

Pre-sold Strata Units

Property Transfer Tax Act

Recent amendments to the *Property Transfer Tax Act* change the application of the property transfer tax to pre-sold condos and other strata units purchased on or after January 1, 2001. Previously, tax was based on the fair market value of a pre-sold strata unit on the day a purchaser registered a transfer at the Land Title Office. Effective January 1, 2001, most purchasers of pre-sold strata units will pay tax on the total consideration paid for the unit, including upgrades or any other premium paid for assignment of a written agreement, rather than its fair market value at registration.

This amendment brings certainty to taxpayers who purchase pre-sold strata units by basing the amount of tax due on the total consideration they paid, rather than a potentially unknown fair market value on the date of registration.

First-time homebuyers who purchase pre-sold condos and other strata units are also provided with certainty on whether they qualify for the First Time Home Buyers' exemption. Now, these new owners will know if their unit meets the maximum value and financing requirements of the First Time Home Buyers' exemption when they enter into a written agreement to purchase a pre-sold unit.

The information in this bulletin is provided for your convenience and guidance and is not a replacement for the legislation. The *Property Transfer Tax Act* and Regulations can be found on the web at www.gov.bc.ca/sbr

In this issue...

- ***What is a pre-sold strata unit?***
- ***How does tax apply to fee simple transfers?***
- ***How does tax apply to other types of transfers?***
- ***Information for purchasers***

WHAT IS A PRE-SOLD STRATA UNIT?

A strata unit is pre-sold only when a person uses a written instrument to purchase or otherwise acquire a registerable interest in the unit before the developer deposits the strata plan at the Land Title Office.

Under the *Strata Property Act*, developers can only deposit a strata plan once the strata complex is sufficiently completed so that individual units can

be surveyed. This usually occurs shortly before the building is ready to be occupied.

Sales and other transfers of pre-sold residential and commercial strata units registered at the Land Title Office on or after January 1, 2001 qualify under the amendment. Bare-land strata properties do not qualify.

HOW DOES TAX APPLY TO FEE SIMPLE TRANSFERS?

Most pre-sold strata units are transferred in an arm's length sale in the open market. For these types of transfers, the purchaser pays tax on the total consideration paid, which includes the cost of any upgrades.

Assigning a Right to Purchase

If the original purchaser of a pre-sold strata unit sells or assigns their right to purchase the unit to another person before the strata plan is deposited at the Land Title Office, the tax due is calculated on

the total consideration paid by the person who registers the transfer. Total consideration paid includes any additional amounts paid to obtain the right to purchase that unit from another person.

In all cases, the first person to register the transfer at the Land Title Office after the developer has deposited a strata plan is the person who is subject to the tax.

Non-arm's Length Transfers

If the transfer of a strata unit is a non-arm's length transaction, the purchaser must pay tax based on the total consideration that would have been paid for the unit if the transaction had been between arm's length parties in the open market. The administrator will determine this amount for any non-arm's length transaction.

HOW DOES TAX APPLY TO OTHER TYPES OF TRANSFERS?

Generally, tax on long-term leases, life estates, and agreements for sale is based, in part, on the fair market value of the property on the day the interest is registered with the Land Title Office.

For pre-sold strata units, the fair market value of the unit is the amount that the administrator determines an arm's length purchaser would have paid for the unit on the day the lease, life estate, or agreement was signed. The fair market value determined by the administrator will be used to calculate tax payable in accordance with the Act and regulations.

INFORMATION FOR PURCHASERS

Pre-sold strata units that were assessed under the previous legislation are being reviewed. Assessments will be revised and refund cheques issued, where appropriate, to affected taxpayers. If you believe you qualify under the amendment but have not received a revised notice of assessment, a refund cheque, or been contacted by the ministry by November 30, 2004, please call 250 356-9268 for information.

If you were asked for additional information about your pre-sold strata unit, please provide the information as it will be used to determine if you qualify for a refund under the new legislation.

NEED MORE INFO?

This bulletin is presented as an aid to understanding the *Property Transfer Tax Act*. It is not intended to replace the need to consult the legislation for possible application to a particular fact pattern. Where there is a conflict between this bulletin and the legislation, the legislation prevails.

For further information, please contact:

The Administrator, Property Transfer Tax
Ministry of Small Business and Revenue
Property Taxation Branch
PO Box 9427 Stn Prov Govt
Victoria BC V8W 9V1
Fax: 250 953-3094

Information is also on the web at www.gov.bc.ca/sbr While there, you can subscribe to our free electronic update service.