



Federation of Ontario
Law Associations
Fédération des associations
de barreau de l'Ontario

May 23, 2024

Dear Real Estate Representatives, Presidents and Library Staff,

In an effort to keep real estate lawyers updated with the ever-changing situation in the way we practice, we have further information to be shared with the real estate lawyers in your association.

Director of Titles

We are pleased to advise that **Rebecca Hockridge** will be continuing in her role as Director of Titles, following about six months of being in the role on an interim basis. We look forward to working with her as the land titles system develops.

Verification of Client Identification Virtually

Effective **January 1, 2024**, the Law Society's temporary emergency measure allowing licensees to virtually verify client identity without authentication has ended. On and after that date, licensees must authenticate an individual's government-issued ID, meaning the licensee must use a process or method to determine if the ID is true and genuine and cannot do so virtually. Bylaw 7.1 allows two methods of verification virtually: the credit file method and the dual process method. Licensees can also use an agent to verify identity. The Notice to the Profession dated July 27, 2023 and additional resources from the LSO can be found [here](#).

These enhanced rules will impact real estate lawyers specifically as our engagement is routinely to facilitate the transfer of funds for our clients. Be on the lookout for CPD programming in connection with this to better prepare yourself, your practice and your staff.

Federal Government Mandatory Disclosure Rules & Injunction

On June 22, 2023, the federal government passed mandatory disclosure rules for specified 'reportable transactions', which are avoidance transactions coupled with a contingent fee arrangement, confidential protection or a contractual protection. These rules would apply to legal advisors, even if the transaction was reported by other advisors, such as accountants.

On November 24, 2023, the Supreme Court of British Columbia granted an interlocutory injunction prohibiting these disclosure rules for legal professionals pending a determination on the constitutionality of the mandatory disclosure rules (to be heard at a later date).

Federal Trust Reporting Requirements 2023

The federal government added new reporting requirements for trusts as of December 31, 2023, requiring all trusts (except for limited identified exceptions) to file T3 returns and a Schedule 15 report in connection with the trust property, beneficial owners and income derived therefrom. The reporting requirements are overly broad and will attach to situations where a family member is added to title as a joint tenant without acquiring a beneficial interest in the property (i.e. Historical estate planning tools). These trusts (by their trustees) will need to report within 90 days of year end (i.e. April 2, 2024). This could have sweeping implications on how many estates and real

estate lawyers advise their clients and care should be taken to review the new rules and to determine if trust indentures should be a regular part of your offerings to clients who seek to add family members to bank accounts or real property.

These rules will also apply to trust accounts opened by lawyers/paralegals maintained as a separate trust for a particular client/clients or purpose. General trust accounts are NOT covered by these rules. The Federal Government's FAQ on this can be reviewed [here](#).

The Federal Government suspended this requirement a few days prior to the mandatory reporting deadline. We will continue to monitor this as the situation develops.

Bulletin 2023-08

Effective December 9, 2023, there is a new mandatory statement (75) for all Charges/Mortgages instruments which confirms that added or imported text/schedules are legible and relate to the parties of the Charge. If you have a Charge in preparation prior to December 9, but attempt to register it on or after December 9, the mandatory statement must be selected before registration will be permitted.

Changes to Non-Resident Speculation Tax

As of March 27, 2024, the Non-Resident Speculation Tax was amended to address the inclusion of condo parking and locker units as taxable transfers. There are other amendments relating to occupancy requirements, definition of a spouse and other exemptions. Changes to the eReg system based on these legislative changes can be found [here](#).

Changes to Land Transfer Tax Statements

The Ministry of Finance no longer requires automatic submission of supplementary material when a transfer is made involving a trust for the same beneficial owner. Lawyers will still need to assemble the information in case the Ministry requests it or reassesses the transaction. Changes to the eReg system have been made to address this.

In addition, a new statement 9205 has been introduced to confirm acknowledgement as to the collection of information and privacy for land transfer tax statements. The newsletter outlining these changes can be found [here](#).

Enhanced PIN Display Capacity

Effective May 25, Teraview users can submit a multi-document paper submission containing more than 1000 PINs. The full federal airport zoning regulations can also now be downloaded for review and inspection.

Reminder – DRA has been updated

The Document Registration Agreement and Multi-Party Document Registration Agreement have been updated and published on the Law Society of Ontario's website. The updated DRA and Multi-Party DRA are available in word [here](#). We encourage you to review and implement the updated DRA and Multi-Party DRA on your files and in your correspondence when you refer to same to be incorporated by reference.

Federal Prohibition on Purchase of Residential Property by Non-Canadians

This federal legislation was extended by the government for an additional two years, now expiring on January 1, 2027. The legislation came into effect on January 1, 2023 to prevent the sale and purchase of residential property to Non-Canadians in an attempt to address the housing supply shortage in the country.

Underused Housing Tax (Canada)

The Federal Government passed the underused housing tax in June, effective January 1, 2022, such that reporting and payment of tax on underusing housing was payable on April 30, 2023 for the 2022 calendar year. CRA extended a penalty/interest-free period to November 1, 2023 for reporting and payment of this tax but on October 31, 2023 CRA further extended this to **April 30, 2024**. The tax largely affects non-Canadians and non-residents but could be applicable to citizens/residents as well. You can review the legislation [here](#). The new legislation imposes a tax of 1% of the assessed value or the most recent purchase/sale price, whichever is greater. CRA has the right to lien the property for non-payment.

The Federal Government is currently tabling legislation to modify this tax program to address unintended consequences. We continue to monitor the situation.

Capital Gains Amendment

The Federal Budget identified a proposed change to the capital gain inclusion rate from 50% to 66.7% which is to take effect on June 25, 2024. This will impact all corporations and trusts, but will impact individuals beyond the \$250,000 exemption threshold. As of the date of this update, the federal legislation implementing this change to the *Income Tax Act* (Canada) has not been published.

Stay up to date with FOLA's real estate information at <https://www.foia.ca/issue/real-estate/>

Mark Giavedoni
FOLA Real Estate Chair

Please note: The information provided herein is of a general nature only and is not intended to provide legal advice.