

UPCOMING CHANGES TO LAND OWNERSHIP DISCLOSURE REQUIREMENTS IN BRITISH COLUMBIA

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Background

In June 2018, the British Columbia provincial government (the “**Government**”) published a [white paper](#) describing its proposed *Land Ownership Transparency Act* (the “**Act**”). The purpose of the Act is to end anonymous land ownership through the use of entities such as numbered companies, offshore and domestic trusts, and corporations. The Act proposes doing this by creating a new, publicly accessible, beneficial ownership registry^[1]. The Government’s reason for doing so is to give tax auditors, law enforcement agencies and federal and provincial regulators the information they need to conduct investigations relating to tax evasion, fraud and money laundering.^[2]

New Disclosure Obligations

The Act proposes to create new disclosure requirements in the following three scenarios:

- On any application to register an interest in land in the name of a “*reporting body*”;
- Any time there is a change of interest holders or beneficial owners, even when this does not result in a transfer of legal title to the land; and
- During an initial transition period where all those holding an interest in land for a beneficial owner will be required to file a “*disclosure report*”.^[3]

The Act defines a reporting body, as a “*relevant corporation*”, a trustee of a “*relevant trust*”, or a partner of a “*relevant partnership*” that is required to file a disclosure report in accordance with the Act. The definitions of “*relevant corporation*”, “*relevant trust*”, and “*relevant partnership*” can be found in Section 1 of the Act.

As mentioned above, disclosure requirements are triggered whenever there is a change of interest holders or beneficial owners, even when this does not result in a transfer of legal title to the land. The disclosure requirements in this scenario will be twofold. The transferee will be required to make a transparency declaration. A transparency declaration indicates whether or not the interest in land is to be registered in the name of a corporation, trustee, or partner of a partnership that is required to file a disclosure report.^[4] If any

such ownership structure is being used, the transferee will thereafter be required to file a corresponding disclosure report.

Required Disclosure

The level of disclosure required depends on the type of *reporting body*. This issue has been further addressed by the Government in its recently enacted Information Collection Regulation (the “**Regulation**”), which takes effect on September 17, 2018. The Regulation can be found [here](#). The Act and the Regulation provide that:

for corporations, the information that must be disclosed includes:

- identification information about the corporation itself (including name, head office and business or incorporation number);
- identification information about each individual (including name, citizenship and place of residence) who directly or indirectly owns or controls 25% or more of the shares or otherwise falls under the definition of a “corporate interest holder”;
- each corporate interest holder’s date of birth, social insurance number or individual tax number, and the nature of the interest in the reporting corporation; and
- information about the person completing the report (including name, position name or title, and contact information);

where the legal owner of the land is a trustee, the information that must be disclosed includes:

- identification information about the trustee, beneficial owner(s) and settlor(s);
- date of birth and social insurance number or individual tax number of beneficial owner(s) and settlor(s); and
- information about the person completing the report; and

for partnerships, the information that must be disclosed includes:

- identification information about the partnership (including name, head office and business number);
- identification information about individuals that have an interest as a partner in the interest in the land or are a corporate interest holder in a corporation that is a partner;
- date of birth and social insurance number or individual tax number of these individuals; and
- information about the person completing the report.

Current Status

The Government is currently in a consultation phase with respect to the Act and is seeking comments on the

Act by August 19, 2018. One of the issues that the Government is hoping to address is whether there are appropriate safeguards to address privacy concerns that arise from these new disclosure requirements. Another issue is what exemptions are necessary to reflect practical business realities (i.e. exemptions for public companies which already have significant disclosure requirements, or for broadly held limited liability partnership interests^[5])?

We anticipate that the implementation of the Act is a first step towards possible future amendments to the *Property Transfer Tax Act* (the “**PTT Act**”). Particularly, as showcased in our [previous bulletin](#) describing the Government’s 2018 Provincial Budget, the Government suggested that the creation of a beneficial ownership registry would allow the Government to develop new taxation models in the future. As such, it is likely that an amendment to the PTT Act to make property transfer tax payable on beneficial transfers is forthcoming. However, the expected timing of this remains uncertain.

If you wish to obtain further particulars of the Act and its proposed implications, or to provide comments to the Government, we recommend seeking legal assistance. We will provide a further update once additional information in relation to the Act becomes available.

by Damon Chisholm and Dharam Dhillon

[1] Land Owner Transparency Act White Paper: Draft Legislation with Annotations, June 2018, at page 1[ps2id id='1' target='']

[2] Ibid at page i[ps2id id='2' target='']

[3] Ibid at page 1[ps2id id='3' target='']

[4] Ibid at page 17[ps2id id='4' target='']

[5] Ibid at page 49[ps2id id='5' target='']

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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