



— RESIDENTIAL · GUIDE

Adding or removing someone from title

Putting a spouse or child on, or taking an ex-partner off. Why "no money changing hands" does not mean no cost, and the consents you need first.

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Changing who is on title to a home sounds like a simple administrative step: add a name, remove a name, done. It is not. Even when no money changes hands and it feels like a formality between family, a change of title is a transfer of an interest in land, and it can trigger land transfer tax, require your lender's consent, and carry tax and family-law consequences that are easy to miss. This guide covers the two situations that come up most, adding a spouse or an adult child, and removing a former partner, and the things to sort out before you do either.

"No money changing hands" does not mean no land transfer tax

Start with the trap that catches the most people. Land transfer tax is calculated on the value of the consideration, and consideration is not just cash. If the person coming onto title assumes or takes on a share of an existing mortgage, that assumed mortgage debt is generally treated as consideration, and land transfer tax can be payable on it, even though no cash changed hands and even between family members. So a transfer that feels like a free gift can still carry a tax bill, measured against the mortgage.

A true gift with no mortgage and nothing given in return generally does not attract land transfer tax, because there is no consideration. The dividing line is usually the mortgage. Before you assume a title change is free, the mortgage position has to be looked at.

There is an important exception, covered next.

Spouses are treated differently

Transfers between spouses get special treatment under the land transfer tax rules, but the relief is conditional, and the conditions are where people get caught. A transfer between spouses (or former spouses) is generally exempt from land transfer tax only if it fits one of a limited set of situations: the only consideration is the assumption of an encumbrance already registered on the land, such as a mortgage; or the transfer is made under a written separation agreement; or the transfer is made under a court order.

The "only consideration" requirement is the trap. The mortgage-assumption exemption holds only where the assumed mortgage is the sole consideration. If anything else passes as part of the deal, cash, or some other benefit or payment on top of taking on the mortgage, that mortgage-only

exemption no longer applies on its own, and the transfer then has to fit the separation-agreement or court-order route to be exempt at all. A spousal transfer that mixes an assumed mortgage with other consideration can attract land transfer tax that the parties assumed was not payable.

One more point to keep straight: even where the exemption applies, the amount of the assumed mortgage still counts toward the value of the consideration for how the transfer is reported. The exemption means no tax is payable on it in the qualifying case, not that the mortgage amount drops out of the analysis.

This spousal treatment is meaningfully more generous than what applies to a child or other relative, where an assumed mortgage is consideration and does attract land transfer tax. But because the relief turns on meeting the specific conditions, and because adding other consideration can defeat it, it has to be confirmed for your exact situation rather than assumed, and it cannot be generalized to anyone who is not a spouse.

You usually need the lender's consent

If there is a mortgage on the home, you generally cannot change who is on title without the lender's involvement. The mortgage is registered against the property and the lender has a say. Adding someone, or removing someone, affects who is responsible for the debt and who the lender can look to. Expect that the lender's consent is required, and do not assume you can quietly rearrange title around an existing mortgage. Doing it without consent is typically a breach of the mortgage that can let the lender call the whole loan due, and removing someone from title does not remove them from the mortgage. We explain both points in our article on whether your mortgage lender needs to know about a title change. This is one of the first things to check, because it can govern whether and how the change can happen at all.

Adding a spouse or an adult child

- Adding a spouse is common, and as noted usually benefits from the spousal land transfer tax treatment. The mortgage and the lender still have to be dealt with.
- Adding an adult child is where people most often get hurt, and it deserves a genuine pause. Beyond the possible land transfer tax on any assumed mortgage, putting a child on title has consequences that have nothing to do with conveyancing: the child's share can become exposed to the child's creditors or to a claim on a marriage breakdown, there can be tax consequences including loss of principal-residence treatment on part of the home, and "just adding them for convenience" can have effects nobody intended. Adding a child to title is an estate-planning and tax decision wearing the costume of a simple title change. Get advice on those consequences before doing it, not after.

Removing a former partner after a separation

Taking an ex off title is one of the most common title changes, and it carries its own cautions:

- It is usually part of a larger settlement. The title change should line up with the separation agreement or court order, not run ahead of it. Done under a proper agreement or order, a transfer between former spouses can qualify for land transfer tax relief; done outside one, it may not.
- The mortgage has to be resolved, not just the title. Taking a name off title does not take that person off the mortgage. The lender has to agree to release them, which often means the remaining owner has to requalify for the mortgage on their own or refinance. A title change that leaves an ex still liable on the mortgage is a problem waiting to happen.
- Both sides should have their own advice. Where title is being rearranged between separating partners, each person's interests can diverge, and independent advice protects everyone and the integrity of the deal.

What to do before changing title

- Check the mortgage first. Is there one, will the lender consent, and will someone have to assume it or requalify?
- Work out the land transfer tax. Is there consideration (including an assumed mortgage)? Does the spousal exemption apply, or is this a transfer to someone it does not cover?
- Get the tax and estate advice before adding a child or doing anything that affects principal-residence treatment or exposes a share to someone's creditors.
- For a separation, align the title change with the agreement or order, and make sure both the title and the mortgage are dealt with.
- Bring us in early, so the transfer is structured and registered correctly and the consideration is declared properly.

Bottom line

Changing who is on title is a transfer of an interest in land, not a formality. The absence of a sale does not mean the absence of land transfer tax: an assumed mortgage is generally consideration and can attract the tax, though transfers between spouses get special, more generous treatment. You usually need the lender's consent, adding a child carries creditor, family-law, and tax consequences that go well beyond the title step, and removing an ex has to be coordinated with both the settlement and the mortgage. None of this is a reason not to do it, it is a reason to do it with advice. Talk to us, and where tax or family-law issues are in play, the appropriate advisor, before you change title.

This is general information about changing title in Ontario, not legal, tax, or family-law advice for your situation. Land transfer tax treatment, the spousal exemption, and the family-law and tax consequences of a title change depend on your specific facts and should be confirmed. Talk to us before you add or remove someone from title.

Questions about your own situation? Book a free consultation at lucianolegal.com/contact.html, call 647-479-4585, or email info@lucianolegal.com.

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