

ONTARIO INCREASES LAND TRANSFER TAX RATES

Posted on November 17, 2016

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On November 14, 2016, as part of its fall fiscal update, the Government of Ontario announced a number of changes to the Land Transfer Tax (“**LTT**”). These changes are intended to modernize the LTT and to make housing more affordable for new home buyers. As discussed in greater detail below, the changes involve (i) increases in the LTT rates on transfers of certain categories of property, and (ii) an enhanced first-time homebuyer’s refund for eligible first-time homebuyers.

Increasing LTT Rates

Likely the most significant of the new changes is an increase in the LTT rate on transfers of commercial, industrial, multi-residential and agricultural properties (collectively “**Commercial Properties**”). Under the new regime, the LTT rate on the portion of any consideration in excess of \$400,000 will be subject to tax at a rate of 2%, up from the current 1.5%. This change will likely affect many, if not most, sales of Commercial Properties and will represent a significant additional cost for purchasers of such properties.

In addition, the Government is also increasing the LTT rate on transfers of one or two single-family residences, such as detached and semi-detached homes, townhomes and condominiums, from 2% to 2.5% on the portion of any consideration above \$2 million. Although this change will only affect higher value single-family residences, given housing prices in the greater Toronto area, it will nevertheless apply to a significant number of purchases.

These LTT rate increases will apply to transactions effected on or after January 1, 2017.

Enhanced First-time Homebuyer’s Refund

The Government has also proposed a doubling of the maximum LTT refund to \$4,000, from the current \$2,000. This increase is effective as of January 1, 2017. As a result of this change, qualifying purchasers will effectively be relieved of LTT on the first \$368,000 of the cost of their first home. According to the Government, this would mean that more than half of first-time homebuyers in Ontario will pay no LTT. This refund will be available to first time homebuyers who are Canadian citizens or permanent residents as well as to homebuyers who become Canadian citizens or permanent residents within 18 months of purchasing a home.

Practical Considerations

The obvious observation is that, given the increase in LTT rates on Commercial Properties (and certain residential properties) effective January 1, 2017, it will be desirable to complete purchases of such properties in 2016, at the current LTT rates, rather than paying higher rates in 2017.

While these proposed changes only apply to the provincial LTT, Toronto has generally conformed its municipal land transfer tax with the provincial LTT. It is possible that Toronto may follow the provincial lead with similar changes to its land transfer tax rates.

In the announcement, the Government noted that it remains open to other solutions that would help to improve housing affordability. To this end, the Government announced that it will be collecting additional data on purchase trends, including data on the citizenship and residency status of purchasers to help inform future policies. Given the recent introduction in British Columbia of a [special land transfer tax on purchases of real property by non-residents](#) motivated by similar concerns about housing affordability, one wonders whether the collection of this information may be a prelude to the introduction of a similar regime in Ontario.

If you have any questions or concerns regarding these changes, please contact us for additional information.

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A Cautionary Note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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