B.C.'s "Speculation Tax" – Nomenclature at Its Finest

Moodys Private Client
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If you are a resident in a province other than B.C. for the purposes of paying income taxes, and you own residential property in Metro Vancouver, the Fraser Valley, the Capital and Nanaimo Regional Districts, or in the municipalities of Kelowna and West Kelowna (the "**Target Areas**"), you should be paying special attention to the new "speculation tax" in B.C [1].

B.C.'s NDP government introduced its 2018 Budget and Fiscal Plan ("**Budget 2018**") on February 20, 2018. As part of Budget 2018's *Homes for B.C. – A 30-Point Plan for Housing Affordability in British Columbia* (the "**30 Point Plan**"), B.C.'s provincial government indicated that it intends to levy a speculation tax against non-resident owners of residential property in the province starting this fall. While Budget 2018 was extremely sparse with respect to details regarding this new speculation tax, here is what we know so far:

- It will apply to all residential properties located in the Target Areas;
- It will be applied "broadly" to target foreign and domestic "speculators" who own residential property in the Province of B.C. but do not pay taxes into provincial coffers;
- It will target those who leave residential property vacant;
- It will target "satellite families" – households with high worldwide income that pay little or no tax in B.C.;
- There will be up-front exemptions for most principal residences, qualifying long-term rental properties and special cases;
- A new, non-refundable, income tax credit will be introduced to provide relief to those who do not qualify for an up-front exemption, but who pay income taxes in B.C.;
- For 2018, the speculation tax will be 0.5% of the assessed value of the property and will increase to 2% thereafter; and
- It will be administered by the Province, outside of the normal property tax system.

Let's call a spade a spade; the speculation tax is not a tax on speculation, it's a tax on non-residents with vacant properties as well as on asset-wealthy-income-poor residents with vacant properties – a "non-resident/part-time resident tax" [2] or "inactive resident tax," if you will. As noted, the speculation tax is located in Budget 2018's 30-Point Plan wherein B.C.'s provincial government has laid out its strategy to stabilize the demand for housing in the Target Areas. However, when asked about the fact that the speculation tax applies to Canadians who own vacation homes in the Target Areas ("**Part-time Residents**"), B.C's Finance Minister Carole James stated the following principle behind the speculation tax:

> "If you have a place in British Columbia and you are benefiting from the services in British Columbia, you should pay your taxes in British Columbia…I certainly see it more as a fairness tax."

It seems that the general intent behind the speculation tax wasn't to curb speculation in B.C.'s hot housing markets, rather it's an attempt to make Part-Time Residents pay their "fair share" to provincial coffers [3]. Further, if the tax was designed to curb speculation in the province, why provide relief against the speculation tax to B.C. residents?

The speculation tax will likely have the greatest effect on part-time residents. Speculators generally own a home for a short period of time and would therefore presumably only be subject to the speculation tax for a year at most [4] whereas most part-time residents likely intend to own their homes for the foreseeable future and would consequently be subject to the speculation tax annually. Many part-time residents are likely now in a position where it no longer makes financial sense to own a home in British Columbia [5]. The B.C. provincial government's attempt to brand the new tax as a speculation tax is political craftsmanship on behalf of a government in a province that has a significant tourism industry and where many Canadians spend their tourism dollars.

With the legislation for the speculation tax not being made available in Budget 2018, it is difficult at this point to advise clients on the potential planning options available. With that being said, our firm will pay close attention to how this non-resident/part-time resident/inactive resident tax unfolds. Stay tuned!

[1] Actually, even if you own property in B.C. which falls outside of the Target Areas, you should be paying attention. Budget 2018 clearly indicates that the Target Areas are only the *initial* locations subject to the tax.

[2] Not to be confused with the pre-existing "foreign buyer's tax" which was implemented in August 2016 and applies to "foreign entities" which was also expanded to include the additional Target Areas in Budget 2018.

[3] What is "fair" is obviously subjective. Part-Time Residents would argue that they contribute to B.C.'s economy by spending their money in B.C., including, but not limited to, the provincial sales tax and paying BC property taxes.

[4] We do not know if the speculation tax will be pro-rated where a home is only owned for part of the year.

[5] As mentioned, the Target Areas are the initial areas subject to the speculation tax. B.C.'s provincial government is free to expand the Target Areas in future years so there is no guarantee that a home outside of the Target Areas would not be subject to the speculation tax in the future.