

**Real Estate**

## Quebec real estate deed transparency: Lead-up to new tax for non-residents?

By **Daniel Frajman**

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(October 6, 2020, 2:42 PM EDT) -- A new Quebec regulation in force as of Oct. 1, 2020, that identifies for statistical purposes (without yet applying a particular new tax) non-Canadians involved in transfers of real estate in Quebec, reminds one of certain non-resident real estate taxes that already exist in British Columbia and Ontario due to a perceived crisis in affordable housing, namely:

- B.C. has a foreign buyer's tax of 20 per cent on the value of residential properties in Metro Vancouver and certain other popular areas, essentially applicable for example when the buyer is a foreign national or foreign corporation;
- B.C. also has a speculation and vacancy tax of up to around two per cent of a residential property's value in Metro Vancouver and certain other popular areas (and an additional Vancouver vacant homes tax in that city of around one per cent) if essentially the property is not ordinarily inhabited by the owner or a tenant;
- Ontario has a non-resident speculation tax of 15 per cent on the acquisition of residential real estate located in the greater golden horseshoe (being the Greater Toronto Area and areas to the east and west including London) essentially applicable when the transferee is an individual who is not a citizen or permanent resident of Canada or is a foreign corporation.

These taxes are in addition to regular land transfer tax. Could it be that such additional taxes on non-resident purchasers will be coming in the near future to Quebec? Certainly it is a possibility, as the Quebec government has been stating since at least 2018 that there is a global phenomenon of the purchase of real estate by non-residents. This has potential impact on the real estate market notably as regards material increases in home prices. B.C. and Ontario have passed legislation to try to limit the phenomenon, and Quebec intends to make legislative changes to allow the collection of statistics that might shed light on the extent of the issue in Quebec.

Those Quebec legislative changes came into force on Oct. 1, 2020, as a regulation to the land transfer tax (a.k.a., welcome tax or mutations duties) legislation, and relate to all transfer deeds submitted to the province of Quebec's land registry office (the changes do not apply to off-title transfers which are submitted to the relevant municipality rather than the land registry).

The changes will certainly provide statistical information to the Quebec government, as they will require the transferor and transferee to fill out a form (which the registry will collect, but not actually publicly register on title) referring to residency information. Essentially, the information that must be submitted is:

- Individuals would have to indicate their citizenship or permanent resident status;

- Corporations and trusts would have to indicate where they were formed and where they are resident;
- General partnerships would have to indicate where they were formed and whether at least half of the partners are foreign nationals, which might not otherwise be known given Quebec private law basically treats partnerships as a distinct entity; and
- Limited partnerships would have to indicate where they were formed and whether the general partner is a foreign national.

Interestingly, this new regulation would also require transferees of any real estate who are individuals to declare whether the transferee or a member of their family has an intention "to occupy a dwelling in the property as a principal residence."

This goes beyond the information previously required to register a real estate deed in Quebec (all that was required was to "identify" the parties, and typically a name and address would have been provided).

The government has shown some flexibility, in that this new residency related information will not have to be collected and provided by a transferor that is an estate, or a debtor under a hypothecary recourse or a forced execution of a judgment.

This is one more development in the worldwide trend to promote through new rules on transparency in commercial and also consumer transactions. The reasons for transparency may be many (reduction of speculation and undue price increases in residential real estate, and combating tax evasion and avoidance, money laundering, use of proceeds of crime and fraud generally in real estate and other contexts). But certainly increased transaction costs (at a time when many businesses can least afford it) and a reduction of privacy are a byproduct of the new rules.

*Daniel Frajman, dfrajman@spiegelsohmer.com, is a partner at Spiegel Sohmer Attorneys in Montreal. He practises business real estate, financing and M&A, and tax law including the law of non-profit organizations.*

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