

PROVINCE OF BRITISH COLUMBIA
REGULATION OF THE
MINISTER OF FINANCE AND DEPUTY PREMIER

Property Transfer Act

Ministerial Order No. M 287

I, Carole James, Minister of Finance and Deputy Premier, order that, effective September 17, 2018, the attached Information Collection Regulation is made.

July 12, 2018
Date

Carole James
Minister of Finance and Deputy Premier

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: *Property Transfer Tax Act*, R.S.B.C. 1996, s. 12.14

Other: _____

R10221902

INFORMATION COLLECTION REGULATION

Definitions

1 In this regulation:

“**Act**” means the *Property Transfer Tax Act*;

“**corporate interest holder**” in relation to a relevant corporation, means an individual who, in respect of the relevant corporation, is a corporate interest holder within the meaning of section 2;

“**Indigenous nation**” means

- (a) the Nisga’a Nation,
- (b) a Nisga’a Village,
- (c) a treaty first nation,
- (d) the Sechelt Indian Band or the Sechelt Indian Government District established under the *Sechelt Indian Band Self-Government Act* (Canada),
or
- (e) the Westbank First Nation;

“**relevant corporation**” means

- (a) a corporation, or
 - (b) a limited liability company,
- but does not include a person or entity excluded under section 3;

“**relevant trust**” means

- (a) an express trust, or
 - (b) a legal relationship, created in another jurisdiction, that is similar to a legal relationship created under an express trust,
- but does not include a trust excluded under section 4.

Meaning of “corporate interest holder”

2 (1) An individual is a corporate interest holder in respect of a relevant corporation if any of the following apply:

- (a) the individual has legal or beneficial ownership or control, directly or indirectly, of
 - (i) shares of the relevant corporation representing 25% or more of the value of the equity of that corporation, or
 - (ii) 25% or more of the voting rights in respect of the relevant corporation;
- (b) the individual has the right, directly or indirectly, to appoint or remove from office the majority of the board of directors of the relevant corporation;
- (c) the individual has the right to exercise or does exercise, under a unanimous shareholders’ agreement or otherwise, significant influence or control over the relevant corporation.

(2) For the purposes of subsection (1) (a) and (b), a direct or indirect interest, power or right includes an interest, power or right that an individual has

- (a) alone,
- (b) together with one or more persons with common interests, or
- (c) through
 - (i) a corporation,
 - (ii) a trustee of a relevant trust, or of any other trust,
 - (iii) a personal or legal representative,
 - (iv) an agent, or
 - (v) any other intermediary.

Excluded corporations

3 The following are excluded from the definition of “relevant corporation” in section 1 [definitions]:

- (a) a government reporting entity as defined in section 1 (1) [definitions and interpretation] of the *Budget Transparency and Accountability Act*;
- (b) a government body as defined in section 1 [definitions] of the *Financial Administration Act*;
- (c) a local public body as defined in Schedule 1 of the *Freedom of Information and Protection of Privacy Act*;
- (d) a public body referred to in Schedule 2 of the *Freedom of Information and Protection of Privacy Act*;
- (e) a corporation incorporated by
 - (i) a municipality, as authorized under section 185 of the *Community Charter*, or
 - (ii) a regional district, as authorized under section 265 of the *Local Government Act*;
- (f) a public company as defined in section 1 (1) [definitions] of the *Business Corporations Act*;
- (g) a corporation incorporated or continued by an enactment;
- (h) a water utility as defined in section 1 of the *Water Utility Act*;
- (i) a designated airport authority under the *Airport Transfer (Miscellaneous Matters) Act* (Canada);
- (j) a port authority under the *Canada Marine Act*;
- (k) an independent school within the meaning of the *Independent School Act*;
- (l) a strata corporation as defined in section 1 (1) [definitions] of the *Strata Property Act*;
- (m) a savings institution;
- (n) an insurance company;
- (o) a trust company; or
- (p) a pension fund society within the meaning of the *Pension Fund Societies Act*.

Excluded trusts

- 4 The following are excluded from the definition of “relevant trust” in section 1 [definitions]:
- (a) a charitable trust;
 - (b) a trust the trustee of which is the Public Guardian and Trustee;
 - (c) a trust in respect of a pension plan registered under a pension enactment of the Province or under the pension legislation of another province or of Canada;
 - (d) a trust in respect of a pooled registered pension plan within the meaning of the *Pooled Registered Pension Plans Act*;
 - (e) property vested in a person licensed or appointed under the *Bankruptcy and Insolvency Act* (Canada);
 - (f) a mutual fund within the meaning of the *Income Tax Act* (Canada);
 - (g) a real estate investment trust as defined in section 122.1 of the *Income Tax Act* (Canada); or
 - (h) a SIFT trust as defined in section 122.1 of the *Income Tax Act* (Canada).

Excluded transfers

- 5 This regulation does not apply in respect of a transferee that is
- (a) an Indigenous nation,
 - (b) a corporation of which all the shares are owned by an Indigenous nation or a band within the meaning of the *Indian Act* (Canada), or
 - (c) a trustee of a trust established primarily for the benefit of an Indigenous nation or a band within the meaning of the *Indian Act* (Canada).

Partnerships

- 6 A return filed under section 2 of the Act must state whether the property held by the transferee is partnership property as defined in section 1.1 [definitions] of the *Partnership Act*.

Public companies

- 7 If a transferee is a public company as defined in section 1 (1) [definitions] of the *Business Corporations Act*, a return filed under section 2 of the Act must state the name of that public company.

Relevant corporations

- 8 Subject to section 10, if a transferee is
- (a) a relevant corporation, or
 - (b) a trustee of a relevant trust and that trust has one or more beneficiaries that are relevant corporations,
- a return filed under section 2 of the Act must state, in respect of each corporate interest holder of each of those relevant corporations,
- (c) the name and contact information of the corporate interest holder,

- (d) the date of birth of the corporate interest holder, and whether or not the corporate interest holder is a Canadian citizen or permanent resident of Canada,
- (e) in the case of a corporate interest holder who is a Canadian citizen or permanent resident of Canada, the corporate interest holder's social insurance number, and
- (f) in the case of a corporate interest holder who is not a Canadian citizen or permanent resident of Canada, whether or not the corporate interest holder is a citizen of a foreign country or state and, if so, as applicable, the social insurance number or individual tax number of the corporate interest holder, and the foreign country or state.

Relevant trusts

9 In addition to any requirements under subsection 12.13 of the Act, and subject to section 10 of this regulation, if the transferee is a trustee of a relevant trust, other than a bare trust, a return filed under section 2 of the Act must include the following information in relation to each beneficiary of the trust:

- (a) in the case of a beneficiary who is an individual
 - (i) who is a Canadian citizen or permanent resident of Canada, the name, contact information, date of birth and social insurance number of the beneficiary, and
 - (ii) who is not a Canadian citizen or permanent resident of Canada, whether or not the beneficiary is a citizen of a foreign country or state and, if so, the name, contact information, date of birth and, as applicable, social insurance number or individual tax number of the beneficiary, and the foreign country or state;
- (b) in the case of a beneficiary that is a corporation,
 - (i) the name, contact information, date of birth and social insurance number of each director of the beneficiary who is a Canadian citizen or permanent resident of Canada, and
 - (ii) in the case of a director who is not a Canadian citizen or permanent resident of Canada, whether or not the director is a citizen of a foreign country or state and, if so, the name, contact information, date of birth and, as applicable, social insurance number or individual tax number of the director, and the foreign country or state.

Description of efforts

10 A transferee that has not obtained, despite having made every reasonable effort to do so, information required under section 8 or 9 to be stated on a return filed under section 2 of the Act,

- (a) is not required to provide that information, and
- (b) is required to provide, with the return, a description of those efforts.