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# Tax Alert – Canada

## British Columbia *Land Owner Transparency Act* takes effect

EY Tax Alerts cover significant tax news, developments and changes in legislation that affect Canadian businesses. They act as technical summaries to keep you on top of the latest tax issues. For more information, please contact your EY advisor or EY Law advisor.

On 30 September 2020, British Columbia filed a regulation bringing into force the *Land Owner Transparency Act* (LOTA), beginning 30 November 2020. The LOTA establishes a registry of beneficial ownership of real property in British Columbia, administered by the Land Title and Survey Authority (LTSA). The first transparency reports required from preexisting owners of land must be filed by 30 November 2021.

### The purpose of the LOTA

The disclosure requirements and enforcement provisions in the LOTA enable interested parties to look beyond legal ownership, i.e., the name of the person registered on title, to the *beneficial owner* who essentially owns and controls the real property.

The LOTA requires certain entities (reporting bodies) that are registered owners of real property in British Columbia to provide information about individuals (interest holders) who hold beneficial interests in the property. Reporting bodies include relevant corporations, trustees of relevant trusts, and partners of relevant partnerships.

For LOTA purposes, an interest holder includes a beneficial owner (an individual who has a beneficial interest in land that is registered or to be registered in the name of a trustee of a relevant trust), a corporate interest holder (an individual who directly or indirectly owns or controls 10% or more of the shares or voting rights of a corporation that is or is to be the registered owner of land), and a partnership interest holder (an individual who has an interest as a partner or is a corporate interest holder in a corporation that is a partner of a partnership that is or is to be the registered owner of land). A number of types of entity are specifically excluded from the requirement to report.

## Transparency reports

Under the LOTA, a reporting body is generally required to file a transparency report if it is either:

- ▶ A preexisting owner of land (i.e., it was a reporting body before the LOTA came into force); or
- ▶ A transferee applying to be registered under the *Land Title Act* as an owner of an interest in land.

Transparency reports are also required in other circumstances, such as when a registered owner of an interest in land becomes a reporting body after the interest is registered. The LOTA contains enforcement powers and sanctions in relation to the new reporting requirements.

## Information searches

Part 3 of the LOTA sets out provisions for inspections and searches of transparency records and reported information. In general terms, the LTSA is required to maintain information provided under the LOTA and to make the information available for inspection and search by officials and by the public.

For more detailed information on the contents of the LOTA, refer to [Tax Alert 2019-19, BC LOTA receives first reading](#).

## Amendments to the LOTA

British Columbia has introduced various amendments to the LOTA in accordance with Bill 13, *Miscellaneous Statutes Amendment Act, 2020*, which received Royal Assent on 14 August 2020. In particular, a corporation, partnership or trust will be required to file a notice with the administrator if:

- ▶ The entity filed a transparency report with the administrator as a relevant corporation, relevant partnership or relevant trust; and
- ▶ The entity subsequently ceases to be a relevant corporation, relevant partnership or relevant trust.

The notice must be filed with the administrator within two months after the date on which the entity ceased to be a relevant corporation, relevant partnership or relevant trust.

Amendments have also been introduced by regulation to exclude additional entities from the definitions of relevant corporation and relevant trust under the LOTA, exempting such entities from the requirement to file transparency declarations and reports. For example, Crown corporations are excluded from the definition of relevant corporation, while real estate investment trusts (as defined under the *Income Tax Act* (Canada)) are excluded from the definition of relevant trust.

On 20 September 2020, British Columbia filed the Land Owner Transparency Regulation. Part 2 of the Regulation sets out rules for determining when an individual has indirect control of the shares of a relevant corporation or of the directors of a relevant corporation. Under the LOTA, an individual who holds indirect control in such circumstances is recognized as a corporate interest holder of a relevant corporation. The regulation also prescribes additional information that is required for transparency declarations and transparency reports, as well as providing rules for claims of solicitor-client privilege in relation to records seized under the LOTA for inspection purposes.

## **Effective dates for the LOTA**

By way of regulation, the LOTA will generally come into force on 30 November 2020. However, various administrative provisions relating to the administrator's duty to make transparency records available for inspection and to make reported information available for search will not take effect until 1 April 2021.

In accordance with the Land Owner Transparency Regulation, certain preexisting owners of land will be required to file a transparency report on or before 30 November 2021. This requirement applies to a registered owner that is a relevant corporation, a partner of a relevant partnership, or a trustee of a relevant trust. However, the regulation also provides that a transparency report is not required to be filed if:

- ▶ The relevant corporation, trustee of the relevant trust, or partner of the relevant partnership is a registered owner of a lease; and
- ▶ On 30 November 2020, the lease has a remaining term of 10 years or less.

## **Other recent developments in corporate transparency rules**

The LOTA is not the only piece of transparency legislation to come into effect in British Columbia this fall. Effective 1 October 2020, amendments to the BC *Business Corporations Act* (BCBCA) generally require a BC private company to keep a transparency register showing certain information regarding the corporation's "significant individuals", as defined under subsection 119.11(2) of the BCBCA. The amendments to the BCBCA also allow taxing authorities to inspect a transparency register for purposes of administering or enforcing

provincial or federal tax laws, or to provide information to other Canadian or foreign jurisdictions in accordance with agreements or treaties with those jurisdictions.<sup>1</sup>

Future amendments to implement centralized provincial and federal transparency registers are also under consideration. British Columbia launched a consultation in January 2020 on establishing a government-maintained registry of corporate beneficial ownership for corporations governed by the BCBCA. The federal government also launched a similar consultation in February 2020, with respect to establishing a federal registry of corporate beneficial ownership. These proposals stem from a 2017 federal-provincial agreement to strengthen beneficial ownership transparency in order to counter tax evasion and other criminal activities, such as money laundering.

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<sup>1</sup> For information on similar federal measures effective as of 13 June 2019, see [Tax Alert 2019-29, Canada Business Corporations Act changes: tax implications](#).

## Learn more

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