



WINRIGHT LAW

PTT 2018

PROPERTY TRANSFER TAX UPDATES

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2018 Changes to PTT

The *Property Transfer Tax Act* has been amended to enhance administration and information sharing and amendments apply only to residential property.

Old PTT & New PTT

Prior to February 21, 2018:

The PTT rate was 1% on the first \$200,000; 2% on the portion of the fair market value greater than \$200,000 and up to and including \$2,000,000; and 3% on the portion of the fair market value greater than \$2,000,000.

Effective February 21, 2018:

The PTT payable on **residential** property over \$3,000,000 is **5% rather than 3%**.



Applying the New PTT

The additional property transfer tax applies on only the residential portion of a property located in the [specified areas of B.C.](#) and does **not** apply to properties located on Tsawwassen First Nation lands.

RESIDENTIAL PROPERTY

A further 2% tax on the portion of fair market value of property greater than \$3,000,000.



RESIDENTIAL MIXED

A further 2% tax on the residential portion of property.



RESIDENTIAL AND FARM

A further 2% tax on the residential portion of property.



FOREIGN BUYERS

A further 20% in the following areas (previously 15%): Capital Regional District, Fraser Valley Regional District, Greater Vancouver Regional District, Regional District of Central Okanagan, Regional District of Nanaimo



Who Are Foreign Buyers?

Foreign Nationals

A person who is **not** a Canadian citizen or permanent resident of Canada, including a stateless person.

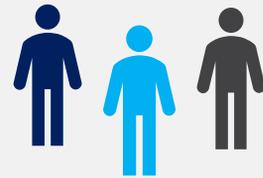
Taxable Trustee

Trustee that is a:
Foreign national or foreign corporation holding title in trust for beneficiaries; or
Canadian citizen holding title in trust for beneficiaries who are foreign nationals or foreign corporations.

Foreign Corporations

A corporation that is one of the following:

- Not incorporated in Canada, or
- Is incorporated in Canada but is controlled in whole or in part by a foreign national or other foreign corporation, unless the shares of the corporation are listed on a Canadian stock exchange.
- Is controlled directly or indirectly by a foreign entity (see section 256 of the [Income Tax Act \(Canada\)](#) for further details).



PTT Exemptions

There are also two exemptions to the additional PTT. It is important that you verify whether you qualify for these exemptions in order to reduce your property transfer costs.

Exemption #1:

Generally, if you are exempt from PTT, you are also exempt from the additional PTT.

UNLESS:

- It is a property transfer resulting from an amalgamation
- It is a property transfer to a surviving joint tenant
- It is a property transfer where the transferee is or becomes a trustee in relation to the property, even if the trust does not change

Exemption #2:

You are a confirmed [B.C. Provincial Nominee](#) and meet [certain criteria](#).

CRITERIA:

- You must be a confirmed B.C. Provincial Nominee when the property transfer is registered with the Land Title Office
- The property must be used as your principal residence
- The property transfer must be made to an individual

NOTE: The additional property transfer tax **does NOT apply** to registration of trusts that are mutual fund trusts, real estate investment trusts or specified investment flow-through trusts.

Transitional Rules

If the contract is dated before **February 20, 2018** and transferred before **May 18, 2018**, you **do NOT** have to pay additional PTT if all of the following criteria are applicable while considering the exceptions.

CRITERIA:

- The property is located in the Capital Regional District, Fraser Valley Regional District, Regional District of Central Okanagan or Nanaimo Regional District; and
- Registration occurs before or on May 18, 2018; and
- Is subject to a written agreement dated on or before February 20, 2018.

UNLESS:

The written agreement is assigned to a foreign entity or taxable trustee on or after February 21, 2018. In this case, the additional PTT must be paid.

See page 2 for more information about foreign entities and trustees.



Other Exceptions

You do not have to pay the additional PTT and your property can be registered at any time if the property transfer is subject to the following terms:

COURT ORDER

The property transfer is subject to a court order dated on or before February 20, 2018.

ORDER NISI OF FORECLOSURE

The property transfer is subject to an Order Nisi of Foreclosure dated on or before February 20, 2018.

SEPARATION AGREEMENT

The property transfer is subject to a separation agreement which was signed on or before February 20, 2018.

ESTATE TRANSFER

The property transfer from the deceased's estate to beneficiary and death of the deceased occurred on or before February 20, 2018.

SURVIVING JOINT TENANT

The property transfer is to a surviving joint tenant and the death of the deceased occurred on or before February 20, 2018.



Other Notable Changes

The following should also be considered when evaluating amendments to PTT:

- The limitation period for PTT assessments is extended to six years.
- Additional information is collected on PTT returns, including tax identification numbers for individuals using bare trusts.
- An administrative monetary penalty for non-compliance has been introduced
- The general anti-avoidance rule is extended to the entire Act.
- Access to additional information on property transactions, including information in a multiple listing service database, is enabled.



What Now?

We put together a couple of questions to ask yourself or a legal representative before going ahead with a property transfer:

- ❖ How is my property classified?
- ❖ What is the value of the residential property?
- ❖ Do I qualify as a B.C. Provincial nominee?
- ❖ What type of transaction was the property transfer?
- ❖ Did the transaction occur prior to February 21, 2018?
- ❖ Do I need to seek legal consultation for clarification?



If you are having trouble answering some of these questions, contact us to book a consultation.



Questions? Get in touch.

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