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Québec Budget 2016-2017: Significant Changes to Duties on Transfers of Immovables

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The 2016-2017 Budget tabled by Finance Minister Carlos Leitão on March 17, 2016, announced significant changes to the *Act respecting duties on transfers of immovables* (the Act). Although these changes apply to the transfer of an immovable in Québec as of March 18, 2016, no bill has yet been tabled and taxpayers currently have to rely on the brief explanations of the changes, as provided in the Budget.

Before the Budget was tabled, the Act provided that transfer duties were only payable from the time the deed of the transfer was registered in the land registry. The Budget announced a significant change to this regime: transfer duties will now become payable as of the date of the transfer of an immovable, whether or not the deed of transfer is registered.

The Budget also provides for a tightening of the statutory exemptions, some of which are based on an ownership test of 90% of the voting shares or 90% of the fair market value of the shares. The Budget provides for the following:

- a single test of 90% of the number of votes attached to the issued shares; and
- the obligation to maintain this exemption condition for 24 months following the transfer of the immovable and, in the case of a transfer between a legal person and a natural person (individual), for 24 months before the transfer.

These criteria are more restrictive than the current provisions relating to acquisitions of control.

Lastly, the Budget announced the establishment of a mandatory disclosure mechanism when:

- the deed of transfer of an immovable is not registered in the land registry; or
- the exemption condition relating to the ownership of 90% of the number of votes ceases to be met within 24 months following the transfer of an immovable.

The transferee of an immovable who does not file a mandatory notice of disclosure within 90 days will be required to pay special duties equal to 150% of the transfer duties, plus interest.

Once the draft legislation is published, it will be possible to analyze the changes in more detail.

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