

TRANSFERS

CORPORATIONS

Where land is transferred to corporation (**or by a corporation**) Land Titles will perform a search of the Companies Office database to ascertain if the corporation has the corporate status to permit the transaction to be registered. Section 187(2) of *The Corporations Act* states that a body corporate is deemed to be carrying on business in Manitoba if it is the Registered Owner of real property situate in Manitoba. *The Corporations Act* requires that a body corporate carrying on business in Manitoba be registered under that act (s. 187(3)). A Transfer will not be accepted where either the Transferor or Transferee does not have the requisite corporate status.

There are certain exceptions to the requirement for registration in the Companies Office, and where that registration is not required Land Titles will require sufficient evidence as to corporate status as the situation warrants (e.g. Insurance companies, religious societies, charter banks, and statutorily created organisations). This evidence can either be attached to the Transfer or registered prior in series on its own for deposit into the Land Titles deposit index. If this evidence is placed in the deposit index it can be referred to in future transactions.

FULL AND COMPLETE NAME REQUIRED

Where the Transferee is an individual the individual's full name must be set out in the Transfer, initials are not allowed. In the event that an individual does use an initial, not because they do not wish to set out their full middle name, but rather because they use the initial for identification purposes, the Transfer of Land must contain a statement signed by the Transferee, typically in box 4, to that effect.

INTEREST OF MULTIPLE TRANSFEREES

A Transfer of Land to multiple Transferees should set out in box 5 the interest of the Transferees. Where no interest is set out the Land Titles staff will not make the assumption that the parties are joint tenants, rather by operation of section 15 of *The Law of Property Act* the parties will be assumed to be tenants in common.

CONVEYANCE BY FRACTIONAL INTEREST HOLDER

Where an owner of land who owns only a fractional interest in the lands is conveying all of his or her fractional interest, do not list the interest in box 1 of the Transfer: A Transferor is deemed to convey all of his or her interest unless otherwise specifically stated. Where the fractional interest is listed in box 1 Land Titles will not be able to determine if the entire fractional interest is being conveyed, or simply a fraction of the fractional interest.

TRANSFERS (Continued)**LAND TRANSFER TAX**

Land transfer tax is payable based upon the fair market value of the land (including all improvements and buildings) at the time the Transfer of land is registered at Land Titles. The tax is not payable on the value of the lands at the time the parties agreed to buy and sell the lands. This can work a significant hardship on parties who make improvements upon land they have acquired prior to the registration of the Transfer at the Land Titles Office.

If the Transferee is not required to pay land transfer tax, exemption evidence must be given by the Transferee, not the parties solicitor and agent. Where the tax exemption is claimed because the Transferees are a farmer and his or her spouse or common law partner, the exemption may be signed by the farmer alone provided he or she gives evidence that the other Transferee is their spouse or common law partner. In certain circumstances land transfer tax is not payable. Tax may not be payable where:

- The value of the land transferred is less than \$ 30,000.00
- The transferor is the director of The Veteran Lands Act and the transferee is a veteran or the spouse of a veteran or the common-law partner of a veteran
- The land is farmland, the transferee is a farmer, a spouse or common-law partner of a farmer, or a farmer and the farmer's spouse or common-law partner, and the land will continue to be used for farming
- The land is farmland, the transferee is congregation within the meaning of section 143 of *The Income Tax Act* (Canada) and the land will continue to be used for farming
- The transferee is a registered charity as defined in *The Income Tax Act of Canada*
- The transfer is filed to correct an error in a previous transfer
- The transfer is to facilitate a scheme of subdivision to or from a trustee where there is no change of beneficial ownership
- The transfer is to give effect to a change of name
- The transfer is to change the type of tenure as between the existing owners of the land in question
- The transfer is a transfer of non-commercial property and the transferee is the registered owner's spouse or common-law partner (within the meaning of section 114 (1) (e) of *The Tax Administration and Miscellaneous Taxes Act*) or former spouse or former common-law partner or the executors/administrators of the registered owner's spouse or common-law partner
- The transfer is from a company which has dissolved, and is to the company which held all of its shares immediately prior to dissolution
- The transfer is pursuant to an agreement between an Indian band and the government and the transferee is an Indian band and the land is for the use of the band

See also **ESTATES** for issues regarding transfers by the executors/administrators of an estate.