

Real Estate Bulletin

November 2007

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Toronto Land Transfer Tax

On October 22, 2007, the City of Toronto Council voted to increase land transfer taxes in Toronto. Many specific details have not been announced, but we do know the following:

1. This new tax is in addition to the current provincial land transfer tax.
2. This new tax is only applicable in Toronto (i.e. what was formerly Metro Toronto formed by six municipalities, being the Cities of Etobicoke, North York, Scarborough & Toronto, and the Boroughs of York & East York). Therefore, Mississauga, Vaughan, Richmond Hill, Markham, Pickering, and the rest of Ontario are not subject to the new tax.
3. This new tax applies to commercial properties as well as residential properties.
4. The tax rates for commercial properties and residential properties are not the same and, in addition, the tax rates for the Toronto tax are not the same as for the provincial tax. The new Toronto tax rates plus the current (and continuing) Ontario tax rates are set out at the end of this bulletin.
5. There is an exemption for first-time home buyers. A rebate of up to \$3,725 will apply to first-time purchasers of both new and existing homes. This means a full rebate for first-time buyers of homes valued at \$400,000 or less. For example, a first-time purchaser of a home valued at \$600,000 would pay land transfer tax at the new rate, but receive a rebate of \$3,725. A first time home buyer of a home valued at \$300,000 would receive a full rebate on the land transfer tax.
6. This new tax comes into effect on **February 1, 2008** and applies to all closings on or after this date. What is not clear is whether this new tax can be avoided by registering a notice of an agreement of purchase and sale prior to February 1, 2008 and paying the old rate of tax upon registration of the notice. If the closing occurs prior to February 1, 2008, there is no new tax. It is also not clear whether tax is payable if the closing occurs in escrow before February 1, 2008 with registration to occur after.
7. If an agreement of purchase and sale is signed on or before December 31, 2007, but the closing is on or after February 1, 2008, the purchaser can apply for a full rebate of the tax.

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Therefore the tax will have to be paid for all transactions closing on or after February 1, 2008, but in some cases there will be a mechanism to apply for a rebate. How this process works and whether the purchaser is entitled to interest on the overpayment is not clear. Also, it is not clear what happens if the agreement of purchase and sale is signed on or before December 31, 2007, but is amended prior to closing.

8. If the Toronto land transfer tax is not paid, it can be added to the realty tax roll for the property and collected in the same manner as realty taxes. In addition, there will be a priority lien status on uncollected Toronto land transfer tax. It is not clear how a purchaser will be able to confirm there are no outstanding land transfer taxes that might be added to the tax roll, particularly if there have been unregistered transfers.
9. There will be a GST exemption (i.e. GST will be calculated on the purchase price before the provincial and municipal land transfer tax is added).
10. There will be an exemption for the Crown, Crown agents and various other public bodies but these exemptions will differ from the Crown exemptions from the provincial land transfer tax.
11. The provincial land transfer tax can be deferred and forgiven for corporate affiliate transfers and is subject to many exemptions. It is not clear whether all these provisions will apply to the Toronto land transfer tax.
12. Below is a chart showing examples of the land transfer tax rates before and as of February 1, 2008:

Examples for Toronto Properties

Purchase Price	Tax up to Feb. 1, 2008	Tax as of Feb. 1, 2008
\$375,000 Commercial	\$4,100.00	\$4,100.00 + \$3,475.00 = \$7,575.00
\$375,000 Residential	4,100.00	4,100.00 + 3,475.00 = \$7,575.00
\$700,000 Commercial	8,975.00	8,975.00 + 8,225.00 = \$17,200.00
\$700,000 Residential	10,475.00	10,475.00 + 9,725.00 = \$20,200.00
\$1,000,000 Commercial	13,475.00	13,475.00 + 12,725.00 = \$26,200.00
\$1,000,000 Residential	16,475.00	16,475.00 + 15,725.00 = \$32,200.00
\$5,000,000 Commercial	73,475.00	73,475.00 + 72,725.00 = \$146,200.00
\$5,000,000 Residential	96,475.00	96,475.00 + 95,725.00 = \$192,200.00
\$42,000,000 Commercial	628,475.00	628,475.00 + 617,725.00 = \$1,246,200.00
\$42,000,000 Residential		(dream on!)

Toronto Portion of Land Transfer Tax

- 0.5% of the value of the consideration up to and including \$55,000;
- 1% of the value of the consideration exceeding \$55,000 up to and including \$400,000;
- 2% of the value of the consideration containing one and/or two single family residences exceeding \$400,000;
- 1.5% of the value of the consideration on commercial properties including multi-residential units exceeding \$400,000 up to \$40 million; and
- 1% of the value of the consideration which exceeds \$40 million.

Ontario Portion of Land Transfer Tax

- 0.5% of the value of the consideration up to and including \$55,000;
- 1.0% of the value of the consideration exceeding \$55,000 up to and including \$250,000;
- 1.5% of the value of consideration exceeding \$250,000 up to and including \$400,000;
- 2% of the value of the consideration containing one and/or two single family residences exceeding \$400,000; and
- 1.5% of the value of the consideration on commercial properties including multi-residential units exceeding \$400,000.

If you have any questions about this new tax, please feel free to speak to any of the following real estate lawyers in the Toronto office:

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