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Tax Alert – Canada

BC introduces speculation and vacancy tax on empty residential homes

EY Tax Alerts cover significant tax news, developments and changes in legislation that affect Canadian businesses. They act as technical summaries to keep you on top of the latest tax issues. For more information, please contact your EY advisor or EY Law advisor.

On 16 October 2018, Bill 45, *Budget Measures Implementation (Speculation and Vacancy Tax) Act, 2018* received first reading in the British Columbia legislative assembly. If enacted, Bill 45 will introduce an annual speculation and vacancy tax (SVT), payable by owners of residential property in designated taxable regions of British Columbia. The SVT is effective beginning with the 2018 calendar year (i.e., the tax must be paid on a taxable property owned on 31 December 2018).

The SVT, which will be imposed under the authority of the *Speculation and Vacancy Tax Act (SVTA)*, is part of the “Homes for BC” plan, a 30-point plan intended to improve housing affordability in British Columbia, stabilize the housing market, prevent tax fraud, and improve security for renters. The SVT targets domestic and foreign speculators who own residential properties in the province but do not pay provincial taxes.

Bill 44, *Budget Measures Implementation (Employer Health Tax) Act, 2018* also received first reading in the British Columbia legislative assembly on 16 October 2018. If enacted, Bill 44 would impose an employer health tax (EHT) or “payroll” tax on employers’ payrolls commencing in the 2019 calendar year. Refer to EY Tax Alert 2018-36 for a summary of the proposed EHT.

Overview

British Columbia is the first province in Canada to introduce a speculation tax on real estate investments. The intent of the SVT is to tackle speculation in the housing market in BC's major urban centres and encourage the conversion of empty properties into homes for BC residents. It is expected that the majority of the tax will come from foreign owners and satellite families (i.e., families having the majority [more than 50%] of their worldwide income not reported on a Canadian tax return) and that over 99% of British Columbians will not pay the SVT.

All owners of residential property in designated BC areas (see **BC taxable areas**, below), including corporate owners, partnerships and trustees, must make an annual declaration in order to report their residential property and either claim an exemption from the SVT or pay the tax where applicable. In general, BC residents, excluding satellite families, should be entitled to claim the principal residence exemption on their residential property, so that no SVT is payable in respect of the property. However, where a residential property does not qualify for one of the available exemptions, the SVT is payable at rates ranging from 0.5% of the assessed value of the property for BC residents to 2% of the assessed value for satellite families and foreign owners. Furthermore, certain tax credits, discussed below, are available for BC owners, satellite families and other non-BC Canadian owners.

BC taxable areas

SVT applies to residential properties located wholly or partly within the following areas in British Columbia:

- ▶ Municipalities within the Capital Regional District
- ▶ Municipalities within the Metro Vancouver Regional District, excluding Bowen Island, the Village of Lions Bay and Electoral area A, but including UBC and the University Endowment Lands
- ▶ The City of Abbotsford
- ▶ The District of Mission
- ▶ The City of Chilliwack
- ▶ The City of Kelowna and the City of West Kelowna
- ▶ The City of Nanaimo and the District of Lantzville

The above areas are currently included in the definition of a specified area in the SVTA. The province may also prescribe other areas within British Columbia as specified areas.

An island that is within a specified area, but is only accessible by air or water, is not considered to be part of a taxable area. Reserve lands, treaty lands and lands of self-governing Indigenous nations are also excluded from the application of the SVT.

Rates of SVT if the residential property is not exempt

SVT is levied on owners of taxable residential property located in a specified area who own the property on 31 December of each year (unless the owner qualifies for one of the available SVT exemptions, as discussed below). For the purposes of the SVTA, *residential property* generally means all residential property covered under property class “Class 1 - residential” as set out in the Prescribed Classes of Property Regulation to the *Assessment Act* (British Columbia). Buildings on farm land (other than farm outbuildings) are also considered residential property.

The SVT will be levied at the following rates in 2018 and subsequent tax years:

For properties owned on 31 December 2018

- ▶ 0.5% of the assessed value of the residential property on 1 July 2018

BC residential property owners can claim an annual tax credit up to \$2,000 per property on secondary properties that are subject to SVT.

For properties owned on 31 December 2019 and onwards

- ▶ 2% for foreign owners and satellite families
- ▶ 1% for Canadian citizens and permanent residents who are not resident in BC for income tax [purposes](#)¹ (and not members of a satellite family)
- ▶ 0.5% for British Columbians who are Canadian citizens or permanent residents (and not members of a satellite family)

Tax credits to offset the SVT payable will be available as follows:

BC owners

- ▶ An annual \$2,000 tax credit per owner or \$2,000 tax credit per property in the case of multiple owners

The credit cannot be carried forward or transferred to a spouse.

Foreign owners and satellite families

- ▶ An annual tax credit equal to 20% of the person’s income earned in or attributable to BC (*BC income*)

The credit cannot reduce the tax below the 0.5% rate applicable to BC owners. Unused credits can be carried forward up to two years or transferred to a spouse. The credit is pro-rated in 2018, as the tax rate is 0.5% for all owners.

¹ However, in a news release dated 18 October 2018, British Columbia announced it would introduce three amendments to the proposed SVTA, including a reduction to the tax rate for Canadian citizens and permanent residents who reside outside British Columbia from 1.0% to 0.5%.

Other Canadians – Non-BC resident Canadians

- ▶ An annual tax credit equal to 10% of the person's BC income

The credit cannot reduce the tax below the 0.5% rate applicable to BC owners. Unused credits can be carried forward up to two years or transferred to a spouse.

Any SVP payable by an owner of residential property must be paid by 2 July of the following calendar year.

Note that in the City of Vancouver, the 1% empty homes tax previously introduced by the municipality continues to apply, in addition to any SVT that may be payable in respect of same property.

Exemptions

Certain exemptions from the SVT are available for individuals, corporations, partnerships and trustees.

Corporations, partnerships and trustees may qualify for exemptions based on the residency status of the individuals who are corporate interest holders, beneficial owners and partnership interest holders.

Principal residence exemption

The main exemption from SVT that will apply to most residential property owners resident in British Columbia is the principal residence exemption. Under the SVTA, *residence* means any of the following:

- (a) a detached house, cottage or other single family dwelling;
- (b) a dwelling that is a strata lot;
- (c) an apartment in
 - (i) a single family dwelling,
 - (ii) a dwelling that is a strata lot, or
 - (iii) a duplex or other multi-family dwelling.

The term *principal residence* is defined in the SVTA to mean “the place in which an individual resides for a longer period in a calendar year than any other place.” In the case of spouses who each have separate principal residences in a calendar year, the SVTA deems the couple to have only one principal residence, unless the couple's particular situation falls under the exclusions provided within the SVTA (e.g., medical, work or business purposes).

In order to qualify for the principal residence exemption, an owner must be a Canadian citizen or a permanent resident of Canada (as defined in subsection 2(1) of the *Immigration and Refugee Protection Act* (Canada)), a BC resident for Canadian income tax purposes and not part of a satellite family.

Where the residential property is owned by a corporation, partnership or trust, but is the principal residence of an individual who is a corporate interest holder, beneficial owner or

partnership interest holder, special rules will apply to determine whether the property will qualify for the principal residence exemption.

Rental exemption - tenanted residential property

A residential property may be eligible for exemption from the SVT if it is occupied by tenants for at least three months in 2018 (in increments of at least one month or longer) and at least six months (in increments of at least one month or longer) in 2019 and subsequent years.

There are a number of specific conditions that must be met in order for an owner to be able to claim the rental exemption for a particular property. These conditions differ depending on whether the property is rented to an arm's length tenant (i.e., a business-only relationship) or a non-arm's length tenant.

In the case of arm's length tenants, owners should generally be eligible to claim the rental exemption provided the property is rented for the prescribed period, there is a written tenancy agreement in place in accordance with the *Residential Tenancy Act*, and the tenant resides at the property.

In the case of non-arm's length tenants, owners who are Canadian citizens or permanent residents of Canada, except satellite families, should generally be eligible to claim the exemption if the property is the tenant's principal residence. In limited situations, foreign owners may be able to claim an exemption, but only if specific conditions relating to the tenant's residency and income earned in BC are satisfied.

Additionally, special conditions must be satisfied where the rental property is owned by widely held owners, such as corporations listed on a designated stock exchange, real estate investment trusts, SIFT trusts and mutual funds.

Other exemptions from the application of SVT

The SVTA includes numerous other exemptions from the application of SVT, which may be applicable under certain conditions. These exemptions include:

- ▶ Vacant land exemption (2018 tax year only)
- ▶ Exemptions for residential property under construction or substantial renovation
- ▶ Exemption for vacant new inventory - residential developers
- ▶ Exemption for vacant heritage property - conservation
- ▶ Additional principal residence exemptions (e.g., individual departing BC, additional one-time exemption for BC residents, persons with disabilities)
- ▶ Exemption for hazardous or damaged property
- ▶ Year of acquisition exemption, if property transfer tax was paid on the purchase, or if the transaction was exempt from property transfer tax for specified reasons
- ▶ Licensed daycare exemption

- ▶ Exemption for strata accommodation unit (2018 and 2019 tax years only)
- ▶ Exemption for properties with covenant or strata by-laws rental restrictions (2018 and 2019 tax years only)
- ▶ Exemption for testamentary trusts for minors
- ▶ Exemption upon death
- ▶ Bankruptcy exemption
- ▶ Spousal separation exemption
- ▶ Exemptions for certain entities and properties including:
 - property owned by registered charities;
 - property owned by co-operatives;
 - property owned by not-for-profit corporations using the property for specific purposes;
 - property owned by municipalities;
 - property owned by Indigenous Nations, or held in trust for an Indigenous Nation;
 - property owned by governments and related entities;
 - property owned by regional districts;
 - property owned by similar bodies as defined in legislation; and
 - property with an assessed value under \$150,000.

Important dates

January - mid-February 2019 - Speculation and vacancy tax declaration letters for the 2018 tax year will be mailed to owners of residential property in BC taxable areas.

31 March 2019 - Deadline for filing the completed declaration.

April 2019 - Most tax notices will be mailed.

2 July 2019 - Tax payment due.

Actions for property owners

- ▶ Complete and file the declaration online by 31 March 2019 and pay any tax due by 2 July 2019. Where there are multiple owners of a home, a declaration must be completed by each owner. **Note that if a declaration is not completed and filed by the due date, the**

property owner will be assessed the SVT at the maximum tax rate applicable for the tax year.

- ▶ For BC families owning more than one property, determine which property should be designated as the principal residence for purposes of claiming the principal residence exemption, taking into consideration income tax implications as well.
- ▶ Landlords may qualify for an exemption from SVT if they rent the residential property for at least three months in 2018 and six months in 2019 and subsequent years. Landlords of empty homes may wish to consider reducing the asking rent price in order to be able to meet the required rental period and avoid paying the SVT.
- ▶ Corporate owners who own residential property in BC taxable areas should review the make-up of their interest holders in order to determine the SVT implications.
- ▶ Residential property developers should consider the SVT implications at the time the residences become available for sale.
- ▶ For 2019 and subsequent years, residential property developers should consider purchasing vacant land and commencing the building activity in the same calendar year if possible, in order to avoid the SVT on vacant residential land.

Learn more

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