

Empty Homes Tax
(aka Vacancy Tax – Vancouver Tax By-law 11674)

Impact on Loan to Value

The tax, together with any penalties may be collected as real property taxes. Real property taxes are paid in priority to mortgages. This can result in less equity being available to satisfy a mortgage debt.

Important Deadlines

Feb 2 2017 property status declaration due

Apr 10 payment of vacancy tax due (the April 10 date is the annual date in the bylaw; for the coming year, the City's internet site indicates a date of April 16, 2018)

Dec 31 unpaid Empty Homes Tax added to property tax bill

Who Must Make the Declaration?

Every owner of residential property in the City of Vancouver is required to submit a property status declaration each year. The owner can give permission for someone to submit the declaration on the owner's behalf.

How to Make the Declaration

It is straightforward. A step-by-step guide is available on the City of Vancouver's website at vancouver.ca/eh or by telephoning 3-1-1.

What Information Must Be Provided?

A registered owner must:

- provide any information or submit any evidence that is required by the Collector of Taxes in accordance with this by-law;
- provide the information or submit the evidence in the form and within the time stipulated by the Collector of Taxes; and
- must not provide false information or submit false evidence to the Collector of Taxes.

Essentially you need to prove your claim that the tax does not apply (such as by government issued identification, mail, and income tax returns).

What Properties are Taxed

The tax applies unless the property:

- was used as a principal residence by the owner, his/her family member, or a friend for at least six months of the subject year;
- was rented for at least six months of the subject year, in periods of 30 or more consecutive days; or
- meets the criteria for one of the exemptions (occupancy for full-time work, owner in care, estate of deceased, property title was transferred during the year, undergoing redevelopment or major renovations, strata rental restriction court order, limited use residential property). The exemptions are not as broad as the headings might suggest; criteria are specified in the bylaw and is indicated on the City of Vancouver internet site).

What Else Will Trigger the Tax

The tax will apply also if the:

- required property status declaration is not filed;
- filed property status declaration is false;
- registered owner fails to provide information or to submit required evidence to the Collector of Taxes in accordance with the by-law; or
- registered owner provides false information or submits false evidence to the Collector of Taxes.

How Much is the Tax?

The tax is 1% of the property's 2017 assessed taxable value.

Not complying with the bylaw is an offence against the bylaw and is punishable by a fine of between \$250 and \$10,000. If the offence is of a continuing nature, the fine is between \$250 and \$10,000 for each day the offence continues. This is in addition to the tax.

Late and unpaid Empty Homes Taxes are subject to the same penalties for non-payment as are property taxes, including the following:

- a late payment penalty of 5%
- daily interest on arrears
- the tax sale process

Limitation Period

The City has two years from the end of the subject year for which a declaration is made to ask for further information regarding the declaration.

We have asked the City to clarify whether this is also the maximum number of years for which the City can go back and assess the tax. The answer will become relevant for future years.

Takeaways

A broker may want confirmation:

- as to a borrower's past declarations,
- that no taxes are outstanding, and
- that no circumstances exist that could trigger taxes for a past period (for example a loan made in January 2018 could be subject to a tax levied for 2017).

A lender may want to change mortgage documentation to have the borrower make appropriate representations, and to ensure that false representations or a levying of the tax amount to breaches under the mortgage.

Of particular interest when a loan is being made to fund a property purchase, note that the transfer creates an exception only for the year in which the transfer occurs and not for the year prior to the transfer. For example, a property transferred after December 31 may have a tax levied against it, after the transfer occurs, for the prior calendar year.

Brokers and lenders will want to consider the impact of the tax on the loan to value.