



Investing in Canadian Real Estate

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AGENDA



- Purchase of Real Estate
 - GST/HST
 - Property transfer tax
- Ongoing Use of Real Estate
 - Changes of use
 - Non-resident landlord
 - Vacancy tax (Vancouver)
- Sale of Real Estate
 - Capital gain or business income
 - Principal Residence Exemption
 - Non-residents –Sales of Real Property

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Purchase of Real Estate

GST/HST

- Do I need to pay GST/HST on this purchase?
- Definitions – Residential and Commercial
- Used residential buildings exempt
- New residential buildings subject to GST/HST
 - GST Rebate may be available
- Commercial property subject to GST/HST
 - CAN include residential buildings if used in a hotel business
 - Used or new property treated alike

GST/HST (continued)

- **Purchaser of commercial real property**
 - If a GST/HST registrant, purchaser solely reports the transaction on their GST returns on self-assessment basis
 - Assuming purchaser is qualified to claim input tax credits, can provide for a direct offset of tax on the GST/HST return in which the purchase took place
 - If purchaser is not registered for GST/HST, the vendor is required to collect and remit GST/HST
 - Vendor should be certain purchaser is GST registrant; otherwise vendor can be liable

Property Transfer Tax - Overview

- Triggered by the change of name on title to a property
- Provincially regulated – varies by province
- BC
 - 1% on the first \$200,000
 - 2% on the portion between \$200,000 and \$2,000,000
 - 3% on the portion over \$2,000,000
- Businesses – bare trust companies to hold title to land to bypass property transfer



Additional Property Transfer Tax

- Measure introduced by BC government as disincentive for purchase of property in GVRD by foreigners
- 15% of purchase price
 - Usually not financeable via a mortgage on property
- Applies to individuals, corporations and trusts
 - Few-to-no ways around the legislation
- Applies to proportionate share of property owned by foreign national/corporation/trust

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Ongoing Use of Real Estate

GST/HST on Rental of Real Property

- Generally, subject to GST/HST
- Exemption for rental of residential real estate for long-term tenants.
 - Short-term rentals (Less than 30 days) are subject to GST
 - Big risk area for AirBnB properties!
- Commercial real property has no similar exemptions

Changes of Use

- To or from an income earning purpose
- Deemed to have sold the property at fair value
- Can defer tax by election:
 - 45(2) – From personal use to income earning purpose
 - 45(3) – From income earning purpose to personal use
 - Deems that the deemed sale didn't happen
 - May claim Principal Residence Exemption ("PRE") on property for up to 4 years forward (45(2)) or 4 previous years (45(3)) even if you didn't ordinarily inhabit it the property

Changes of Use

- Not always beneficial to defer the disposition
 - When multiple properties involved
 - When immigrating from Canada
 - When significant changes in value are expected

Non-resident landlords

- Required to remit 25% of gross rents to CRA
- Option to file Forms NR6 / NR4 where agent is responsible for collection of rent
 - Reduces withholding requirement to 25% of projected net rental income to CRA.
 - Required to file S.216 return
- Ultimately settled on filing personal or corporate tax return
 - Two-year deadline where no NR4/NR6 (otherwise normal)
 - If no NR6 filed, NR not required to file return, can accept 25% gross withholding tax (typically not a better tax result)



Vacancy Tax



- Vancouver only by-law
- 1% of the taxable assessed value of property if considered vacant
- Declaration of vacancy status due every February 2
 - If no declaration, property deemed vacant
- Very substantial penalties if caught with a false declaration
 - Tattle-tale system



Vacancy Tax

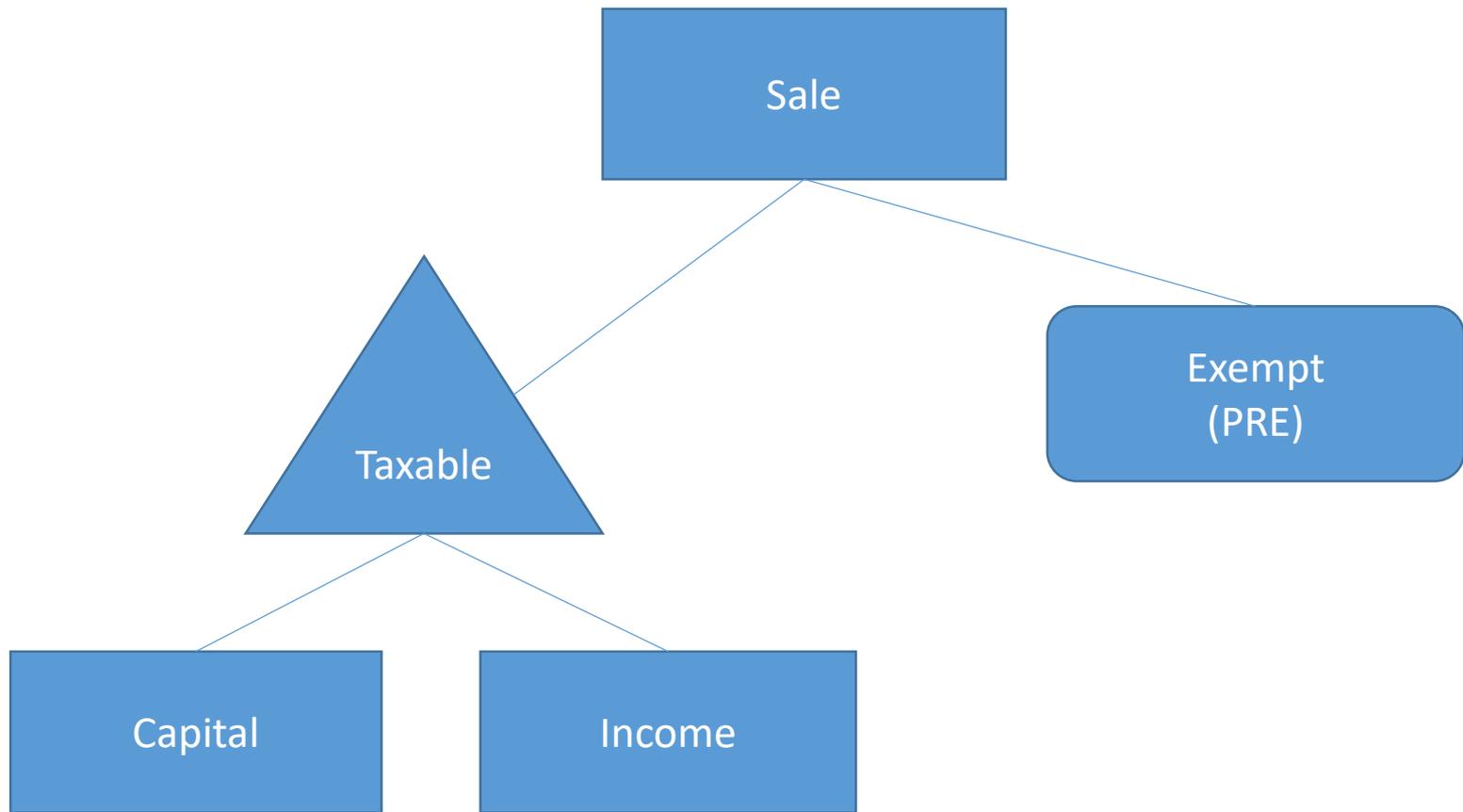


- Exempt from vacancy tax if:
 - The property is the principal residence (different definition than for income tax) of the occupier, or
 - The property is occupied by a tenant or subtenant for a term of at least 30 consecutive days, over a total 180 days in the year
- AirBNB property likely offside

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Sale of Real Estate

Decision Tree for a Gain on Sale



Capital Gain or Business Income

- What was the intention of the use of the property when purchased?
- Did that intention change sometime after?
- Business income includes
 - Real Estate Developer
 - Flipping houses (renovate and resale)
- Circumstances outside of property-specific details (such as profession) may impact categorization



Capital Gain or Business Income

- If selling personal property, is there a good reason for having sold it in short window?
- PRE not available on property sold as a result of business activities.
- Does GST/HST apply to the sale?
 - Refer to previous slides for purchaser



Principal Residence Exemption (PRE)

- CRA has been reviewing PRE claims
- Residential property for personal use
- Qualifications for PRE:
 - Property ordinarily inhabited by the Taxpayer, Taxpayer's spouse or minor children
 - Taxpayer is a Canadian resident individual (or trust)
 - Spouse/Common-law partner has not designated a different property for same tax year
- Since 2016 tax year, required to be disclosed on personal tax return even if sale is fully exempt
- Not available for any corporations
- Not available on property held for business income

Principal Residence Exemption (PRE)

- Own multiple personal properties, which is the best to designate for PRE?
 - Capital gain per year test
 - Short or long-term cash needs
 - Don't forget +1 year rule!
- Residence outside of Canada qualifies
- Non-residents-turned-residents lose +1 year rule



Non-residents: Sales of Real Property

- Withholding tax requirements
- 2 options:
 - 25% withholding of gross proceeds from sale
 - 25% withholding of calculated capital gain from sale with filing clearance certificate (“CC”) (50% in very limited situations)
- Options are purely for accessibility to cash
 - Same ultimate tax liability when filing personal or corporate tax return
 - Higher administrative cost in filing CC, but often involves substantial amount of cash.



Non-residents: Sales of Real Property



- CC request requires:
 - Original purchase documentation
 - Proposed (or completed) sale documentation
 - The filing of a personal/corporate tax return, and
 - If applicable, a form for PRE designation
- Comfort letters may be applied for in tandem with clearance certificate in order to expedite cash flow

Conclusion

- Many facets to taxation of real estate in Canada
- Not a comprehensive guide—many nuances
 - That's what we're here for...
- If contemplating an investment in Canadian real estate or its sale, contact your advisor