TAXTALK

RESIDENTIAL PROPERTY FLIPPING RULE

A residential property flipping rule was announced in the 2022 Federal budget. This rule will require anyone who sells a residential property that they have held for less than 12 months to be fully taxed on their profits as business income rather than taxed at 50% as a capital gain.

The new rule will take effect for properties sold on or after January 1, 2023.

Buying real estate with the goal of quickly reselling it for a profit has become known as "flipping" the property. Flipping profits are not subject to the 50% capital gains inclusion rate nor can the Principal Residence Exemption be claimed since the profits are to be treated as business income.

The government is concerned that people who are engaged in residential real estate flipping are not disclosing their sales as business income. Instead, the government is concerned that these people are incorrectly reporting these sales as sales of their principal residence and claiming the Principal Residence Exemption.

The 2022 budget has deeming rules to ensure that sales from flipping residential real estate are subject to full tax as business income. The deeming rules will cause profits from the sale of residential property that was owned for less than a year to considered business income. Note that residential property will also include residential rental property.

The new deeming rule will not apply if the disposition of property is in relation to at least one of the following life events:

- ***Death***: a disposition due to, or in anticipation of, the death of the taxpayer or a related person.
- ***Household addition***: a disposition due to, or in anticipation of, a related person joining the taxpayer's household or the taxpayer joining a related person's household (e.g., birth of a child, adoption, care of an elderly parent).
- ***Separation:*** a disposition due to the breakdown of a marriage or common-law partnership, where the taxpayer has been living separate and apart from their spouse or common-law partner because of a breakdown in the relationship for a period of at least 90 days. A written separation agreement is not required, however, documentation is required to proof that the two have been living separate from each other.
- ***Personal safety:*** a disposition due to a threat to the personal safety of the taxpayer or a related person, such as the threat of domestic violence.
- ***Disability or illness***: a disposition due to a taxpayer or a related person suffering from a serious disability or illness.
- ***Employment change***: a disposition for the taxpayer or their spouse or common-law partner to work at a new location or due to an involuntary termination of employment. In the case of work at a new location, the taxpayer's new home must be at least 40 kilometers closer to the new work location.
- ***Insolvency***: a disposition due to insolvency or to avoid insolvency.
- ***Involuntary disposition***: a disposition against someone's will, for example, due to, expropriation or the destruction or condemnation of the taxpayer's residence due to a natural or man-made disaster.

Profits from the sale of real estate held for more than a year will still be subject to taxation, depending on the specific circumstances of each case.

On August 9, 2022, draft legislation was introduced by the Liberal government.

We Can Help

Your MG advisor can help you review your real estate tax situation and help you decide which steps you can take to help you with any real estate reporting you will need to complete for 2022.

A memorandum of this nature cannot be all-encompassing and is not intended to replace professional advice. Its purpose is to highlight tax planning possibilities and identify areas of possible concern. Anyone wishing to discuss the contents or to make any comments or suggestions about this TaxTalk is invited to contact one of our offices.

Offices:

First Canadian Place
100 King Street West, Suite 5700
Toronto, Ontario M5X 1C7
Phone: 416-362-0515

1900 Minnesota Court, Suite 116
Mississauga, Ontario L5N 3C9
Phone: 905-451-4788
Fax: 905-451-3299

TaxTalk is prepared by our Tax Group (taxtalk@mgca.com). Please visit our web site at www.mgca.com.

McCarney Group LLP is an independent member of Morison Global