

City of Montréal hikes transfer duties

SÉBASTIEN THOMAS (sthomas@stikeman.com)

The City of Montréal recently confirmed that it will take advantage of one of the new tools made available by the Québec government to allow the city to increase its revenues: a surcharge applicable to transfer duties. Effective January 29, 2010, a surcharge is being added in the calculation of transfer duties on immovables (real estate properties) in Montréal. Specifically, any amount above \$500,000 will be subject to a special rate of 2.0% (the previous maximum rate was 1.5%).

The new measure applies only to immovables located in the City of Montréal and does not, therefore, affect those located in the demerged municipalities. It flows from an amendment to the *Act respecting duties on transfers of immovables* (R.S.Q., c. D-15.1) that was made at the end of 2008 by the adoption of *An Act to amend various legislative provisions concerning Montréal* (S.Q. 2008, c. 19), then known as Bill 22.

The surcharge came into effect following the adoption on January 25, 2010 of the City of Montréal's 2010 budget and the subsequent enactment of a specific municipal by-law, which came into effect on January 29th.

The following table illustrates how the transfer duties are henceforth to be calculated, using the example of the transfer of an immovable for a **consideration of \$1,000,000**:

BEFORE THE CHANGE			AFTER THE CHANGE		
Consideration Tranche	Rate	Duties	Consideration Tranche	Rate	Duties
- Tranche that does not exceed \$50,000	0.5%	\$250	- Tranche that does not exceed \$50,000	0.5%	\$250
- Tranche that is in excess of \$50,000, but does not exceed \$250,000	1.0%	\$2,000	- Tranche that is in excess of \$50,000, but does not exceed \$250,000	1.0%	\$2,000
- Tranche that exceeds \$250,000	1.5%	\$11,250	- Tranche that is in excess of \$250,000, but does not exceed \$500,000	1.5%	\$3,750
			- Tranche that exceeds \$500,000	2.0%	\$10,000
TOTAL		\$13,500	TOTAL		\$16,000

Clearly, the higher the consideration, the greater the impact of the new surcharge. Accordingly, in the case of a transaction for a consideration of \$5,000,000, the increase in transfer duties will be \$22,500, while the increase will be \$122,500 in the case of a transaction for a consideration of \$25,000,000. In short, the increase represents about \$5,000 for each additional \$1,000,000 tranche of consideration.

In this context, it will be even more appropriate than in the past for real estate owners, whenever feasible, to maximize the use of holding entity structures for their immovables, so as to benefit as much as possible from the various transfer duty exemptions which the law provides.

For further information, please contact your Stikeman Elliott representative, the author or any member of our Real Estate & Municipal Group listed at www.stikeman.com

MONTRÉAL

1155 René-Lévesque Blvd. West, 40th Floor
Montréal, QC, Canada H3B 3V2
Tel: (514) 397-3000 Fax: (514) 397-3222

TORONTO

5300 Commerce Court West, 199 Bay Street
Toronto, ON, Canada M5L 1B9
Tel: (416) 869-5500 Fax: 416 947-0866

OTTAWA

Suite 1600, 50 O'Connor Street
Ottawa, ON, Canada K1P 6L2
Tel: (613) 234-4555 Fax: 613 230-8877

CALGARY

4300 Bankers Hall West, 888 - 3rd Street S.W.
Calgary, AB, Canada T2P 5C5
Tel: (403) 266-9000 Fax: (403) 266-9034

VANCOUVER

Suite 1700, Park Place, 666 Burrard Street
Vancouver, BC, Canada V6C 2X8
Tel: (604) 631-1300 Fax: (604) 681-1825

NEW YORK

445 Park Avenue, 7th Floor
New York, NY 10022
Tel: (212) 371-8855 Fax: (212) 371-7087

LONDON

Dauntsey House, 4B Frederick's Place
London EC2R 8AB England
Tel: 44 20 7367 0150 Fax: 44 20 7367 0160

SYDNEY

Level 12, The Chifley Tower, 2 Chifley Square
Sydney N.S.W. 2000 Australia
Tel: (61-2) 9232 7199 Fax: (61-2) 9232 6908

STIKEMAN ELLIOTT