

Toronto Land Taxes: Entrance or Exit Taxes?



By **Brian Madigan LL.B.**

Toronto has imposed some new Land Transfer Taxes.

But who pays? The quick legal answer is that the tax is payable upon registration of a conveyance by a purchaser. The amount escalates with the value of the transaction.

However, the question still remains: who really pays? Is this an entrance or exit tax?

The **imposition** of the tax is upon the purchaser but the **incidence** of the tax may be somewhere else.

Vendor's view

This is a new tax and if the purchaser wants to buy in Toronto, then he'll just have to pay it. I don't collect the tax, so it's got nothing to do with me.

Purchaser's view

I only have so much money and now that Toronto has imposed a tax of up to 2% of the purchase price, then I'll just have to lower my purchase price by a similar amount, or go elsewhere.

GST

You might still recall the imposition of the GST. That tax was imposed upon all transactions based upon the purchase price. Vendors were obligated to collect it and remit it to the government. Vendors could sell their products either including or excluding the GST. Now, virtually all vendors will sell their products with the GST to be added later. The economic reality was that some vendors were able to simply pass the GST on to their customers, while others were faced with the prospect of absorbing the GST or going out of business.

Economic Reality

In all likelihood, the same result will follow here. For highly desirable areas that cannot be duplicated easily, purchasers will pay the Toronto Tax. In less desirable areas, vendors will have to lower their prices. The tax itself, at the high end, is only 2%, so in some other situations it may be split 50/50.

The real economic impact will not be measured for at least a year. Right now, it's all speculation.

Transitional Issues

All transactions are exempt up to December 2007, no matter when they close. So, the market should speed up a bit in November and December which have traditionally been very weak months for real estate activity. That's phase 1. Phase 2 starts with the New Year. Deals signed 1 January 2008 and later must close before the end of February to be exempt from the tax. So, as you might imagine, there ought to be a number of transactions that take place then. Why wait and pay the tax? That doesn't make much sense.

Phase 3 is 1 March 2008 and later. Here, parties will be fully subject to the new Toronto Tax, but the interesting thing, is that the traditional start to the Spring market, which has been very strong for over a decade. Will buyers stop buying? Will sellers stop selling? Not very likely!

Entrance or Exit Tax

In my opinion, like the GST, it will be a little bit of both at first, then eventually when the Toronto tax is fully operational and integrated into the economic reality of the marketplace, it will be an entrance tax.

In the short term however, in some cases it will be absorbed by the sellers which really isn't fair. But, then again, what tax is fair?

The ***Toronto real estate market will continue to thrive*** based upon:

- 1) Immigration and increased demand for housing
- 2) Increased numbers of household formations
- 3) Low interest rates
- 4) Close to full employment
- 5) A strong economy

Since 1066, real estate values have increased annually at 4%, and more recently in Toronto at 7%, so the 2% Toronto tax is really inconsequential.

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