

Authority: Executive Committee Item 10.1, adopted as amended, by City of Toronto Council on October 22 and 23, 2007; and Executive Committee Item 13.7, adopted as amended, by City of Toronto Council on November 19 and 20, 2007; and City of Toronto Municipal Code Chapter 169, Officials, City, § 169-26
Enacted by Council: December 13, 2007

CITY OF TORONTO

BY-LAW No. 1423-2007

To adopt a new Municipal Code Chapter 760, Taxation, Municipal Land Transfer Tax, to make minor consequential amendments to Municipal Code Chapter 27, Council Procedures, and to Chapter 767, Taxation.

WHEREAS subsection 267(1) of the *City of Toronto Act, 2006* (the “Act”) provides that the City may, by by-law, impose a tax in the City if the tax is a direct tax, if the by-law satisfies the criteria described in subsection 267(3) and if such other conditions as may be prescribed are also satisfied; and

WHEREAS subsection 267(3) of the Act provides that a by-law enacted pursuant to subsection 267(1) must satisfy the following criteria:

- (a) It must state the subject of the tax to be imposed;
- (b) It must state the tax rate or the amount of tax payable; and
- (c) It must state the manner in which the tax is to be collected, including the designation of any persons who are authorized to collect the tax as agents for the City; and

WHEREAS no additional conditions have been prescribed for the purpose of subsection 267(1); and

WHEREAS subsection 267(4) of the Act provides that a by-law enacted pursuant to subsection 267(1) may provide for the following:

- (a) exemptions from the tax;
- (b) rebates of tax;
- (c) penalties for failing to comply with the by-law;
- (d) interest on outstanding taxes or penalties;
- (e) the assessment of outstanding tax, penalties or interest;
- (f) audit and inspection powers;
- (g) the establishment and use of dispute resolution mechanisms;

- (h) the establishment and use of such enforcement measures as the city council considers appropriate if an amount assessed for outstanding tax, penalties or interest remains unpaid after it is due, including measures such as garnishment, the seizure and sale of property and the creation and registration of liens; and

WHEREAS section 366 of the Act provides that the City may pass by-laws providing that a person who contravenes a by-law of the City passed under the Act is guilty of an offence; and

WHEREAS section 370 of the Act provides that the City may establish a system of fines for offences under a by-law passed under the Act; and

WHEREAS section 376 provides that the City has the power to pass by-laws providing that the City may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not a by-law passed under this Act is being complied with; and

WHEREAS at its meeting of October 22 and 23, 2007, Council adopted a municipal land transfer tax commencing February 1, 2008; and

WHEREAS at its meeting of November 19 and 20, 2007, Council adopted tax design features of the municipal land transfer tax, including the creation of various offences and a corresponding system of fines, and providing for the power of enter for the purpose of carrying out an inspection to determine whether the municipal land transfer tax by-law is being complied with; and

WHEREAS subsection 267(2) of the Act provides that the City is not authorized to impose various taxes pursuant to subsection 267(1); and

WHEREAS the municipal land transfer tax is not a tax prohibited by subsection 267(2);

The Council of the City of Toronto HEREBY ENACTS as follows:

1. Schedule "A" to this by-law is enacted as Chapter 760, Taxation, Municipal Land Transfer Tax, of The City of Toronto Municipal Code.
2. Chapter 767, Taxation, of The City of Toronto Municipal Code, is renamed as Chapter 767, Taxation, Property Tax.
3. Chapter 27, Council Procedures, of The City of Toronto Municipal Code is amended by deleting § 27-126C(2) and replaced it with the following:
 - (2) Government Management Committee
 - (a) The Government Management Committee is delegated the power and authority to hold any hearing required by the Act to cancel, reduce or refund property taxes levied in a year for the reasons set out in the Act, other than appeals based on sickness or extreme poverty.
 - (b) The Government Management Committee is delegated the power and authority to hold any hearing required by Chapter 760, Taxation, Municipal Land Transfer Tax, in respect of appeals under that Chapter.

4. (1) Subject to Subsection 4(2), this by-law comes into force on the 1st day of February, 2008.
- (2) On the proclamation date of subsection 198(4) of chapter 8 of the Statutes of Ontario, 2007, § 760-14F of Chapter 760, Taxation, Municipal Land Transfer Tax, as enacted by this by-law, shall be deleted and the following substituted:
- “Every long-term care home as defined in subsection 2 (1) of the *Long-Term Care Homes Act, 2007*”.

ENACTED AND PASSED this 13th day of December, A.D. 2007.

GLORIA LINDSAY LUBY,
Deputy Speaker

ULLI S. WATKISS
City Clerk

(Corporate Seal)

SCHEDULE “A” TO BY-LAW No. 1423-2007

Chapter 760

TAXATION, MUNICIPAL LAND TRANSFER TAX

ARTICLE I

General**§ 760-1. Interpretation.**

Where this Chapter provides that a matter shall be established to the satisfaction of the Chief Financial Officer or determined by the Chief Financial Officer or is in the opinion of the Chief Financial Officer, or the Chief Financial Officer resolves to take certain actions, and the Chief Financial Officer has received evidence that the Minister is satisfied with respect to the same or a corresponding matter or has made a determination with respect to the same or a corresponding matter or has opined as to the same or a corresponding matter or has resolved to take any corresponding action pursuant to the *Land Transfer Tax Act* or where a determination has been made by a court of law as to the same or a corresponding matter, the Chief Financial Officer shall be deemed to have been so satisfied or to have determined such matter or to have come to such opinion or to have resolved to take such action.

§ 760-2. Definitions.

As used in this Chapter, the following terms shall have the meanings indicated:

CHIEF FINANCIAL OFFICER — At any time, the person appointed as the City treasurer under section 138 of the *City of Toronto Act, 2006*, S.O. 2006, C.11, Schedule A.

CONVEY — Includes the granting, assigning, releasing, surrendering, leasing or disposing of land, agreeing to sell land, or the giving of an option upon or with respect to any land, or the registration of a caution or notice of any kind signifying the existence of an unregistered instrument or writing by which land is conveyed, whether the effect of any of the foregoing is to bring into existence an interest of any kind in land or is only for the purpose of giving effect to or formal recognition to any interest of whatsoever kind that theretofore existed in land, but does not include any transfer of land for the purpose only of securing a debt or loan, or any transfer by a creditor for the purpose only of returning land that had been used as security for a debt or loan.

CONVEYANCE — Includes any instrument or writing by which land is conveyed and includes a final order of foreclosure under any mortgage or charge affecting land and a caution or notice of any kind in writing signifying the existence of any instrument or writing by which land is conveyed.

DESIGNATED COLLECTOR — A person designated under Article V.

ELECTRONIC DOCUMENT — An electronic document as defined by section 17 of the *Land Registration Reform Act*, R.S.O. 1990, c. L.4.

ELIGIBLE HOME —

- (A) a self-contained one-family dwelling, detached or attached to one or more others by common wall;
- (B) a building composed of at least one and not more than two self-contained, one-family dwellings under one ownership;
- (C) a condominium dwelling unit and its appurtenant common interest; or
- (D) any other dwelling of a class prescribed by the Regulations to the *Ontario New Home Warranties Plan Act*, R.S.O. 1990, c. O.31 as a home to which such Act applies;

and includes any structure or appurtenance used in conjunction therewith, but does not include a dwelling built and sold for occupancy for temporary periods or for seasonal purposes.

FIRST TIME PURCHASER — With respect to an eligible home, an individual who is at least 18 years of age and who has never owned an eligible home anywhere in the world and whose spouse has not owned an eligible home anywhere in the world while he or she was a spouse of the individual.

GOVERNMENT MANAGEMENT COMMITTEE — At any time, the Government Management Committee of the City or the persons or entity performing the functions of the Government Management Committee of the City, including any successor committee.

LAND — Includes lands, tenements and hereditaments and any estate, right or interest therein, a structure to be constructed on land as part of an arrangement relating to a conveyance of land, a leasehold interest or estate, the interest of an optionee, the interest of a transferee under an agreement to sell land, or goodwill attributable to the location of land or to the existence thereon of any building or fixture, and fixtures, located in the City.

LAND REGISTRAR — A land registrar to whom a conveyance is tendered for registration.

LAND REGISTRY OFFICE — The office or offices at which registrations relating to land are made.

LAND TRANSFER TAX ACT — The *Land Transfer Tax Act*, R.S.O. 1990, c. L.6, as amended from time to time, and all regulations promulgated thereunder from time to time.

MEMBER OF HIS OR HER FAMILY — In relation to a transferor, the parent, spouse, grandparent, child, grandchild, son-in-law, daughter-in-law, father-in-law or mother-in-law of the transferor.

MINISTER — At any time, the Minister responsible for administering the *Land Transfer Tax Act*.

NOTICE OF ANY KIND — Includes a recital or reference made in any registered instrument.

REGISTRATION — Registration under the *Land Titles Act*, R.S.O. 1990, c. L.5, or the *Registry Act*, R.S.O. 1990, c. R.20, and “registered” has a corresponding meaning.

RESIDENTIAL — When used in respect of land, the land subjacent to a building that is the main and principal residence of the occupants, whether as owners or tenants, and includes all immediately contiguous lands necessary and used for such residence.

SINGLE FAMILY RESIDENCE — A unit or proposed unit under the *Condominium Act*, S.O. 1998, c. 19, or a structure or part of a structure that is designed for occupation as the residence of a family, including dependants or domestic employees of a member of the family, whether or not rent is paid to occupy any part of it and whether or not the land on which it is situated is zoned for residential use; and:

- A. includes such a residence that is to be constructed as part of the arrangement relating to a conveyance; and
- B. does not include such a residence that is constructed or is to be constructed on agricultural land that is eligible to be classified in the farm property class prescribed under the *Assessment Act*, R.S.O. 1990, c. A.31.

SPOUSE — As defined in section 29 of the *Family Law Act*, R.S.O. 1990, c. F.3.

TAX — The tax imposed by this Chapter including all penalties and interest that are or may be added to a tax under this Chapter.

TAXPAYER — Any person assessed under this Chapter for tax, interest or penalties.

TRANSFeree — Includes a person to whom land is conveyed and any person whose interest in land is increased, created or given effect to as the result of a conveyance.

TRANSFEROR — Includes any person making a conveyance of land to a transferee.

VALUE OF THE CONSIDERATION — Includes:

- A. the gross sale price or the amount expressed in money of any consideration given or to be given for the conveyance by or on behalf of the transferee and the value expressed in money of any liability assumed or undertaken by or on behalf of the transferee as part of the arrangement relating to the conveyance and the value

expressed in money of any benefit of whatsoever kind conferred directly or indirectly by the transferee on any person as part of the arrangement relating to the conveyance;

- B. in the case of a final order of foreclosure under any mortgage or charge affecting land, the lesser of:
- (1) the value of the consideration determined under Subsection A plus the amount owed under the mortgage or charge at the time it is foreclosed, including principal, interest and all other costs and expenses other than municipal taxes, secured by the mortgage or charge and owing at the time plus the amount owing similarly calculated under any mortgage or charge that is subsequent in priority to the mortgage or charge in respect of which the final order of foreclosure is made and that is held by the mortgagee or chargee in whose favour the final order of foreclosure that is registered is made; and
 - (2) an amount established to the satisfaction of the Chief Financial Officer to be equal to the fair market value of the land that is subject to the mortgage or charge;
- C. in the case of a conveyance of land to the mortgagee or chargee under a mortgage or charge affecting the land when the conveyance is given in satisfaction of the amount owed under the mortgage or charge, the lesser of:
- (1) the value of the consideration determined under Subsection A plus the amount owed under the mortgage or charge at the time the conveyance is made, including principal, interest and all other costs or expenses other than municipal taxes, secured by the mortgage or charge and owing at the time plus the amount owing similarly calculated under any other mortgage or charge that is subsequent in priority to the mortgage or charge in respect of which the conveyance is made, if that mortgage or charge is held by the mortgagee or chargee to whom the conveyance is made; and
 - (2) an amount established to the satisfaction of the Chief Financial Officer to be equal to the fair market value of the land that is subject to the conveyance;
- D. in the case where a lease of land, a transfer of the interest of a lessee under a lease of land, or a notice of any kind in writing signifying the existence of an unregistered lease of land or of an unregistered transfer of the interest of a lessee under a lease of land is not exempt from tax by virtue of § 760-6, the fair market value, ascertained as at the time of the tender or submission for registration, of the land to which the lease extends or of a smaller portion of such land if only such smaller portion is conveyed;
- E. in the case of a caution or notice of any kind in writing signifying the existence of any unregistered instrument or writing by which land is conveyed and that is not a

notice in writing described in Subsection D, the value of the consideration determined under Subsection A or B for the land conveyed by the unregistered instrument or writing that is referred to in such caution or notice in writing that is not a notice in writing described in Subsection D;

- F. in the case of a conveyance of land from a trustee (whether or not the trustee is so described in the conveyance) to a person to whom or for whose benefit any equitable or beneficial interest in the land has been transferred by a conveyance or conveyances that have not been registered, the value of the consideration determined under Subsections A through E, whichever is applicable, in respect of the unregistered conveyances made to such person;
- G. in the case of a conveyance of land from a trustee to another trustee (whether or not either trustee is so described in the conveyance) where:
- (1) the person to whom or for whose benefit any equitable or beneficial interest in the land is held is not the same person to whom or for whose benefit any equitable or beneficial interest in the land was held by the trustee making the conveyance when that trustee first acquired legal interest in the land; and
 - (2) valuable consideration has been given by the transferee of an equitable or beneficial interest for the transfer of any equitable or beneficial interest in the land held by the trustee making the conveyance while that trustee was the holder of the legal interest in the land;

the fair market value, ascertained at the time of the tender or submission for registration, of the land to which the conveyance extends; or

- H. in the case of a conveyance of land to a corporation where any part of the consideration consists of the allotment and issuance of the corporation's shares or in the case of a conveyance of land from a corporation to any of its shareholders the fair market value, ascertained at the time of the tender or submission for registration, of the land to which the conveyance extends.

§ 760-3. Tendering for registration.

For the purposes of this Chapter, a conveyance that is an electronic document is tendered for registration when it is submitted for registration in accordance with Part III of the *Land Registration Reform Act*, R.S.O. 1990, c. L.4, and a conveyance that is not an electronic document is tendered for registration when it is presented for registration at the land registry office.

§ 760-4. Reductions and determinations of consideration.

- A. Where it is established to the satisfaction of the Chief Financial Officer that land is being acquired by a person for the purpose of replacing land that was taken from the person under statutory authority, that was sold by the person to a person by whom notice of an intention to take the land under statutory authority was given, or that was sold by the

person to a person having the power to take the land under statutory authority, and it is reasonable to assume in the case where the land is sold that, had the land not been sold, it would have been taken under statutory authority by the person to whom it is sold, then, for purposes of this Chapter, the value of the consideration for the land being acquired shall be reduced by an amount equal to the compensation or proceeds of sale reasonably attributable to the land that was taken or sold.

- B. In the case of registration of any notice relating to a lease or sublease of land described in Regulation 700 under the *Land Transfer Tax Act* entitled “Leases”, the value of the consideration shall be reduced as, and in the circumstances, set out in such Regulation.
- C. Where a person tenders for registration a notice of purchaser’s lien which complies with the provisions of Regulation 701 under the *Land Transfer Tax Act* entitled “Notice of Purchaser’s Lien for Default”, the value of the consideration may be declared and accepted as nil.
- D. In the case of registration of any conveyance described in section 3 of Regulation 703 under the *Land Transfer Tax Act* entitled “Taxation of Mineral Lands”, the value of the consideration shall be as determined by the Minister under such Regulation.

§ 760-5. Same, leasehold and freehold interests.

Where a person entitled to the leasehold interest in land acquires the freehold interest therein, the value of the consideration for the conveyance to the person of the freehold interest may be reduced by the amount of the value of the consideration for the conveyance by which the person acquired the leasehold interest if the value of that consideration was determined under Subsection D of the definition of “value of the consideration” and tax was computed and paid with respect to the value of that consideration so determined, but the reduction shall not exceed the value of the consideration for the conveyance of the freehold interest.

§ 760-6. No tax on certain leases.

Despite any other provision of this Chapter, no tax is payable on the tender or submission for registration of a conveyance that is a lease of land, the transfer of the interest of a lessee under a lease of land, or a notice of any kind in writing signifying the existence of a lease of land or of a transfer of the interest of a lessee under a lease of land if the lease, at the time the lease or transfer or notice of either of them is tendered or submitted for registration, is for an unexpired term that cannot exceed 50 years, including any renewals or extensions of the term provided for in the lease or in a separate option to lease or other document entered into as part of the arrangement relating to the lease (whether or not the lessee and the optionee or person named in the document are the same persons).

§ 760-7. Interpretation bulletins and guidelines.

- A. In administering this Chapter, the Chief Financial Officer may issue such interpretation bulletins and guidelines as he or she may, from time to time, determine necessary or advisable.

- B. In administering this Chapter, the Chief Financial Officer may refer to Interpretation Bulletins and Guidelines now existing or issued by the Minister from time to time under the *Land Transfer Tax Act*.

§ 760-8. Forms.

The Chief Financial Officer may approve the use and format of forms for any purpose of this Chapter and the forms may provide for such information to be furnished as the Chief Financial Officer may require for the enforcement and proper administration of this Chapter.

ARTICLE II
Tax

§ 760-9. Amount.

Every person who tenders for registration a conveyance by which any land is conveyed to or in trust for a transferee shall pay to the Chief Financial Officer, when the conveyance is tendered for registration or before it is tendered for registration:

- A. a tax computed at the rate of:
- (1) one-half of 1 percent of the value of the consideration for the conveyance up to and including \$55,000;
 - (2) 1 percent of the value of the consideration which exceeds \$55,000 up to and including \$400,000;
 - (3) 1.5 percent of the value of the consideration which exceeds \$400,000 up to and including \$40 million;
 - (4) 1 percent of the value of the consideration which exceeds \$40 million;
- B. if the value of the consideration for the conveyance exceeds \$400,000 and the conveyance is a conveyance of land that contains at least one and not more than two single family residences, an additional tax of:
- (1) one-half of 1 percent of the amount by which the value of the consideration exceeds \$400,000 up to and including \$40 million; and
 - (2) 1 percent of the amount by which the value of the consideration exceeds \$40 million.

§ 760-10. Minimum tax.

No tax is payable where the amount of tax payable, subsequent to the calculation of any applicable refunds and rebates is less than \$72.

§ 760-11. Apportionment of consideration.

Where, in respect of a conveyance of land, the value of the consideration for the conveyance exceeds \$400,000, and a part of the land being conveyed is used for a purpose other than residential purposes, the Chief Financial Officer may determine the amount of the value of the consideration for the conveyance that is reasonably attributable to the land used in connection with a single family residence, and the person tendering the conveyance for registration is, notwithstanding § 760-9, liable to the additional tax of:

- A. one-half of 1 percent only upon the amount by which the value of the consideration determined by the Chief Financial Officer to be attributable to land used in connection with a single family residence exceeds \$400,000 up to and including \$40 million; and
- B. 1 percent only upon the amount by which the value of the consideration determined by the Chief Financial Officer to be attributable to land used in connection with a single family residence exceeds \$40 million.

§ 760-12. Conveyance after tax deferral and cancellation.

If tax in respect of the disposition of a beneficial interest in land has been deferred under § 760-28 and cancelled under § 760-29, the value of the consideration on the tender or submission for registration of a conveyance that transfers legal title to the land to the beneficial owner whose tax liability was cancelled under § 760-29 or to a trustee for the beneficial owner shall be determined under Subsections A, B, C, D or E of the definition of “value of the consideration” as if the value of the consideration were being determined in respect of the disposition of the beneficial interest in the land.

§ 760-13. Tax to be payable on one registration only.

Where the same conveyance may be registered under both the registry system and the land titles system, the tax is payable only once in respect of the first of such conveyances tendered for registration and if the Chief Financial Officer, or a person or entity authorized by the Chief Financial Officer, is satisfied that the value of the consideration for a conveyance that has been registered is the value of the consideration for a subsequently registered conveyance that does not create with respect to the land conveyed any beneficial interest therein in any person beyond that evidenced by the first mentioned conveyance, and if the conveyances are made as part of the same transaction, tax is payable only once and upon the value of the consideration for the first of such conveyances that was registered.

§ 760-14. Exemptions.

No tax is payable with respect to a transaction which may be exempt from time to time under the *Land Transfer Tax Act* or any other statute of the Province of Ontario or by a transferee which is one of the following persons or entities:

- A. the Crown or a Crown agency within the meaning of the *Crown Agency Act*, R.S.O. 1990, c. C.48;

- B. an authority, board, commission, corporation, office or organization of person a majority of whose directors, members or officers are appointed or chosen by or under the authority of the Lieutenant Governor in Council of Ontario or a member of the Executive Council of Ontario;
- C. a board as defined in subsection 1 (1) of the *Education Act*, R.S.O. 1990, c. E.2;
- D. a university in Ontario or a college of applied arts and technology and post-secondary institution in Ontario whether or not affiliated with a university, the enrolments of which are counted for purposes of calculating annual operating grants entitlements from the Crown;
- E. a hospital referred to in the list of hospitals and their grades and classifications maintained by the Minister of Health under the *Public Hospitals Act*, R.S.O. 1990, c. P.40, every private hospital operated under the authority of a licence issued under the *Public Hospitals Act*, R.S.O. 1990, c. P.40, and every hospital established or approved by the Lieutenant Governor in Council as a community psychiatric hospital under the *Community Psychiatric Hospitals Act*, R.S.O. 1990, c. C.21;
- F. a nursing home as defined in subsection 1(1) of the *Nursing Homes Act*, R.S.O. 1990, c. N.7, every approved charitable home for the aged as defined in section 1 of the *Charitable Institutions Act*, R.S.O. 1990, c. C.9, every home as defined in section 1 of the *Homes for the Aged and Rest Homes Act*, R.S.O. 1990, c. H.13, and a long-term care home as defined in subsection 2(1) of the *Long-Term Care Homes Act, 2007*, S.O. 2007, c.8, ss. 198(4), 232(2);
- G. the Toronto Community Housing Corporation;
- H. the Toronto Economic Development Corporation;
- I. the City of Toronto;
- J. a local board as defined in the *City of Toronto Act, 2006*, S.O. 2006, c. 11, Sched. A;
- K. such other persons and entities as may be prescribed by the Lieutenant Governor in Council pursuant to subsection 272(b) of the *City of Toronto Act, 2006*, S.O. 2006, c. 11, Sched. A;
- L. such other persons and entities as may be exempt from time to time under the *Land Transfer Tax Act* or any other statute of the Province of Ontario, subject to compliance with all requirements relating to the exemption for such person and entity; and
- M. such other persons and entities as may be exempted by by-law of the City.

§ 760-15. Chief Financial Officer's certification, electronic registration.

A person shall not tender for registration as an electronic document a conveyance without the payment of tax and without the information listed in §§ 760-34A through 760-34D unless the following conditions are satisfied:

- A. the Chief Financial Officer is satisfied that no tax is payable, that all tax has been paid or that security for the payment of the tax has been furnished to the Chief Financial Officer in a form and of a kind that is acceptable to the Chief Financial Officer; and
- B. the Chief Financial Officer, or a person or entity authorized by the Chief Financial Officer, has indicated to the land registrar that the tax has been paid or that no tax is payable.

§ 760-16. Chief Financial Officer's certification, other registration.

A person shall not tender for registration a conveyance that is not an electronic document, without the payment of tax and without the production of the affidavit required by Article IV unless the following conditions are satisfied:

- A. the Chief Financial Officer is satisfied that no tax is payable, that all tax has been paid or that security for the payment of the tax has been furnished to the Chief Financial Officer in a form and of a kind that is acceptable to the Chief Financial Officer; and
- B. the Chief Financial Officer, or a person or entity authorized by the Chief Financial Officer, has indicated on the instrument that the tax has been paid or that no tax is payable.

§ 760-17. Person liable for the tax.

Every person who immediately after the registration of a conveyance has a beneficial interest in the land that was acquired or increased as a result of a conveyance or as part of an arrangement relating to the conveyance is liable for the tax payable under § 760-9 unless the person has previously paid tax on the acquisition of or increase in beneficial interest.

§ 760-18. Multiple conveyances.

Where land is conveyed by more than one conveyance and the Chief Financial Officer is of the opinion that one of the reasons for conveying the land by more than one conveyance is to reduce the total amount of tax payable under this Chapter in respect of the conveyances of the land to an amount less than the amount of tax that would have been payable if the land had been conveyed by one conveyance, the total amount of tax payable under this Chapter in respect of the conveyances shall not be less than the amount of tax that would have been payable if the land had been conveyed by one conveyance.

§ 760-19. Multiple dispositions of beneficial interest.

Where a disposition of a beneficial interest in land occurs by means of more than one disposition of a beneficial interest in the land and the Chief Financial Officer is of the opinion that one of the reasons for disposing of the beneficial interest by more than one disposition is to reduce the total amount of tax payable under this Chapter in respect of the dispositions to an amount less than the amount of tax that would have been payable if the beneficial interest in the land had been disposed of in one disposition, the total amount of tax payable under this Chapter in respect of the dispositions shall not be less than the amount of tax that would have been payable if the beneficial interest had been disposed of by one disposition.

ARTICLE III**Disposition of Beneficial Interest in Land****§ 760-20. General.**

- A. For the purposes of this section, and subject to Subsection B, a disposition of a beneficial interest in land includes:
- (1) a sale, transfer or assignment, however effected, of any part of a beneficial interest in land; and
 - (2) any change in entitlement to or any accretion to a beneficial interest in land.
- B. For the purposes of this section, a disposition of a beneficial interest in land does not include:
- (1) a transfer of a beneficial interest in land which occurs by reason of the death of the owner of the interest, if the transfer is not required to be made under the terms of an agreement enforceable by or against the person legally or beneficially entitled to the interest immediately following the death of the owner;
 - (2) a transfer or assignment of a beneficial interest in land by a debtor to a creditor for the purpose only of providing security for a debt or loan and a transfer or reassignment by the creditor to the debtor of the security;
 - (3) a lease of land or a transfer of the interest of a lessee under a lease of land if, at the time of the disposition, the unexpired term of the lease cannot exceed 50 years, including any renewals or extensions of the term provided for in the lease or in a separate option to lease or other document entered into as part of the arrangement relating to the lease (whether or not the lessee and the optionee or person named in the document are the same persons); or
 - (4) a transfer or assignment of a beneficial interest in land arising on the execution of an agreement of purchase and sale of an interest in the land, or by a subsequent assignment of such beneficial interest by a purchaser under the agreement or by an assignee thereof, where:

- (a) the value of the consideration specified in the agreement has not been paid to or for the benefit of the transferor; or
- (b) the liability for the value of the consideration specified in the agreement has not been assumed by or on behalf of the transferee.

§ 760-21. Tax on disposition of a beneficial interest.

If there is a disposition of a beneficial interest in land, tax at the rates otherwise determined under Article II is payable to the Chief Financial Officer on the thirtieth day after the date of the disposition as if the disposition were a conveyance of land tendered for registration.

§ 760-22. By whom payable.

The tax under § 760-21 is payable by every person who acquires a beneficial interest in land or whose beneficial interest in land is increased as a result of the disposition.

§ 760-23. Multiple interests.

If more than one person acquires a beneficial interest in land, or more than one person's beneficial interest in land is increased as a result of the disposition, each of them is liable to pay only that percentage of the tax otherwise payable under this section that reflects their proportional share of the acquisition of or increase in beneficial interest.

§ 760-24. Exceptions.

No tax is payable by virtue of this section if:

- A. an instrument evidencing the disposition of the beneficial interest in land is tendered for registration within thirty days after the date of the disposition and the tax payable under § 760-9 on the registration of the instrument has been paid; or
- B. if the transaction or the person or entity liable to pay tax on the disposition of the beneficial interest in land is described under § 760-14.

§ 760-25. Tax only paid once.

If a person who has paid the tax under this section tenders for registration an instrument evidencing the disposition, no tax is payable under § 760-9 if the Chief Financial Officer is satisfied that the instrument:

- A. does not transfer any beneficial interest in land to any person other than the person who has paid the tax on the disposition under this section; and
- B. does not increase any person's beneficial interest in land in excess of the beneficial interest transferred by the disposition.

§ 760-26. Verification of Chief Financial Officer.

If the tax payable under this section has been paid, or no tax is payable under this Chapter, the Chief Financial Officer shall so verify.

§ 760-27. Registration of instrument without payment of tax, etc.

Where an instrument has been verified under § 760-26, it may be registered without the payment of tax under § 760-9 and without the production of the statement or affidavit required by Article IV.

§ 760-28. Deferred payment.

If the disposition of a beneficial interest in land is from one corporation to another corporation, each of which is an affiliate of the other immediately before and at the time of the disposition, the Chief Financial Officer, or a person or entity authorized by the Chief Financial Officer, may defer the payment of the tax payable by virtue of this section by the corporation acquiring the beneficial interest if the corporation provides the Chief Financial Officer with evidence that a deferral has been granted by the Minister pursuant to subsection 3(9) of the *Land Transfer Tax Act*, and:

- A. on or before the thirtieth day after the date of disposition of the beneficial interest in land:
 - (1) the corporation submits to the Chief Financial Officer, or a person or entity authorized by the Chief Financial Officer, true copies of the return, application and undertaking and other documents submitted to the Minister in connection with the same disposition of beneficial interest in land; and
 - (2) the corporation submits a written undertaking satisfactory to the Chief Financial Officer, or a person or entity authorized by the Chief Financial Officer, undertaking that, for a period of at least thirty six consecutive months immediately following the date of disposition:
 - (a) the corporation making the disposition and the corporation acquiring the beneficial interest on the disposition will continue to be affiliates of each other; and
 - (b) the beneficial interest in the land will continue to be owned by the corporation acquiring the beneficial interest on the disposition or by a corporation that is an affiliate of that corporation and with the corporation which made the disposition of the beneficial interest in the land;
 - (3) security for the tax in an amount, form and kind acceptable to the Chief Financial Officer, or a person or entity authorized by the Chief Financial Officer, is furnished to the Chief Financial Officer; and
- B. no conveyance or instrument or electronic document evidencing the disposition has been registered.

§ 760-29. Cancellation of tax.

The Chief Financial Officer shall return the security furnished in respect of the deferral granted under § 760-28 and the amount of tax deferred under this Chapter is no longer owing by reason of this section if:

- A. the Chief Financial Officer is of the opinion that the undertaking given under § 760-28 hereof has been satisfied and no conveyance or instrument evidencing the disposition of the beneficial interest in the land has been registered; or
- B. a conveyance or instrument or electronic document evidencing the disposition of the beneficial interest in land to the corporation has been registered and the tax payable under § 760-9 has been paid; or
- C. there has been a disposition of the beneficial interest in the land, or a conveyance of the land, by the corporation, or by an affiliate of the corporation, to a person who is not an affiliate of the corporation and tax has been paid under this Chapter in respect of that disposition or on registration of the conveyance, as applicable.

§ 760-30. Dissolution or winding-up.

For the purposes of this section, if a corporation was an affiliate of another corporation immediately before winding-up or dissolving, the corporation shall be considered to continue to exist and to be an affiliate of that other corporation for the purpose of determining whether any undertakings given under § 760-28 have been fulfilled with respect to any disposition of a beneficial interest in land made before the winding-up or dissolution of the corporation or in the course of any distribution of property of the corporation on the winding-up or dissolution.

§ 760-31. Requirement to pay tax.

Nothing in § 760-28 or 760-30 relieves any person from the payment of tax under this Chapter upon the registration of a conveyance which evidences the disposition of a beneficial interest in land.

§ 760-32. Registration of instrument evidencing disposition of beneficial interest in land.

For the purposes of §§ 760-28B, 760-29A and 760-29B, the registration of a conveyance of legal title to the land to the beneficial owner of the land or a trustee for the beneficial owner is deemed to be a conveyance which evidences the disposition of a beneficial interest in land.

§ 760-33. Affiliate.

- A. For the purposes of this section, a corporation is an affiliate of another corporation if one of them is the subsidiary of the other, if both are subsidiaries of the same corporation or if each of them is controlled by the same person or persons.

B. The following rules apply for the purposes of determining if corporations are affiliates:

- (1) A corporation is a subsidiary of another corporation if:
 - (a) it is controlled by:
 - [1] that other;
 - [2] that other and one or more corporations each of which is controlled by that other; or
 - [3] two or more corporations each of which is controlled by that other; or
 - (b) it is a subsidiary of a corporation that is that other's subsidiary.
- (2) A corporation is controlled by another person or corporation or by two or more corporations if:
 - (a) voting securities of the first-mentioned corporation carrying more than fifty percent of the votes for the election of directors are held, otherwise than by way of security only, by or for the benefit of the other person or corporation or by or for the benefit of the other corporations; and
 - (b) the votes carried by the voting securities described in Subsection B(2)(a) are entitled, if exercised, to elect a majority of the board of directors of the first-mentioned corporation.
- (3) For the purposes of Subsection B(2):
 - (a) a person is deemed to own beneficially securities that are beneficially owned by a corporation controlled by the person or by an affiliate of that corporation; and
 - (b) a corporation is deemed to own beneficially securities that are beneficially owned by its affiliates.
- (4) Unless the regulations to the *Land Transfer Tax Act* provide otherwise, references in Subsections B(2) and B(3) to securities are references to securities within the meaning of the *Securities Act*, R.S.O. 1990, c. S.5.

ARTICLE IV
Information and Returns

§ 760-34. Statements and/or affidavits re conveyance.

The following information respecting a conveyance shall be provided to the Chief Financial Officer in the form and manner approved by the Chief Financial Officer including, without limitation, as required by § 760-35 or 760-36:

- A. the true value of the consideration for the conveyance;
- B. the true amount in cash and the value of any property or security included in the value of the consideration;
- C. the amount or value of any lien or encumbrance subject to which the conveyance is made;
- D. where the value of the conveyance exceeds \$400,000, whether the land being conveyed contains at least one and not more than two single family residences;
- E. true copies of all documents submitted to the Minister in connection with the conveyance; and
- F. such other information as determined by the Chief Financial Officer as being required for the enforcement or proper administration of this Chapter.

§ 760-35. Electronic registration.

If the conveyance is tendered for registration as an electronic document, the information required by §§ 760-34A through 760-34D shall be provided as a statement in the form and manner approved by the Chief Financial Officer and the statement shall be included as part of the electronic document.

§ 760-36. Other registration.

If the conveyance is tendered for registration otherwise than as an electronic document, the information required by §§ 760-34A through 760-34D shall be provided as an affidavit in the form approved by the Chief Financial Officer and the affidavit may be filed with the land registrar and attached by the land registrar to the conveyance to which it relates.

§ 760-37. Maker of statement or affidavit.

The statement or affidavit required by this section shall be made by:

- A. each transferee to whom or in trust for whom any land is conveyed by the conveyance to which the affidavit relates;

- B. each trustee to whom any land is conveyed and who is shown as a trustee in the conveyance to which the affidavit relates;
- C. each transferee named in the conveyance to which the affidavit relates;
- D. an agent of any person referred to in Subsection A, B or C, if the agent is authorized in writing to make the affidavit;
- E. the solicitor acting in the transaction as the solicitor for any person referred to in Subsection A, B or C;
- F. the presiding officer authorized to act for a corporation that is a person referred to in Subsection A, B or C, or the Vice-President, Manager, Secretary, Director or Treasurer authorized to act for such corporation; or
- G. either of two transferees who are spouses of each other and both of whom are transferees referred to in Subsection A, B or C, where the transferee making the affidavit is acting on behalf of the other of such transferees.

§ 760-38. Consent of Minister.

Notwithstanding § 760-37, if the Minister or a person authorized by the Minister has consented to the transferor making the statement or affidavit pursuant to subsection 5(2.1) of the *Land Transfer Tax Act*, the transferor may do so for the purposes of this Chapter.

§ 760-39. Contents.

The statement or affidavit shall state that the person making it has personal knowledge of the facts stated in it and shall state:

- A. where applicable:
 - (1) the capacity in which the person is making the statement or affidavit; and
 - (2) the name of any transferee on whose behalf the person is making the statement or affidavit; and
- B. where such facts may consist of personal information as defined by the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, that the person to whom the personal information relates consents to and authorizes its collection and use.

§ 760-40. Exceptions.

Notwithstanding § 760-34, the information listed in §§ 760-34A through 760-34F is not required for a conveyance tendered for registration as an electronic document and an affidavit is not required for a conveyance tendered for registration otherwise than as an electronic document if:

- A. the only transferee or transferees named in the conveyance is or are one or more of the persons or entities described in §§ 760-14A through 760-14F and 760-14K; or
- B. if the conveyance expressly states that it is in trust for only one or more of the persons or entities described in §§ 760-14A through 760-14F and 760-14K.

§ 760-41. Exception, certain leases.

The information listed in §§ 760-34A through 760-34F is not required for a conveyance if no tax is payable by reason of § 760-6.

§ 760-42. Tax on unregistered dispositions.

- A. Every person liable to pay tax under Article III shall deliver to the Chief Financial Officer, or a person or entity authorized by the Chief Financial Officer, true copies of all documents submitted to the Minister in connection with the payment of tax under section 3 of the *Land Transfer Tax Act*, on or before the day when the tax is payable under Article III and shall simultaneously remit such tax.
- B. Every person who holds a legal interest in land in trust for any other person shall, within thirty days of becoming aware of any disposition of a beneficial interest in land to which Article III applies, deliver to the Chief Financial Officer, or a person or entity authorized by the Chief Financial Officer, true copies of all documents submitted to the Minister pursuant to section 5(8) or (9) of the *Land Transfer Tax Act* for the purpose of determining the tax liability under this Chapter.

§ 760-43. Extension of time for returns.

The Chief Financial Officer may extend the time for compliance with § 760-42A or 760-42B either before or after the time for delivering specified therein has expired. If the Minister extends the time for filing a return under subsection 5(12) of the *Land Transfer Tax Act*, and if the person provides the Chief Financial Officer with evidence of the Minister granting such extension, the time for compliance with the provisions of § 760-42A or 760-42B hereof, as the case may be, shall be extended by the same period.

§ 760-44. Public record.

The Chief Financial Officer shall collect and maintain the information contained in the form and manner required by § 760-35 or 760-36 specifically for the purpose of creating a record available to the general public.

ARTICLE V
Designated Collectors

§ 760-45. General.

The City may, from time to time, enter into agreements in writing, designating one or more persons as the Chief Financial Officer considers appropriate as designated collectors to assist in

the administration of this Chapter, and attaching such conditions and restrictions to such designation as the Chief Financial Officer considers appropriate, which may include, without limitation, collecting the tax payable under this Chapter, requiring security in an amount and form acceptable to the Chief Financial Officer and designating a designated collector as an agent of the City.

§ 760-46. Tax held in trust.

All amounts collected or collectable as or on account of tax under this Chapter by a designated collector acting as an agent of the City:

- A. shall be deemed, despite any security interest in the amount so collected or collectable, to be held in trust for the City;
- B. shall be held separate and apart from the designated collector's property and from property held by any secured creditor that but for the security interest would be the designated collector's property; and
- C. shall be remitted to the Chief Financial Officer by the designated collector in the manner and at the times provided for in the agreement with the designated collector.

§ 760-47. Chief Financial Officer as collector.

The Chief Financial Officer may establish appropriate collection facilities at Toronto City Hall and the North York Civic Centre and/or such other location or locations as the Chief Financial Officer considers appropriate from time to time.

ARTICLE VI
Offences and Fines

§ 760-48. False statements.

- A. Every person is guilty of an offence under this Chapter who:
 - (1) makes, participates in, assents to or acquiesces in the making of false or deceptive statements in a statement, affidavit, return or other document prepared, submitted or filed under or for the purposes of this Chapter; or
 - (2) destroys, alters, mutilates, hides or otherwise disposes of any records or books of account, in order to evade payment of tax under this Chapter; or
 - (3) makes, assents to or acquiesces in the making of false or deceptive entries, or assents to or acquiesces in the omission to enter a material particular, in any records or books of account; or
 - (4) wilfully, in any manner, evades or attempts to evade:
 - (a) paying tax under this Chapter; or

- (b) complying with this Chapter; or
 - (5) conspires with any person to commit an offence described in Subsections A(1) through A(4).
- B. In addition to any other penalty provided by this Chapter, every person is liable on conviction of an offence under Subsection A, to a fine for each day during which the offence continues, not exceeding a maximum total fine of \$100,000.

§ 760-49. False statements under § 760-60.

Every person who makes or assists in making a statement in any application for a rebate under § 760-60 or in any document provided to the Chief Financial Officer, or any person or entity authorized by the Chief Financial Officer, in connection therewith, that, at the time and in the light of the circumstances under which it was made, is false or misleading in respect of any material fact or that omits to state any material fact the omission of which makes the statement false or misleading is guilty of an offence and on conviction is liable to a fine for each day during which the offence continues, not exceeding a maximum total fine of \$2,000.

§ 760-50. Failure to deliver return, pay tax.

Every person who fails to deliver the documents as required by this Chapter or who fails to remit the tax payable is guilty of an offence and, in addition to any penalty otherwise provided by this Chapter, on conviction is liable, to a fine for each day which the person fails to deliver the documents or fails to remit the tax payable, not exceeding a maximum total fine of \$100,000.

§ 760-51. Failure to comply with audit or inspection.

Every person who has failed to comply with or has contravened Article X of this Chapter is guilty of an offence and, in addition to any penalty otherwise provided by this Chapter, is liable on conviction to a fine for each day during which the failure to comply with or contravention of Article X of this Chapter continues, not exceeding a maximum total fine of \$100,000.

§ 760-52. Offence, general.

Subject to §§ 760-48 through 760-51, every person who knowingly contravenes any provision of this Chapter is guilty of an offence and on conviction is liable to a fine for each day during which the contravention continues, not exceeding a maximum total fine of \$100,000, if no other penalty is provided for the offence.

ARTICLE VII
Penalties

§ 760-53. Failure to pay tax, fraud or wilful default.

If the Chief Financial Officer is satisfied that a person's failure to pay tax is attributable to fraud or wilful default, the Chief Financial Officer may assess a penalty against the person in an amount equal to the greater of \$500 and 25 percent of the tax that the person failed to pay, not exceeding \$100,000.

§ 760-54. Failure to pay tax, insufficient payment.

Every person who tenders for registration a conveyance and who pays, at that time, an amount that is less than the amount of tax payable by that person under § 760-9 shall pay a penalty, when the Chief Financial Officer assesses it, in an amount equal to 5 percent of the difference between the tax payable and the amount actually paid, not exceeding \$100,000.

§ 760-55. Failure to deliver documents.

Every person who fails to deliver the documents as required by this Chapter shall pay a penalty, when the Chief Financial Officer assesses it, in an amount equal to 5 percent of the tax payable, not exceeding \$100,000.

§ 760-56. Failure to remit tax with documents.

Every person who fails to remit with the documents required by this Chapter the amount of tax payable shall pay, when the Chief Financial Officer so assesses, a penalty of an amount equal to 5 percent of the difference between the tax payable and the amount actually paid, not exceeding \$100,000.

ARTICLE VIII
Refunds and Rebates

§ 760-57. Refunds, general.

Where a person has paid an amount under this Chapter that is not payable under this Chapter, the Chief Financial Officer may, upon receipt of satisfactory evidence make a determination that the amount was wrongly paid, and if such a determination is made, the Chief Financial Officer shall refund all or part of the amount, but no refund shall be made unless an application for it is made within four years after the date of the payment.

§ 760-58. Refund under *Land Transfer Tax Act*.

To the extent that the Minister has determined that tax shall be refunded or that an application for a refund shall be disallowed pursuant to the *Land Transfer Tax Act* or under any other statute of the Province of Ontario, the Chief Financial Officer shall refund the tax paid under this Chapter or disallow the application for a refund under the corresponding section hereunder, with respect to the same matter and the same conveyance.

§ 760-59. Rebate, agreement entered into on or before December 31, 2007.

- A. The Chief Financial Officer shall rebate the full tax paid by a transferee under this Chapter where the bona fide agreement of purchase and sale relating to such conveyance was executed on or before December 31, 2007 and the Chief Financial Officer has received evidence satisfactory to him or her (which evidence may include an affidavit of the transferee) that such agreement was executed on or before December 31, 2007.
- B. An application for a rebate under this section shall be made before the expiration of 18 months after the date on which the conveyance or the disposition for which the tax is payable under this Chapter occurs.

§ 760-60. Rebate, first time purchaser.

- A. The Chief Financial Officer shall rebate, in the manner he or she directs, tax payable under this Chapter by a first time purchaser in respect of the acquisition by the first time purchaser of an eligible home to be used by the first time purchaser as his or her principal residence, if the first time purchaser occupies the eligible home as his or her principal residence no later than nine months after the date of the conveyance or disposition, and if the Chief Financial Officer has received information satisfactory to him or her that the transferee is a first time purchaser.
- B. Where a part of the land conveyed is not used for residential purposes at the time of the application for a rebate under Subsection A, and the Chief Financial Officer has determined the amount of the value of the consideration for the conveyance that is reasonably attributable to the land used in connection with the first time purchaser's eligible home, for the purposes of determining the total purchase price of the eligible home and the amount of the rebate payable under this section, the value of the consideration for the conveyance shall be deemed to be the amount so determined by the Chief Financial Officer.
- C. The maximum amount of tax subject to rebate under Subsection A in respect of the acquisition of an eligible home is \$3,725.
- D. If the first time purchaser is not the only transferee named in the conveyance, the rebate payable under Subsection A to the first time purchaser shall be calculated on the first time purchaser's interest acquired under the conveyance, provided that if the spouse of the first time purchaser previously owned an eligible home anywhere in the world when he or she became the spouse of the first time purchaser, neither spouse shall be entitled to a rebate under this section.
- E. An application for a rebate under this section shall be made before the expiration of 18 months after the date on which the conveyance or the disposition for which the tax is payable under this Chapter in respect of the eligible home occurs.
- F. For the purposes of this section, a reference to a conveyance shall be deemed to include a disposition of a beneficial interest in land and a reference to the tax paid or payable under § 760-9 shall be deemed to include the tax paid or payable under § 760-21.

§ 760-61. Disallowance of refund or rebate.

Where a person has, in accordance with this Chapter, applied for a refund or rebate under this Chapter and the person's claim is in whole or in part refused, the Chief Financial Officer, or any person or entity authorized by the Chief Financial Officer, shall cause to be delivered to such person a statement of disallowance in such form as the Chief Financial Officer shall require, and the statement shall specify the amount of the disallowance and the reasons therefor.

§ 760-62. Application to other liabilities.

If property taxes are outstanding on land with respect to which a person is entitled to a refund or rebate of tax payable hereunder, the Chief Financial Officer may apply the amount of such refund or rebate against the amount of such property taxes owing and shall notify the person entitled to such refund or rebate that such action has been taken.

§ 760-63. Recovery of refund or rebate wrongly obtained.

Where a refund or rebate is made under this section to a transferee and it is subsequently determined that the transferee was not entitled to the refund or rebate, or was entitled only to a refund or rebate in a lesser amount, the amount of the refund or rebate to which the transferee was not entitled shall, for the purposes of this Chapter, be deemed to be tax imposed by Article II which was required to have been paid by the transferee on the date the refund or rebate was made to the transferee by the City.

§ 760-64. Interest on refunds and rebates.

- A. If the Chief Financial Officer, or any person or entity authorized by the Chief Financial Officer, makes a refund or rebate under this section, interest shall be paid on the amount of the refund or rebate, calculated at the rate of 4.5 percent per annum for the period from the date on which the amount that is refunded or rebated was paid to the City to the date on which such amount is refunded or rebated, provided that no interest shall be paid where the amount of interest is less than \$1; and
- B. Notwithstanding Subsection A, where a rebate was available under § 760-59 or 760-60 at the time the conveyance was tendered for registration, interest shall only be payable from the date on which an application for such rebate has been submitted as provided herein.

§ 760-65. Transitional rules.

If it is determined that any tax paid hereunder is to be refunded or rebated under this section and the designated collector is unable to process such refund or rebate electronically, then the Chief Financial Officer or the designated collector shall accept applications for refunds and rebates and the appropriate supporting documentation from transferees or transferees' agents, evaluate such applications and where a person is entitled to a refund or rebate, process such refund or rebate manually and as soon as practicable.

ARTICLE IX
Records

§ 760-66. Records to be kept by transferees.

Every person required by Article IV to make a statement or affidavit or to deliver a return shall keep at their place of residence in the Province of Ontario such documents, records and accounts in such form and containing such information as will enable an accurate determination of the taxes payable under this Chapter.

§ 760-67. Records to be kept by designated collectors.

- A. Every designated collector shall keep at the designated collector's principal place of business in the Province of Ontario documents, records and accounts in such form and containing such information as will enable an accurate determination of the taxes collectable, collected and remitted under this Chapter.
- B. Every designated collector shall keep at the designated collector's principal place of business in the Province of Ontario documents, records and accounts in such form and containing such information as will enable the verification of information that the designated collector is required to give to the Chief Financial Officer pursuant to its agreement with the City.

§ 760-68. Duration.

A person required to keep documents, records and accounts shall do so for a period of seven years after the date on which the conveyance to which they relate is registered or the information to which they relate is given to the Chief Financial Officer, or such other person or entity as the Chief Financial Officer shall authorize, unless written permission for earlier disposal is received from the Chief Financial Officer.

ARTICLE X
Audit and Inspection

§ 760-69. General.

Any person authorized by the City for any purpose related to the administration or enforcement of this Chapter may at all reasonable times enter into any premises or place where any business is carried on or any property is kept or where anything is done in connection with any business or where any books or records are or should be kept and:

- A. audit or examine the books and records and any account, voucher, letter, telegram, facsimile, electronic or other document that relates or may relate to the information that is or should be in the books or records or to an amount payable under this Chapter;

- B. examine the land or any other property, process or matter an examination of which may, in his or her opinion, assist him or her in determining the accuracy of any statement, affidavit or return required by this Chapter or in ascertaining the information that is or should be in the books or records or in a statement, affidavit or return, or in ascertaining any amount payable under this Chapter; and
- C. require a designated collector, an officer, director, agent or representative of a designated collector, a transferee who is liable or possibly liable to pay tax under this Chapter, an officer, director, agent or representative of that transferee or any person on the premises:
- (1) to give him or her all reasonable assistance with his or her audit or examination;
 - (2) to answer all questions relating to the audit or examination either orally or, if he or she so requires, in writing, on oath or by statutory declaration; and
 - (3) to attend at the premises or place with him or her for the purposes of giving reasonable assistance and answering questions relating to the audit or examination.

§ 760-70. Demand for information.

The Chief Financial Officer may, for any purpose relating to the administration or enforcement of this Chapter, serve on any person personally, by registered mail or by a courier service a written demand for information or for the production on oath or otherwise of books, letters, accounts, invoices, financial statements, electronic and such other documents as the Chief Financial Officer or any person authorized by the City to make the demand considers necessary to determine compliance with this Chapter.

§ 760-71. Compliance, demand for information.

A person in receipt of a demand under § 760-70 shall comply with the demand within the time specified in the demand.

§ 760-72. Compliance, no interference.

No person shall hinder or molest or interfere with any person doing anything that he or she is authorized by this section to do or shall prevent or attempt to prevent any person doing any such thing, and despite any other by-law of the City to the contrary, every person shall, unless the person is unable to do so, do everything the person is required by this section to do.

**ARTICLE XI
Assessments**

§ 760-73. General.

The Chief Financial Officer may make an assessment of an amount of tax or penalty required under this Chapter, together with any interest imposed thereon under this Chapter:

- A. if a person responsible for the payment of tax fails to pay it as required under this Chapter; or
- B. if a person is liable to pay tax or a penalty imposed under this Chapter.

§ 760-74. Limitation on assessment.

The Chief Financial Officer may assess or reassess any person for any tax payable by the person under this Chapter within six years from the day the tax became payable, except that, where the Chief Financial Officer establishes that a person has made any misrepresentation that is attributable to neglect, carelessness or wilful default, or has committed any fraud, in supplying any information under this Chapter, in making any affidavit required by this Chapter, or in omitting to disclose any information, or the person has failed to deliver any return required by this Chapter, the Chief Financial Officer may assess or reassess at any time the Chief Financial Officer considers reasonable the tax payable by such person.

§ 760-75. Exception, waiver of limitation.

Notwithstanding the provisions of § 760-74, the Chief Financial Officer may assess or reassess a person at any time if the person has filed with the Chief Financial Officer a waiver in a form approved by the Minister under subsection 12(4.1) of the *Land Transfer Tax Act* before the expiry of the time provided in § 760-74.

§ 760-76. Revocation of waiver.

If a person files a waiver under § 760-75, the person may file a notice of revocation of the waiver at any time thereafter in a form approved by the Minister under subsection 12(4.2) of the *Land Transfer Tax Act*.

§ 760-77. Effect of revocation.

If a person files a notice of revocation of the waiver under § 760-76, the Chief Financial Officer shall not issue an assessment or reassessment under § 760-73 in reliance on the waiver more than one year after the date on which the notice of revocation is filed.

§ 760-78. Assessment on inspection.

Where it appears from an inspection, audit or examination of the books of account, records or documents of any person that this Chapter has not been complied with, the person making the inspection, audit or examination shall calculate the amount payable under this Chapter in such manner and form and by such procedure as the Chief Financial Officer considers adequate and expedient, and the Chief Financial Officer shall assess the amount payable under this Chapter.

§ 760-79. Notice of assessment under §§ 760-73, 760-74 or 760-78.

The Chief Financial Officer shall send by mail or by registered mail or deliver by hand a notice of the assessment made under § 760-73, 760-74 or 760-78 to the person so assessed at the person's latest known address, and the notice may provide that the amount assessed is payable

forthwith, and, in any event, the amount of the assessment shall be remitted to the Chief Financial Officer by the person so assessed within thirty days from the date of mailing or delivery of the notice of assessment.

§ 760-80. Liability for tax not affected.

Liability to pay an amount under this Chapter is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made.

§ 760-81. Chief Financial Officer not bound by information.

The Chief Financial Officer is not bound by any information delivered by or on behalf of a person responsible for the payment of an amount under this Chapter and may, notwithstanding any information that has been delivered or if no information has been delivered, assess the amount payable under this Chapter.

§ 760-82. Assessment valid and binding.

An assessment, subject to being varied or vacated on an objection or appeal and subject to a reassessment, shall be deemed to be valid and binding despite any error, defect or omission therein or in any proceeding under this Chapter relating thereto.

§ 760-83. Payment notwithstanding appeal.

The amount of any assessment is payable within the time required by the notice of assessment whether or not an objection or appeal from the assessment is made or taken.

§ 760-84. Assessment, non-arm's length conveyances.

- A. If at any time a person transfers property (including money), either directly or indirectly, by means of a trust or by any other means to a member of the transferor's family, to an individual who is less than 18 years of age at the time of the conveyance, or to another person with whom the transferor is not dealing at arm's length, the transferor and transferee are jointly and severally liable to pay under this Chapter the amount determined under Subsection C.
- B. For the purpose of Subsection A, persons shall be deemed not to deal with each other at arm's length if, by reason of subsections 251(1) to (6) of the *Income Tax Act*, R.S.C. 1985 (5th Supp.), c. 1, they are related to each other for the purposes of that Act.
- C. The amount referred to in Subsection A is the lesser of:
 - (1) the amount, if any, by which the fair market value of the land conveyed, at the time of the conveyance, exceeds the fair market value, at the time of the conveyance, of the consideration given by the transferee for the transfer; and

- (2) the aggregate of:
- (a) any tax payable on such conveyance hereunder but not paid as required under this Chapter; and
 - (b) any penalty or interest for which the transferor is liable under this Chapter in respect of the conveyance.
- D. Nothing in Subsection A or Subsection C limits the liability of the transferor or transferee under any other provision of this Chapter.
- E. The Chief Financial Officer may assess a transferee at any time in respect of any amount payable by reason of this section, and Article XII and XIII apply, with necessary modifications, to the assessment. A payment by either the transferee or the transferor on account of liability under this section discharges the joint liability of the transferee and the transferor under Subsection A, to the extent of the payment.
- F. Subsection A does not apply with respect to a conveyance of land between spouses under a decree, order or judgment of a competent tribunal, or under a written separation agreement if, at the time of the conveyance, the transferor and transferee were living separate and apart as a result of a breakdown of their relationship.

ARTICLE XII
Objections to Assessments

§ 760-85. Notice of objection.

A person that objects to an assessment made under Article XI or a statement of disallowance made under § 760-61 may, within 180 days from the day of mailing or delivery by hand of the notice of assessment or statement of disallowance, serve on the Chief Financial Officer a notice of objection in the form approved by the Chief Financial Officer.

§ 760-86. Facts and reasons to be given.

The notice of objection shall clearly describe each issue raised by way of objection and fully set out the facts and reasons relied on by the person in respect of each issue.

§ 760-87. Request for further information.

If a notice of objection does not fully set out the facts and reasons relied on by the person in respect of an issue, the Chief Financial Officer may in writing request the person to provide the information, and the person shall be deemed to have complied with § 760-86 in respect of the issue if the person provides the information to the Chief Financial Officer in writing within 60 days after the day the request is made by the Chief Financial Officer.

§ 760-88. Computation of time.

For the purpose of calculating the number of days mentioned in § 760-85, 760-87 or 760-93, the day on which a notice of assessment or statement is mailed under § 760-85, a request is made under § 760-87 or a notification is given under § 760-93 is the date stated in the notice of assessment, statement, request or notification.

§ 760-89. Limitation.

A person shall not raise, by way of objection under this section to a fresh statement or reassessment or to a variation of an assessment or statement under § 760-91, any issue that the person is not entitled to raise by way of appeal under Article XIII in respect of the fresh statement or reassessment or of a variation of the assessment or statement.

§ 760-90. Service.

A notice of objection under this section shall be served by being sent by registered mail addressed to the Chief Financial Officer or by such other method of service as the Chief Financial Officer may determine from time to time.

§ 760-91. Reconsideration.

Upon receipt of a notice of objection, the Chief Financial Officer shall with all due despatch reconsider the assessment or statement of disallowance and vacate, confirm or vary the assessment or statement of disallowance or reassess or serve a fresh statement of disallowance and the Chief Financial Officer shall thereupon notify the person who has made the objection of his or her action in writing.

§ 760-92. Reservation of decision.

In the case where a notice of objection has been served on the Minister pursuant to section 13 of the *Land Transfer Tax Act*, and the issue raised by such notice of objection is substantially similar to the issue raised by a notice of objection served on the Chief Financial Officer pursuant to this section, then the Chief Financial Officer shall reserve his or her decision until the person's dispute under the *Land Transfer Tax Act* has been resolved by the Minister or the Superior Court of Justice.

ARTICLE XIII
Appeals

§ 760-93. General.

After the Chief Financial Officer has given the notification required by § 760-91, a person who has served notice of objection under § 760-90 may appeal to Council to have the assessment or the statement of disallowance vacated or varied or reassessed or a fresh statement of disallowance issued, but no appeal under this section shall be instituted after the expiration of ninety days from the day on which notice has been mailed to such person under § 760-91.

§ 760-94. Delegation of power to hold hearing.

The power to hold a hearing in respect of an appeal under this section is delegated to the Government Management Committee.

§ 760-95. Limitation.

A person is entitled to raise by way of appeal only those issues raised by the person in a notice of objection to the assessment or statement being appealed and in respect of which the person has complied or was deemed to have complied with § 760-86.

§ 760-96. Exception.

Notwithstanding § 760-95, a person may raise by way of appeal an issue forming the basis of a fresh statement or reassessment or of a variation of an assessment or statement under § 760-91 if the issue was not part of the assessment or statement with respect to which the person served the notice of objection.

§ 760-97. Waived right of objection or appeal.

Notwithstanding § 760-93, no person shall institute an appeal under this section to have an assessment or statement vacated or varied in respect of an issue for which the right of objection or appeal has been waived in writing by or on behalf of the person.

§ 760-98. Service.

A notice of appeal shall be served on the City by being sent by registered mail addressed to the Clerk or by such other method of service that the Clerk may determine from time to time.

§ 760-99. Contents of notice of appeal.

The person appealing shall set out in the notice of appeal a statement of the allegations of fact and the provisions and reasons in this Chapter that the person is submitting in support of the appeal.

§ 760-100. Consideration of appeal.

The Government Management Committee shall set a date and time to consider an appeal and the person appealing shall be provided with the opportunity to attend and present oral or written submissions on such date.

§ 760-101. Recommendations to Council.

Following its consideration of an appeal, the Government Management Committee shall recommend to Council in writing that Council should dispose of an appeal by allowing or dismissing it, in whole or in part, together with the reasons for its recommendation, and shall notify the person appealing of its recommendation and reasons in writing.

§ 760-102. Disposition of appeal.

Council may dispose of an appeal by allowing or dismissing it, in whole or in part, and shall direct the Chief Financial Officer to vacate, vary or reconsider the assessment or statement of disallowance and reassess or issue a fresh statement of disallowance.

§ 760-103. Irregularities.

No assessment shall be vacated or varied on appeal by reason only of an irregularity, informality, omission or error on the part of any person in the observance of any provision of this Chapter.

§ 760-104. Extension of time

The time within which a notice of objection is to be served or an appeal is to be instituted may be extended by the Government Management Committee if application for extension is made:

- A. in respect of a notice of objection under § 760-85:
 - (1) before the expiration of the time allowed under that section for service of notice of the objection; or
 - (2) within one year from the day of mailing or delivery by personal service of the notice of assessment or statement of disallowance that is the subject of the objection where the person wishing to make objection furnishes to the Government Management Committee a written submission that explains to the satisfaction of the Government Management Committee why the notice of objection could not be served in accordance with § 760-85; or
- B. in respect of an appeal, before the expiry of the time allowed under § 760-93 for instituting the appeal.

§ 760-105. Interest.

- A. If, as a result of an objection made under Article XII or an appeal under Article XIII, the Chief Financial Officer makes a refund of tax, interest shall be paid on the amount of the refund at a rate of 4.5 percent per annum, for the period from the interest adjustment date set out in Subsection B to the day the refund is made, provided that no interest shall be paid where the amount of interest is less than \$1.
- B. For the purposes of Subsection A, and subject to Subsection C:
 - (i) the interest adjustment date for a tax refund under Article VIII is the day that is the later of the day the Chief Financial Officer issued a notice of disallowance of the refund under § 760-61 and the first day on which the applicant for the refund can prove that he or she qualified for the refund, and
 - (ii) the interest adjustment date in all other cases is the date on which the amount that is refunded was paid to the Chief Financial Officer.

- C. For the purposes of Subsection A, the interest adjustment date for any transitional period that may be established by the Chief Financial Officer shall be a date determined by the Chief Financial Officer.
- D. No interest is payable under this section on an amount that is refunded to a person with respect to the period from the date the person paid the amount until the interest adjustment date.

ARTICLE XIV Recovery of Tax

§ 760-106. General.

Upon default of payment of an amount assessed under Article XI the Chief Financial Officer may bring an action for the recovery thereof in any court in which a debt or money demand of a similar amount may be collected, and every such action shall be brought and executed in and by the name of the City.

§ 760-107. Security for tax.

Where the Chief Financial Officer considers it advisable to do so, the Chief Financial Officer may accept security for the payment of tax in any form that the Chief Financial Officer considers satisfactory.

§ 760-108. Remedies for recovery of tax.

The use of any of the remedies provided by this section does not bar or affect any of the other remedies herein provided, and the remedies provided by this Chapter for the recovery and enforcement of the payment of any amount required under this Chapter are in addition to any other remedies existing at law, and no action or other proceeding taken in any way prejudices, limits or affects any lien, charge or priority existing under this Chapter or at law in favour of the City.

ARTICLE XV Liens on Real and Personal Property

§ 760-109. Lien on real property.

Any tax payable or required to be remitted under this Chapter by any taxpayer is, upon registration by the City in the land registry office of a notice claiming a lien and charge conferred by this section, a lien and charge on any interest the taxpayer is liable to pay or remit the tax has in the land described in the notice.

§ 760-110. Security interest in personal property.

Any tax payable or required to be remitted under this Chapter by any person is, upon registration by the City with the registrar under the *Personal Property Security Act*, R.S.O. 1990, c. P.10, of a notice claiming a lien and charge under this section, secured by a lien, charge and security

interest in all personal property of the person liable to pay or remit the tax which is from time to time in Ontario then owned or thereafter acquired and all of the personal property and undertaking in which such person then has or thereafter acquires any interest.

§ 760-111. Amounts included and priority.

The lien and charge conferred by § 760-109 and the lien, charge and security interest conferred by § 760-110 are in respect of all amounts for which the taxpayer is liable under this Chapter at the time of registration of the notice or any renewal of it and all amounts for which the taxpayer afterwards becomes liable while the notice remains registered and, upon registration of a notice of lien and charge, the lien, charge and security interest have the priority given thereto under the applicable law.

§ 760-112. Lien effective.

A notice of lien and charge under § 760-110 is effective from the time assigned to its registration by the registrar or branch registrar and expires on the earlier of the fifth anniversary of its registration and the date set forth therein, unless a renewal notice of lien and charge is registered under this section before the end of such period, in which case the lien, charge and security interest remains in effect for a further five year period or such other period as is set forth in such renewal notice from the date the renewal notice is registered until the amount secured is fully paid. Such notice of lien and charge may be further renewed as provided in the foregoing sentence from time to time.

§ 760-113. Where taxpayer not registered owner.

Where a taxpayer has an interest in the land but is not shown as its registered owner in the land registry office:

- A. the notice to be registered under § 760-109 shall recite the interest of the taxpayer in the land: and
- B. a copy of the notice shall be sent to the registered owner at the address to which the latest notice of assessment under the *Assessment Act*, R.S.O. 1990, c. A.31, has been sent.

§ 760-114. Secured party.

In addition to any other rights and remedies, if taxes or other amounts owed by a taxpayer remain outstanding and unpaid, the City has, in respect of a security interest, lien and charge under § 760-110:

- A. all the rights, remedies and duties of a secured party under sections 17, 59, 61, 62, 63 and 64, subsections 65(4), (5), (6), (6.1) and (7) and section 66 of the *Personal Property Security Act*, R.S.O. 1990, c. P.10;
- B. a security interest in the collateral for the purpose of clause 63(4)(c) of that Act; and

- C. a security interest in the personal property for the purposes of sections 15 and 16 of the *Repair and Storage Liens Act*, R.S.O. 1990, c. R.25, if it is an article as defined in that Act.

§ 760-115. Registration of documents.

A notice of lien and charge under § 760-110 or any renewal of it shall be in the form of a financing statement or a financing change statement as prescribed under the *Personal Property Security Act*, R.S.O. 1990, c. P.10, and shall be tendered for registration in accordance with the requirements of that Act.

§ 760-116. Bankruptcy and Insolvency Act (Canada) unaffected.

Nothing in this section affects or purports to affect the rights and obligations of any person under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3.

ARTICLE XVI
Garnishment

§ 760-117. General.

- A. When the Chief Financial Officer has knowledge or suspects that a person (a “third party”) is, or within 365 days will become, indebted or liable to make any payment to a person liable to make a payment under this Chapter (a “tax debtor”), the Chief Financial Officer may, by registered letter or by letter served personally, require the third party to promptly pay to the Chief Financial Officer any money that is otherwise payable by the third party to the tax debtor in whole or in part during the 365 days after the third party receives the letter.
- B. If the third party carries on business under a name or style other than the third party’s own name, the letter under Subsection A from the Chief Financial Officer to the third party may be addressed using the name or style under which the third party carries on business and, in the case of personal service, the letter shall be deemed to have been validly served if it is left with an individual who is more than 18 years of age employed at the place of business of the addressee.
- C. If the third party carries on business in partnership, the letter under this Subsection A from the Chief Financial Officer may be addressed to the partnership name and, in the case of personal service, the letter shall be deemed to have been validly served if it is served on a partner or left with an individual who is more than 18 years of age employed at the place of business of the partnership.

§ 760-118. Receipts.

The receipt of the Chief Financial Officer, or a person or entity authorized by the Chief Financial Officer, for money paid as required under this section is a good and sufficient discharge of the original liability to the extent of such payment.

§ 760-119. Liability of debtor.

Every third party who has made a payment to a tax debtor without complying with the requirements under this section is liable to pay to the City an amount equal to the lesser of the amount paid to the tax debtor and the amount that the third party was required under this section to pay to the City.

§ 760-120. Garnishment of wages.

Subject to the provisions of the *Wages Act*, R.S.O. 1990, c. W.1, where the Chief Financial Officer has under this section required an employer to pay to the City on account of an employee's liability under this Chapter, money otherwise payable by the employer to the employee as remuneration the requirement is applicable to all future payments by the employer to the employee in respect of remuneration until the liability under this Chapter is satisfied and operates to require payments to the City out of each payment of remuneration of such amount as may be stipulated by the Chief Financial Officer in the letter delivered pursuant to § 760-117.

§ 760-121. Failure to remit.

Where any third party, without reasonable excuse, has failed to remit to the City the money as required under this section, the Chief Financial Officer may apply to the Superior Court of Justice for an order directing such person to remit the money which the person has failed to remit.

ARTICLE XVII
Referral to Bailiff or Collection Agency

§ 760-122. Referral.

The Chief Financial Officer may, or where the Chief Financial Officer determines, he or she shall refer the collection of any tax payable or required to be remitted under this Chapter to a bailiff or collection agency.

ARTICLE XVIII
Interest

§ 760-123. General.

- A. Interest at the rate of 15 percent per annum, calculated at 1.25 percent monthly shall be charged on the amount of any tax payable under this Chapter from the business day following the date on which the tax was due and payable to and including the date on which such tax is paid in full.
- B. To the extent that the tax on which interest is calculated includes any penalties, interest on such portion of the tax shall be calculated from the date on which such penalties are assessed hereunder.

§ 760-124. Minimum liability.

Where the amount of interest is less than \$1, no interest shall be paid under this section.

ARTICLE XIX
Insufficient Funds Fee

§ 760-125. Fee.

Where any payment under this Chapter is made by cheque or otherwise and such cheque or other payment is not honoured by the financial institution on which it is drawn by reason of insufficient funds, a fee of \$35 will be payable to the Chief Financial Officer.