

## Why am I still getting billed for land tax after selling my house!?

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Remember learning about the Boston Tea party in history class and the rallying cry, “no taxation without representation”? Well, if you find yourself being billed for land tax on a house you’ve sold, that could be a case of “taxation without accurate representation”. Simply put, you may still be represented as the owner on the Land Tax records, notwithstanding the fact you have parted with ownership of the property.

That begs the question - how does the Land Tax office know to change their records so as to bill the new owner? Well, years ago the practice used to be that the lawyer handling a property transfer would file a transfer notice with the Registrar General’s office (now the Land Title Registrar’s office) and, at the same time, send a copy to the Land Tax office. The Land Tax office would change their records on the strength of the notice received from the lawyer and the new owner would then be billed for the land tax going forward.

Then the Tax Commissioner noticed that sometimes transfer notices were being filed in circumstances where stamp duty had not been paid on the transfer deed. That’s a serious concern when the sums at issue could be in the region of tens of thousands of dollars.

So the Tax Commissioner (whose office is responsible for collecting stamp duty as well as land tax) teamed up with the Registrar General (where the land transfer notices used to be recorded) to help monitor the payment of stamp duty. An edict was passed saying that no transfer notice could be filed unless a certified copy of the duly stamped transfer deed accompanied it (in order to prove that the stamp duty had been paid).

If you recently disposed of your house and are still receiving the land tax bill, it might be a sign that something may be amiss. I say “might be” because there are perfectly innocent situations where this might occur.

For example, any time a transfer deed has to be sent to the Tax Commissioner in order for the stamp duty to be “adjudicated”, it usually results in a very long delay (sometimes several years). And until the adjudication result is obtained, the stamp duty cannot be paid and therefore a transfer notice cannot be filed. So the land tax bill remains in the name of the transferor (the person who transferred the property by sale, gift or otherwise).

Another common scenario where transfer deeds have to be adjudicated is in the case of the stamp duty exemption for first time home buyers. Certain criteria have to be met before a first time home buyer can qualify for such an exemption and these transfer deeds have to be vetted by the Tax Commissioner. Once again, this can take years and until the stamp duty exemption is confirmed and the transfer notice filed, the land tax bill will be sent to the previous owner.

Patience and vigilance are the watchwords when dealing with this aspect of property transfers. If you sold your house and are still receiving a land tax bill for it, speak with your attorney to make sure the circumstances do not warrant alarm.

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