

February 5, 2008

In 2006, the new *City of Toronto Act, 2006* received royal assent. The new Act, subject to certain exceptions, permits the City of Toronto to impose direct taxes in Toronto.

In spring 2007, Mayor Miller and certain Toronto city councillors kicked off a campaign to gather support for a proposal to impose new taxes in Toronto (spring tax proposal). The spring tax proposal included a land transfer tax on the purchase of all real estate located in the City. ICSC, various other real estate organizations and certain city councillors worked together to raise public awareness of the potential adverse economic consequences to the residents of Toronto that would result from the implementation of the spring tax proposal.

In July 2007, a majority of the city councillors voted to defer a vote on the spring tax proposal.

In September 2007, Mayor Miller and certain city councillors began a new campaign to gather support for the imposition of new taxes in Toronto (fall tax proposal). The fall tax proposal also included the land transfer tax on the purchase of all real estate in the City. ICSC, various other real estate organizations and certain city councillors again collaborated to raise public awareness of the potential adverse implications of the fall tax proposal.

In October 2007, City Council approved the fall tax proposal. That portion of the fall tax proposal dealing with municipal land transfer tax is contained in City of Toronto By-Law No. 1423-2007 (City land transfer tax legislation). The City land transfer tax legislation, which was passed on December 13, 2007, comes into force on February 1, 2008. Subject to certain exceptions, this legislation mirrors Ontario's provincial *Land Transfer Tax Act* and related regulations.

Under the City land transfer tax legislation, purchasers that enter into an agreement of purchase and sale for commercial or residential real estate located in the City of Toronto after December 31, 2007 and that will close on or after February 1, 2008 will be subject to the City land transfer tax. This tax is in addition to the provincial land transfer tax. The City land transfer tax will be payable on registration of a conveyance or on the disposition of a beneficial interest in real property. The tax will be imposed at graduated rates on the value of consideration for the acquisition of real property, as is the case for the provincial land transfer tax; however, these rates will differ from those imposed by the provincial tax and will be as follows:

For any property containing one or two single family residences:

- 0.5% of the portion of the value of the purchase consideration up to and including \$55,000;
- 1.0% of the portion of the value of the purchase consideration exceeding \$55,000 up to and including \$400,000;
- 2.0% of the portion of the value of the purchase consideration exceeding \$400,000 up to and including \$40 million; and
- 1.0% of the portion of the value of the purchase consideration exceeding \$40 million.

For example, the municipal land transfer tax on a \$2 million residential property will be 0.5% of \$55,000 plus 1% of \$345,000 plus 2% of \$1.6 million = \$35,725.

For all other properties (which include commercial properties):

- 0.5% of the portion of the value of the purchase consideration up to and including \$55,000;
- 1.0% of the portion of the value of the purchase consideration exceeding \$55,000 up to and including \$400,000;
- 1.5% of the value of the portion of the purchase consideration exceeding \$400,000 up to and including \$40 million; and
- 1.0% of the portion of the value of the purchase consideration exceeding \$40 million.

In addition to all exemptions and rebates available under the provincial *Land Transfer Tax Act*, the City land transfer tax legislation provides an exemption/rebate in the following circumstances:

- to all purchasers entering into an agreement of purchase and sale on or before December 31, 2007 regardless of the closing date;
- to all purchasers entering into an agreement of purchase and sale after December 31, 2007 provided the transaction closes before February 1, 2008;
- when the net revenue after transaction fees would result in revenue to the City of less than \$72;
- for all property purchases made by various public bodies as required by the *City of Toronto Act, 2006*;
- for all property purchases made by the City, its local boards, Toronto Economic Development Corporation and Toronto Community Housing Corporation; and
- to all first-time home buyers purchasing a home for personal use of up to \$3,725 of the City land transfer tax. **T**