

Speculation Tax

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Background

- Housing affordability emerges as top political issue in the province, prompting demand for data on potential causes with special focus on foreign money
- 2016 BC Report: roughly 5% of buyers in Lower Mainland were neither citizens nor permanent residents
- 2016 Vancouver Report: roughly 5% of homes left empty year-round

Speculation and Vacancy Tax Act

- Came into force late 2018
 - Rules apply for properties in 2018 and onward

Caveats:

- The Act is very complicated so just going to try to hit on the major points

Imposition of the Tax

- EVERY owner of **residential property** in the specified areas must pay the speculation tax **UNLESS** he or she qualifies for an **exemption**
- It is the owner(s) of the property at the end of December 31 of each calendar year that is/are subject to the tax

Residential Property

- Tax, generally, only applies to **Class 1** property:
 - Property Tax assessment class
 - Residential land + house on the land
 - Vacant residential land (even if no house on it)
 - Possible exemption if construction is being carried out
 - Residential property on farm land

Specified Areas

- Metro Vancouver and UBC
- Capital Regional District
- Nanaimo & Lantzville
- Abbotsford, Chilliwack and Mission
- **Kelowna and West Kelowna**

- Does not include:
 - Any islands included in the above
 - Reserve lands, treaty lands of treaty first nation, etc.

Owner's Interest

- EVERY registered owner of the property is liable for speculation tax in proportion to their ownership interest in the property
 - e.g. 50% owners each owe 50% of the tax
 - Each owner must qualify separately for any exemptions
- BUT, **all** owners are jointly and severally liable for the **whole** amount of the tax!
 - Important to know for situations of 99% & 1% legal ownership

Tax Rate for 2018

- Tax rate for 2018 is 0.5% of the assessed value of the property for all owners

Tax Rate (2019 - ...)

- 0.5% if owner is Canadian citizen/PR
- 2% for non-citizens/PRs
- If no speculation tax declaration is filed: 2%
 - Will get to declarations later in the presentation

Exemptions

- According to the government, 99% of properties in areas covered by the tax will be exempt
- **Many** exemptions available (do not have time to talk about all of them, sorry)

Year of Acquisition

- **Very important:** Owner is exempt from the tax for the calendar year that they acquire the property
 - Owner must have paid PTT or have been exempt under a few prescribed exemptions, for example:
 - First time home buyers' exemption
 - Newly-built housing exemption

Principal Residence Exemption

- Owners of residential property are exempt if the property is the **principal residence** of a **resident of British Columbia**
 - Principal residence: place the person lives more than any other in the year
 - Can't just declare a PR, have to actually live in it
 - Resident of British Columbia: Canadian citizen/PR AND resident in BC for income tax purposes

Tenancy Exemption

- Rules are complicated and often confused
- Owner is exempt if property occupied by a tenant for one or more periods that total at least **6 months** in the calendar year
 - Does not have to be the same tenant
 - Does not have to be consecutive 6 months
- 3 months for 2018

Tenancy Exemption

- 2 kinds of tenants contemplated in the Act
 - Arm's length tenants (unrelated to owner)
 - Non-arm's length tenants (related to owner)

Tenancy Exemption

Arm's Length Tenant:

- Occupies the residence (or part of the residence) under a tenancy agreement
 - Agreement must provide for tenancy on **monthly** or longer basis
 - No fair market value rent requirement
- Is “arm’s length” to the owner of the property
 - i.e. not related to the owner
- The residence must be the place the tenant makes his or her home
 - **Critical:** it must be a “real” rental (i.e. the tenant actually lives in the property)

Tenancy Exemption

Non-arm's Length Tenant:

- Is “non-arm's length” to the owner of the property or the owner's spouse
 - i.e. related to the owner
- Residence is the place the tenant resides for longer period in the month than any other
 - i.e. tenant's **principal residence**
- No tenancy agreement required

Tenancy Exemption

Non-arm's Length Tenant:

- Following persons are deemed not to be an non-arm's length tenant:
 - a) The owner,
 - b) The spouse of the owner, or
 - c) Minor child of the owner

Tenancy Exemption

What does this all mean?

1. If the tenant is unrelated to the owner, there must be a written tenancy agreement
2. To use the exemption, the tenant actually has to live in the residence
3. An adult child of the owner can live in the residence and get the exemption
 - Do not have to pay rent; do not need a written agreement

Tenancy Exemption

4. Short-term rentals don't count for exemption
5. There can be a mix of arm's length and non-arm's length tenancies or mix of different tenants
6. Rules refer to a "part of a residence" that is occupied by a tenant
 - Means that if residence has a basement suite or carriage home, etc. that is occupied for the 6 months, entire property is exempt

Tenancy Exemption

Rental Restrictions:

- If the strata bylaws “prohibit” rentals to arm’s length tenants and the bylaw was in place before First Reading (i.e. October 16, 2018) then properties are exempt from the tax for 2018 and 2019
 - Owner must also have acquired the property before First Reading

Construction or Renovation

- In general, properties under construction or renovation are exempt from the tax
 - For renovations, exempt if property cannot be occupied for 90 days in the year because of the renovation

Tax Credits

- BC Resident Owners: up to \$2,000 credit on secondary property
 - Exempts an owner on property assessed at up to \$400,000, or provides a \$2,000 reduction in tax payable on property assessed above \$400,000
 - e.g., a \$500,000 property would only be taxed on \$100,000 of assessed value
- Each taxpayer and his or her spouse get only one \$2,000 credit in total per year to cover only one single property
- Each property is only eligible for \$2,000 in total credit claimed per year (relevant for cases of multiple owners)

Tax Credits

- Non-BC Owners:
 - Rules here are very complicated
 - Tax credit based BC income earned by owner
 - Maximum credit will reduce tax owing to the 0.5% rate of BC residents

Penalties

- If a person knowingly or grossly negligently makes a false statement in a declaration, they are liable to a penalty equal to 100% of the tax they avoided because of the false statement (plus interest)

Making Declaration

- Government has an online portal for registering and making declaration for the tax
 - And for claiming any exemptions
- **All** owners of property must register and make a declaration
- Owners have been mailed a letter that includes ID numbers that must be used to file the declaration

Timeline / Important Dates

- Early January, 2019: speculation tax letters mailed
 - Gives information about how to register and unique identification number for the property
- January 21, 2019: online portal opened and declaration period started
 - all owners have to register online
- March 31, 2019: declaration due
- April, 2019: tax notices/assessments mailed
- July 2, 2019: speculation tax payment due

Questions?

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