Homes

Until the proposed amendments become law, the following applies to first-time homebuyers of resale homes applying for a refund:

Land transfer tax must be paid at registration

The following documentation must be submitted to the Ministry of Revenue at the address at the end of this notice:

1. A properly completed form - Ontario Land Transfer Tax Refund Affidavit for First-Time Purchasers of Eligible Homes (Resale)

2. A copy of the registered instrument on which land transfer tax was paid (in the case of electronic registration, please include a copy of the docket summary which relates to the transaction);
3. A copy of the agreement of purchase and sale (only those agreements of purchase and sale entered into after December 13, 2007 may qualify) along with a copy of the statement of adjustments.

Refund applications on resale homes cannot currently be made electronically.

Refund to be Paid once Proposals become Law

Although eligible first-time buyers of resale homes may apply for the refund once the transaction has closed and the tax has been paid, the ministry would retain the refund requests for processing and would issue refunds if the proposed amendments become law.

Eligibility Requirements

Eligibility Requirements for Resale Homes and Newly constructed Homes

The following eligibility requirements are proposed to apply for resale homes, and continue to apply for newly constructed homes:

- a) The purchaser must be at least 18 years of age.
- b) Application for the refund must be made within 18 months after the date of the conveyance or disposition.
- c) The purchaser must occupy the home as his or her principal residence within 9 months of the date of closing.
- d) The purchaser cannot have owned a home or had any ownership interest in a home, anywhere in the world.
- e) A spouse of the purchaser cannot have owned a home or had any ownership interest in a home, anywhere in the world while he or she was the purchaser's spouse.