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February 13, 2008

Eligibility for Ontario Land Transfer Tax Rebate Extended to Include First-Time Purchasers of Resale Homes

By Tyler Inkster

In 1996, the Ontario government implemented the land transfer tax rebate program. Under this legislation, only first-time purchasers of newly constructed homes who meet the criteria set out in section 9.2 of the Land Transfer Tax Act and the regulations passed pursuant to the Act (the "legislation") are entitled to claim a land transfer tax rebate, up to a maximum of \$2,000.00.

In order to be eligible to claim a land transfer tax rebate, a purchaser of a newly constructed must meet the following four (4) criteria:

- (1) The purchaser must be at least 18 years of age;
- (2) The purchaser must occupy the home as his or her personal residence no later than nine (9) months after the conveyance of the home;

(3) The purchaser must not have previously owned a home, or had any ownership interest in a home, anywhere in the world, at any time; and

(4) If the purchaser has a spouse, the purchaser's spouse must not have owned a home, or had any ownership interest in a home, anywhere in the world while he or she was the purchaser's spouse (if such is the case, then no rebate will be available to either spouse).

Purchasers who do not qualify as first-time purchasers of newly constructed homes are required to pay the land transfer tax at the time that the Transfer/Deed of Land is registered at the registry office on the closing date of their purchase transaction. The land transfer tax is a percentage of the value of the property and is based on a graduated scale: the first \$55,000.00 of the purchase price is taxed at the rate of 0.5%; the amount of the purchase price between \$55,000.00 and \$250,000.00 is taxed at the rate of 1.0%; the amount of the purchase price between \$250,000.00 and \$400,000.00 is taxed at the rate of 1.5%; and the amount of the purchase price in excess of \$400,000.00 is taxed at the rate of 2.0%.

On December 13, 2007, the Ontario government announced proposed amend-

ments to the Land Transfer Tax Act that will extend eligibility under the existing legislation beyond first-time purchasers of newly constructed homes to include first-time purchasers of eligible resale homes. As of the date of this article, the proposed amendments have received only first reading at Queen's Park; however, the Ontario government has announced that pending the enactment of the proposed amendments, the Ministry of Revenue will accept rebate requests from first-time purchasers of resale homes. In the interim, first-time purchasers of an eligible resale home will be required to remit the full amount of the land transfer tax at the time that the Deed/Transfer of Land is registered; however, such purchasers may file a rebate request by submitting the following documentation to the Ministry of Revenue:

(a) A properly completed Ontario Land Transfer Tax Rebate Affidavit of First-Time Purchasers of Eligible Homes (Resale);

(b) A copy of the registered Transfer/Deed of Land on which land transfer tax was paid and a copy of the docket summary relating to the transaction;

(c) A copy of the Agreement of Purchase and Sale (n.b. only those agreements of purchase and sale entered into after December 13, 2007 may qualify) along with a copy of the Statement of Adjustments

The Ministry of Revenue will retain the rebate requests for processing and will issue the land transfer tax rebate to qualified purchasers in the event that the proposed amendments become law. In order to qualify for the land transfer tax rebate, a purchaser of a resale home must meet the same four (4) criteria that apply to a purchaser of a newly constructed home, as set out above. In addition, the resale home must be an "eligible home", which the proposed legislation defines as including a detached house, a semi-detached house, a townhouse, a condominium unit, a residential dwelling that is a duplex, triplex or fourplex and a manufactured home.



Tyler Inkster is a partner with the law firm of Langlois Konrad Inkster LLP. Should you have any questions relating to the topic covered in this article or any other residential real estate law matter, Tyler can be reached at 905.272.4224, ext. 24, or at tyler@lki.com

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