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## II. BACKGROUND

The PTT has three tax rates.

- 1% on the first \$200,000
- 2% on the value from \$200,000 to \$2,000,000.
- 3% on the value above \$2,000,000.

The additional PTT rate (foreign buyers' tax) is an additional 15%.

The \$200,000 threshold has been in place since 1987. The higher tax rate of 3% on the value of a property over \$2 million was introduced in Budget 2016. It generated \$158 million in 2016/17, about the combined cost of the First Time Home Buyers' Program and the Newly Built Homes Exemption.

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## II. BACKGROUND

The province imposes a property transfer tax at the time of registration of the property with the land title registry. The tax is 1 per cent on the first \$200,000 of property value, 2 per cent on the value between \$200,000 and \$2 million, plus 3 per cent of the value in excess of \$2 million.

In addition, the province imposes an additional property transfer tax of 15 per cent tax on the value of property, if purchased by a foreigner in Metro Vancouver.

The purpose of the additional property transfer tax is to discourage foreign investment in residential real estate and to raise revenue for housing affordability measures.

There are a number of exemptions from the Property Transfer Tax; the chief exemptions are the First Time Home Buyers' exemption and the Newly Built Home exemption. Both of these exemptions require the purchaser to live in the property as their principal residence.

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## II. BACKGROUND

The Additional Property Transfer Tax (APTT) was implemented in August 2016 with the intent to reduce foreign demand and speculation in Metro Vancouver's residential real estate market. It is a 15 per cent tax that foreign entities or taxable trustees pay in addition to the general property transfer tax on transfers of residential property located in Metro Vancouver. The tax works by increasing the upfront cost of purchasing residential real estate for a foreign investor.

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The APTT is a one-time tax that is only paid at the time of purchase. <sup>s.12,s.1</sup><sub>2</sub>

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## **SPECULATION TAX: PROVINCIAL NOMINEES**

s.12,s.13

### **III. DISCUSSION & OPTIONS:**

The Provincial Nominee Program (PNP) is an expedited way for skilled workers to become permanent residents of BC. The applicants have to be vetted and meet specific requirements to be approved for the program and must already have employment with an eligible BC employer. These individuals when approved for the program are able to become permanent residents of Canada within 6-8 months.

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## PROPERTY HELD IN A TRUST

### III. BACKGROUND

A trust is a fiduciary relationship in which one party (a "settlor") gives another party or parties ("trustees") the right to hold title to property or assets for the benefit of a person or group of persons ("beneficiaries"). The persons who are beneficiaries may change over time, in accordance with the terms of the trust.

Under the *Land Title Act*, only a "person" can own property in BC. A trust is a relationship and not a "person" for the purposes of holding title to land. Therefore, a trust cannot own property. Instead, legal title to a property can be held by a trustee, who holds the property in trust for the benefit of one or more beneficiaries.

There are many reasons why a property may be held in trust, including:

- **Avoidance of property transfer tax** – The property transfer tax applies when there is a registration of a change in the legal title to the property. A beneficiary of a trust may change without any change to the registration of the legal title of the property.
- **Real estate investment trusts (REITs)** – REITs are investment vehicles that own, and in most cases operate, income-producing real estate. REITs can be publicly traded or private. They are required to be configured as trusts and are not taxed if they distribute their net taxable income to shareholders. For example, the Boardwalk REIT is traded on the Toronto Stock Exchange, and invests in multi-family residential communities across Canada.
- **Protecting a beneficiary who is ill-suited to property ownership** – Property may be held in trust to protect a beneficiary who is ill-suited or incapable of property ownership, such as a minor child or a person with a disability.
- **Administration of an estate** – When an individual dies, their assets (including their home) may be placed in a trust for the beneficiaries of the individual's estate.
- **Bankruptcy** – When a person goes into bankruptcy, title to the bankrupt's real property will be transferred to the trustee in bankruptcy. This occurs to protect creditors' rights and potentially realize money on the sale of property to pay creditors.

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## **VII. ARM'S-LENGTH RENTAL TEST**

The government decided that in order to qualify for a long-term-rental exemption from the speculation tax, Canadian citizens and permanent residents who are not members of a satellite family can rent to someone who is non-arm's-length, whereas foreigners and satellite families must rent to someone who is arm's-length.<sup>6</sup>

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**IX. \$2,000 TAX CREDIT**

The government has committed to provide a \$2,000 tax credit to BC residents who are Canadian citizens and permanent residents (but not members of a satellite family), to reduce speculation tax on vacant property. s.12,s.13

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## **PROPERTY OWNED BY A CORPORATION**

### **XI. BACKGROUND**

A corporation is a legal entity that is separate and distinct from its owners. Corporations can include societies, co-ops, municipalities, registered charities and not-for-profits.

Corporations can own residential property.

### **XII. UNIQUE EXEMPTIONS**

#### *1. Charities and not-for-profits*

Not-for-profit organizations are not required to incorporate. However, when a society is incorporated, it acquires the capacity to legally hold title to real property. A not-for-profit corporation may be formed for any lawful purpose except profit — it does not need to be a charitable purpose.

Not-for-profit corporations can apply to the Canada Revenue Agency to become a registered charity. This allows the corporation to issue tax receipts to donors. To become a registered charity, the corporation must have a charitable purpose (i.e. relief of poverty, advancement of education or religion, or other purposes that benefit the community).

s.12,s.13

## 2. *Co-ops*

A co-op is an organization that is owned and operated by the people who use and benefit from its services. Co-ops help develop communities and create jobs by offering a range of supports such as housing, food, health care, and many other essential products and services. In BC, co-ops are required to be incorporated under the *Cooperative Association Act*. Incorporation allows the co-op to own property.

There are several kinds of co-ops, including housing co-ops (where members of the co-op jointly own land and buildings), and land co-ops (where members of the co-op jointly own land, and can build their own buildings on a portion of the land, subject to the approval of other members of the co-op). Some co-ops are created on a not-for-profit basis, so members who sell their interest in the co-op

would only receive the amounts they put it in, and not any appreciation to the housing or land.

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## **PARTNERSHIP PROPERTY**

### **XIX. BACKGROUND**

A partnership consists of two or more legal entities carrying on business together with a view to profit. The persons (i.e. "partners") that form the partnership may be individuals or corporations.

Partnerships cannot directly own residential property. However, under the *Partnership Act*, properties in a partnership can be owned jointly by the partners, or can be held in trust on behalf of the partnership.

A partnership may indirectly hold residential property (e.g. to operate a rental business). However, it is more common for businesses to hold their property in a corporation for the potentially low rate of tax and because of the personal protection afforded by using a corporation.

s.12,s.13

## **PROPERTY OWNED BY THE PUBLIC SECTOR**

### **XXI. BACKGROUND**

There are many different types of public sector bodies and entities that may directly or indirectly own property, including the federal government, federal Crown agents, other national governments, provincial governments, provincial Crown agents, universities, regional districts and municipal governments.

Under the *Land Title Act*, only a "person" can own property in BC. Government Ministries and Crown agents are considered legal persons and can own land directly. Government Ministries and Crown agents can also own property indirectly, such as through a trust, partnership or corporation. For example:

- **Death of a kinless individual** – When an individual dies without a will, and does not have anyone who qualifies as a next of kin, their property escheats to the provincial government. However, the legal title continues to be in the name of the deceased person.
- **Subsidized housing** – The provincial government and regional districts own subsidized housing.
- **Municipal housing** – The City of Vancouver, for example, owns and operates residential housing.
- **University-owned properties** – The University of Victoria, for example, owns and manages approximately 45 residential units in the Victoria area through a corporation. The properties were either acquired by the university or donated.

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## **PROPERTY OWNED BY A FIRST NATIONS GOVERNMENT**

### **XXIX. BACKGROUND**

The government has already decided that homes on First Nations' reserves and treaty lands are not subject to the speculation tax. However, status Indians who own property off-reserve are treated the same as other owners; they will be subject to the speculation tax on their vacant property, as well as on their primary residence if they are a satellite family.

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## **SPECULATION TAX: HARDSHIP EXEMPTIONS**

s.12,s.13

### **II. BACKGROUND:**

The government has decided that there will be hardship exemptions available in certain circumstances. Hardship exemptions for year of death and entering a long-term care facility have been announced. s.12,s.13

s.12,s.13

Hardship exemptions are generally intended to provide relief for taxpayers in circumstances that are beyond the taxpayers' control.

#### **Currently approved hardship exemptions:**

- Long-term care facility
- Death and probate

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