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Budget proposals affecting transfer duties

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In the recent Quebec budget, the Finance Minister introduced measures related to the application of transfer duties on immovables situated in Quebec. Below is a summary of these measures.

Transfers of immovables not registered in the land register

Currently, transfer duties are payable at the time the transfer is registered in the land register. Thus, transfers of immovables that are not registered in the land register are exempt from the payment of transfer duties.

One of the purposes of the proposed budget measures is to address situations where a transferor remains the owner of an immovable, for the purposes of the land register, even though the legal title of ownership has been transferred.

These measures propose that, as of March 18, 2016:

- The transfer duties will become payable as of the date of an immovable's transfer.
- The transferee will be responsible for submitting a notice of disclosure to the municipality within 90 days following the date of the immovable's transfer. The transfer duties resulting from the transfer will be payable within 30 days following the sending of an account statement to the transferee.
- The transferee will be required to pay special duties equal to 150% of the transfer duties payable in respect of the transfer if the transferee fails to file the notice of disclosure with the municipality within the prescribed period.

A transferee of an immovable that fails to file the notice with the appropriate municipality within the prescribed period may make a disclosure under Revenu Québec's voluntary disclosure policy. In such a case, Revenu Québec may waive a maximum of one-sixth of the special duties payment.

Transfers of immovables between a natural person and a legal person and between two closely related legal persons

Clarification regarding the criteria for holding a percentage of issued shares

In order to ensure consistency in the interpretation, the budget clarifies the following expressions for the transfers of immovables between a natural person and a legal person as well as between related legal persons:

- “at least 90% of the issued shares of the capital stock to which are attached full voting rights”;
- “at least 90% of the issued full voting shares of the capital stock”; and
- “at least 90% of the issued shares having full voting rights”.

For these expressions, the budget specifies that the percentage is to be determined, as of March 18, 2016, by calculating the number of votes attached to the shares of the capital stock of the legal person.

Obligation to maintain the exemption condition

The budget introduces an obligation, applicable as of March 18, 2016, to maintain an exemption condition for a minimum period of 24 months before or following the transfer as the case may be.

Transfer made by a natural person to a legal person

If the exemption condition ceases to be met during the 24-month period following the date of an immovable’s transfer that was exempt based on the percentage of voting rights, the transferee will be liable for payment of the transfer duties that would have been payable on the transfer had the exemption not been applicable. The transfer duties are payable on the date the exemption condition ceases to be met for the first time during the 24-month period.

Transfer made by a legal person to a natural person

The budget introduces the requirement to maintain the exemption condition for a minimum period of 24 months immediately preceding the date of an immovable’s transfer, where the transfer made by a legal person to a natural person is exempt from paying transfer duties based on the transferor owning at least 90% of the voting rights of the legal person.

Where the legal person that transferred the immovable to a natural person was incorporated less than 24 months before the transfer of the immovable, the exemption from paying transfer duties will be granted at the time of the transfer if the exemption condition has been met from the date of the legal person’s incorporation up to the time immediately preceding the transfer.

Disclosure where the exemption condition ceases to be met

As a result of the proposed amendments, as of March 18, 2016, the transferee of an immovable whose transfer was exempted from payment of the transfer duties must notify the municipality where, during the 24-month period following the immovable’s transfer date, the exemption condition concerning the percentage of voting rights ceases to be met.

The notice of disclosure must be submitted to the municipality within 90 days following the date the exemption condition ceases to be met. The transfer duties resulting from the transfer will be payable within 30 days following the sending of the account statement to the transferee.

A transferee will be required to pay special duties equal to 150% of the transfer duties payable in respect of the transfer if the transferee fails to file the notice of disclosure with the municipality within the prescribed period.

Voluntary disclosure to Revenu Québec

A transferee of an immovable that fails to file the notice with the appropriate municipality within the prescribed period may make a disclosure under Revenu Québec’s voluntary disclosure policy. In such a case, Revenu Québec may waive a maximum of one-sixth of the special duties payment.

Transfer of an immovable between former de facto spouses

An exemption from paying transfer duties will be introduced, applicable as of March 18, 2016, for the transfer of an immovable between former de facto spouses within 12 months following the date they ceased to be spouses due to the breakdown of their union.

Exemption from duties granted to certain international governmental organizations

Declaratory amendments will be made to stipulate that a transferee that is an international governmental organization and has entered into an agreement with the government concerning its establishment in Quebec will be exempt from paying transfer duties and special duties in respect of the transfer of an immovable.

For additional information, refer to the [Quebec 2016-2017 additional information](#).

If you would like to discuss any of these changes and how they may apply to your situation, please consult a Deloitte tax specialist in your area.

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