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c 15 The Land Speculation Tax Amendment Act, 1977

Ontario

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Sub-subclause A of subclause i of clause a of subsection 1 of section 1 of The Land Speculation Tax Act, 1974, being chapter 17, as amended by the Statutes of Ontario, 1974, chapter 121, section 1, is further amended by inserting after "BB," in the amendment of 1974 "BC."

(2) Subclause i of clause a of subsection 1 of the said section 1 is amended by adding thereto the following sub-subclause:

(BC) as the result of his reacquisition otherwise than by a disposition described in subclause iii of clause d, of the rights under a lease or similar arrangement that, when originally granted or effected, was a disposition by him within the meaning of subclause iii of clause d, that amount that was determined to be the proceeds of disposition in accordance with subclause iv of clause l with respect to such original disposition by him.

(3) Sub-subclause C of subclause i of clause a of subsection 1 of the said section 1, as amended by the Statutes of Ontario, 1974, chapter 121, section 1, is further amended by inserting after "BB" in the amendment of 1974 "BC."

(4) Subclause ii of clause a of subsection 1 of the said section 1, as amended by the Statutes of Ontario, 1974, chapter 121, section 1, is repealed and the following substituted therefor:
(II) Where the designated land was acquired by
the transferor on or before the 9th day of
April, 1974, the higher of either the fair
market value of the designated land ascer­
tained as at the 9th day of April, 1974, or
the sum of the cost to the transferor of the
acquisition of the designated land and the
cost of improvements made by him on or
before the 9th day of April, 1974.

(5) The said section 1 is further amended by adding thereto
the following subsections:

(13) Where the transferor is disposing of the fee simple in
designated land that is, at the time of such disposition,
subject to a lease or other similar arrangement that was
originally granted or effected by him, he may, in lieu of the
amount required by subclause i or ii of clause a of subsec­
tion 1 to be added to the adjusted value applicable to such
disposition, add an amount equal to either,

(a) the fair market value of the whole interest in the
designated land, ascertained as of the 9th day of
April, 1974, if such lease or similar arrangement
was granted or effected on or before that date; or

(b) an amount equal to the fair market value of the
whole interest in the designated land at the date
of the disposition made by him after the 9th day
of April, 1974 by which such lease or similar arrange­
ment was granted or effected and the proceeds of
which were required to be determined in accordance
with subclause iv of clause b of subsection 1.

(14) Sub-subclause B of subclause i of clause a of sub­
section 1 as it appears on the day this subsection comes
into force shall be deemed to have been in force on and
after the 9th day of April, 1974 and with respect to the
death of any person on or after that date resulting in a
disposition described in subclause iv of clause d of subsec­
tion 1, no proceeds of disposition shall be deemed to have
arisen.

2. Subsection 2 of section 2 of the said Act is repealed and the
following substituted therefor:

(2) Where there is a disposition within the meaning of
subclause vi or vii of clause d of subsection 1 of section 1 of
any designated land that is not unrestricted land, as defined
in The Land Transfer Tax Act, 1974 and the result of the
disposition is that control of the corporation beneficially interested in the designated land is exercisable by a person or a group of persons different from those by whom control of the corporation was exercisable before the disposition, there shall be imposed and levied, for the uses of Her Majesty in right of Ontario, upon the designated land a tax, in addition to the tax imposed by subsection 1, calculated on the proceeds of disposition of the designated land that is not unrestricted land, as defined in The Land Transfer Tax Act, 1974 and computed at the rate of 20 per cent of such proceeds of disposition where the corporation beneficially interested in the designated land is, immediately after the disposition has occurred, a non-resident corporation as defined in The Land Transfer Tax Act, 1974.

3.—(1) Clause d of section 4 of the said Act is amended by striking out "as a tourist resort of a class, kind or designation prescribed by the Minister by regulation, or" in the second, third and fourth lines.

(2) Clause g of the said section 4 is amended by adding at the end thereof "and for the purpose of determining the time at which a transferor making a disposition described in this clause is first entitled to the exemption conferred by this clause, the expression 'time of the disposition' means the time when the person to whom the disposition is made is first entitled to call for delivery to him of a conveyance or transfer of the designated land disposed of or of some other document or evidence of title the agreement to give which was a disposition of the designated land, and no disposition of designated land that is exempt from tax by virtue of this clause shall be deemed to have occurred, for the purposes of this Act, until the time of the disposition, as defined in this clause".

4. The said Act is amended by adding thereto the following section:

4a. Notwithstanding clause f of section 4, the exemption conferred by that clause may be claimed by a transferor if, at the time he claims the exemption, the person to whom the designated land is disposed of, has furnished to the transferor claiming the exemption the affidavit described in subsection 3 of section 4 of The Land Transfer Tax Act, 1974 showing that such person is not a non-resident person as defined in that Act.

5. Subsection 4 of section 8 of the said Act is repealed and the following substituted therefor:

(4) The Minister may assess or reassess any tax payable by any person under this Act within four years from the day
such tax became payable except that, where the Minister establishes that any person liable to tax has made any misrepresentation that is attributable to neglect, carelessness or wilful default or has committed any fraud in making any affidavits or applications or in supplying any information under this Act or in omitting to disclose any information, then the Minister may assess or reassess tax imposed by this Act at any time he considers reasonable.

6.-(1) Subsection 2 of section 20 of the said Act, as re-enacted by the Statutes of Ontario, 1974, chapter 121, section 5, is amended by striking out “one-tenth thereof for each full twelve-month period up to a maximum of ten such periods” in the fourth, fifth and sixth lines and inserting in lieu thereof “1 3/4 per cent of such taxable value for each full month up to a maximum of sixty full months”.

(2) Subsection 3 of the said section 20, as enacted by the Statutes of Ontario, 1974, chapter 121, section 5, is amended,

(a) by striking out “one-tenth thereof for each full twelve-month period up to a maximum of ten such periods” in the seventh, eighth and ninth lines and inserting in lieu thereof “five-sixths of one per cent of such taxable value for each full month up to a maximum of 120 full months”; and

(b) by adding at the end thereof “provided that, where such uninterrupted period of time is less than 120 full months, the transferor may, in computing the reduction in taxable value authorized by this subsection, add to such uninterrupted period of time the number of full months prior to such uninterrupted period of time that does not increase such uninterrupted period of time beyond 120 full months and during which either the transferor or his spouse carried on farming on the designated land”.

7. Subsection 2 of section 22a of the said Act, as enacted by the Statutes of Ontario, 1974, chapter 121, section 7, is amended by striking out “shall” in the fifth line and inserting in lieu thereof “may”.

8. This Act shall be deemed to have come into force on the 20th day of April, 1977.