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Bill 134

An Act to implement 2017 Budget measures

The Hon. C. Sousa
Minister of Finance

Government Bill

1st Reading May 17, 2017

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTE

The Bill implements measures contained in the 2017 Ontario Budget. Amendments are made to the *Land Transfer Tax Act* and the *Taxation Act, 2007*. The major elements of the Bill are described below.

SCHEDULE 1 LAND TRANSFER TAX ACT

Section 2 of the *Land Transfer Tax Act* is amended to provide that an additional tax is payable on certain conveyances of land by which designated land that is located within a specified region is conveyed to a foreign entity or a taxable trustee. The new section 2.1 sets out special rules governing the additional tax and provides for exemptions and rebates. Complementary amendments are also made.

SCHEDULE 2 TAXATION ACT, 2007

The Schedule amends the *Taxation Act, 2007* to implement an Ontario seniors' public transit tax credit.

The Ontario seniors' public transit tax credit is set out in the new section 103.0.1 of the Act. The credit is refundable and will apply for the 2017 and subsequent taxation years. The maximum available credit is \$225 for the 2017 taxation year and \$450 for subsequent taxation years. Consequential amendments are made to sections 84 and 176 of the Act.

An Act to implement 2017 Budget measures

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Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Contents of this Act

1 This Act consists of this section, sections 2 and 3 and the Schedules to this Act.

Commencement

2 (1) Subject to subsections (2) and (3), this Act comes into force on the day it receives Royal Assent.

(2) The Schedules to this Act come into force as provided in each Schedule.

(3) If a Schedule to this Act provides that any provisions are to come into force on a day to be named by proclamation of the Lieutenant Governor, a proclamation may apply to one or more of those provisions, and proclamations may be issued at different times with respect to any of those provisions.

Short title

3 The short title of this Act is the *Budget Measures Act (Housing Price Stability and Ontario Seniors' Public Transit Tax Credit), 2017*.

**SCHEDULE 1
LAND TRANSFER TAX ACT**

1 Subsection 1 (1) of the *Land Transfer Tax Act* is amended by adding the following definitions:

“designated land” means,

- (a) land that contains at least one and not more than six single family residences; and
- (b) such other land as may be prescribed by the Minister; (“bien-fonds désigné”)

“foreign corporation” means a corporation that is one of the following:

1. A corporation that is not incorporated in Canada.
2. A corporation, the shares of which are not listed on a stock exchange in Canada, that is incorporated in Canada and is controlled, directly or indirectly in any manner whatever, within the meaning of section 256 of the *Income Tax Act* (Canada), by one or more of the following:
 - i. A foreign national.
 - ii. A corporation that is not incorporated in Canada.
 - iii. A corporation that would, if each share of the corporation’s capital stock that is owned by a foreign national or by a corporation described in paragraph 1 were owned by a particular person, be controlled, directly or indirectly in any manner whatever, within the meaning of section 256 of the *Income Tax Act* (Canada), by the particular person; (“personne morale étrangère”)

“foreign entity” means a foreign corporation or a foreign national; (“entité étrangère”)

“foreign national” means an individual who is a foreign national as defined in subsection 2 (1) of the *Immigration and Refugee Protection Act* (Canada); (“étranger”)

“Greater Golden Horseshoe Region” means the area of land comprised of the geographic areas of the following municipalities:

1. City of Barrie.
2. County of Brant.
3. City of Brantford.
4. County of Dufferin.
5. Regional Municipality of Durham.
6. City of Guelph.
7. Haldimand County.
8. Regional Municipality of Halton.
9. City of Hamilton.
10. City of Kawartha Lakes.
11. Regional Municipality of Niagara.
12. County of Northumberland.
13. City of Orillia.
14. Regional Municipality of Peel.
15. City of Peterborough.
16. County of Peterborough.
17. County of Simcoe.
18. City of Toronto.
19. Regional Municipality of Waterloo.
20. County of Wellington.
21. Regional Municipality of York; (“région élargie du Golden Horseshoe”)

“specified region” means,

- (a) the Greater Golden Horseshoe Region, except for any area of land in that Region that the Minister prescribes as excluded from the specified region; and
- (b) any other areas of land that the Minister prescribes as included in the specified region; (“région déterminée”)

“taxable trustee”, in relation to a conveyance of designated land, means a trustee of a trust with at least one trustee that is a foreign entity, or a trust with no foreign entity trustees if, immediately after the conveyance is tendered for registration, a beneficiary of the trust who is a foreign entity holds a beneficial interest in the designated land to which the conveyance relates, but does not include a trustee acting for the following types of trusts:

1. A mutual fund trust within the meaning of subsection 132 (6) of the *Income Tax Act* (Canada).
2. A real estate investment trust as defined in subsection 122.1 (1) of the *Income Tax Act* (Canada).
3. A SIFT trust as defined in subsection 122.1 (1) of the *Income Tax Act* (Canada); (“fiduciaire imposable”)

2 Section 2 of the Act is amended by adding the following subsection:

Additional tax on foreign entities and taxable trustees

(2.1) In addition to any tax payable under subsection (1), and subject to section 2.1, every person who, on or after April 21, 2017, tenders for registration in Ontario a conveyance by which any designated land that is located within the specified region is conveyed to a foreign entity or a taxable trustee shall pay, when the conveyance is tendered for registration or before it is tendered for registration, a tax,

- (a) computed at the rate of 15 per cent of the value of the consideration for the conveyance; or
- (b) if an alternate rate of tax is prescribed by the Minister for the purposes of this subsection, computed by multiplying the prescribed alternate rate by the value of the consideration for the conveyance.

3 The Act is amended by adding the following section:

Special rules re subs. 2 (2.1)

2.1 (1) This section applies with respect to tax payable under subsection 2 (2.1).

Same

(2) For greater certainty, in this section, a reference to tax payable under subsection 2 (2.1) includes tax payable under subsection 3 (2) that is determined in accordance with subsection 2 (2.1).

Exemption, agreements prior to April 21, 2017

(3) No tax is payable under subsection 2 (2.1) if,

- (a) the land is conveyed pursuant to an agreement of purchase and sale entered into on or before April 20, 2017; and
- (b) any assignment of the agreement of purchase and sale to any other person was entered into on or before April 20, 2017.

Exemption, prescribed classes or requirements

(4) No tax is payable under subsection 2 (2.1) if the land is conveyed,

- (a) to a foreign national who meets such residency, citizenship or immigration status requirements as may be prescribed by the Minister;
- (b) to a foreign national whose spouse meets such residency, citizenship or immigration status requirements as may be prescribed by the Minister;
- (c) to a foreign entity that is in a class of foreign entities prescribed by the Minister, or that meets such requirements as may be prescribed by the Minister; or
- (d) in accordance with such requirements as may be prescribed by the Minister.

Rebate

(5) The Minister may rebate the tax paid by a person under subsection 2 (2.1) on a conveyance of land if the Minister is satisfied that the land was conveyed to a foreign entity or taxable trustee that,

- (a) meets such residency or citizenship requirements as may be prescribed by the Minister;
- (b) meets such educational enrolment or employment requirements as may be prescribed by the Minister; or
- (c) meets such other requirements as may be prescribed by the Minister.

Calculation of additional tax where non-designated land

(6) If, in a conveyance of designated land in respect of which tax is payable under subsection 2 (2.1), a part of the land being conveyed is used for a purpose other than residential purposes, the Minister may, to the extent that the Minister considers it practicable, determine what amount of the value of the consideration for the conveyance is reasonably attributable to the land used in connection with a single family residence, and the person tendering the conveyance for registration is, despite subsection 2 (2.1), liable to the additional tax imposed under that subsection only upon that amount.

4 (1) Subsection 3 (4) of the Act is amended by adding “Subject to subsection (4.1)” at the beginning.

(2) Section 3 of the Act is amended by adding the following subsection:

Exception, joint and several liability for tax under subs. 2 (2.1)

(4.1) If more than one person acquires a beneficial interest in land, or more than one person’s beneficial interest in land is increased as a result of the disposition, each of them is jointly and severally liable to pay the amount of tax imposed under subsection (2) that was determined at the rate under subsection 2 (2.1).

5 Subsection 5.0.1 (1) of the Act is repealed and the following substituted:

Additional information

(1) Every transferee, in a conveyance or disposition in respect of which a statement, affidavit or return is required under section 5, shall provide the Minister with such additional information as may be prescribed about the transferee and the conveyance or disposition, and shall provide the information in the form and manner approved by the Minister.

6 The Act is amended by adding the following section:

Offence, false or misleading statements

5.0.3 Every person who makes or assists in making a statement in a statement, affidavit or return required under section 5 for the purpose of determining tax liability under subsection 2 (2.1) that, at the time and in light of the circumstances under which it was made, is false or misleading in respect of any fact or that omits to state any material fact, the omission of which makes the statement false or misleading, is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

7 Subsection 22 (1.1) of the Act is repealed and the following substituted:

Regulations

(1.1) The Minister may make regulations,

- (a) prescribing land that is included in the definition of “designated land”;
- (b) prescribing areas of land in the Greater Golden Horseshoe Region that are excluded from the definition of “specified region”;
- (c) prescribing areas of land that are included in the definition of “specified region”;
- (d) prescribing an alternate rate of tax for the purposes of subsection 2 (2.1);
- (e) prescribing classes of foreign entities and prescribing requirements to be met for the purposes of the exemption in subsection 2.1 (4);
- (f) prescribing citizenship, residency, educational enrolment, employment or other requirements to be met for the purposes of the rebate in subsection 2.1 (5);
- (g) providing for the payment of interest on a rebate of tax authorized by subsection 2.1 (5), and prescribing the rate of such interest and the method by which it is to be calculated;
- (h) defining “owned” for the purposes of the definition of “purchaser” in subsection 9.2 (1).

Commencement

8 This Schedule comes into force on the day the *Budget Measures Act (Housing Price Stability and Ontario Seniors’ Public Transit Tax Credit), 2017* receives Royal Assent.

**SCHEDULE 2
TAXATION ACT, 2007**

1 (1) Subsection 84 (1) of the *Taxation Act, 2007* is amended by adding the following paragraph:

14.1 An Ontario seniors' public transit tax credit under section 103.0.1.

(2) Subsection 84 (2.1) of the Act is amended by adding the following paragraph:

1.1 The tax credit referred to in paragraph 14.1 of subsection (1), with respect to taxation years ending after December 31, 2016.

(3) Subsection 84 (3) of the Act is amended by striking out "14, 15" in the portion before clause (a) and substituting "14, 14.1, 15".

2 The Act is amended by adding the following section:

Ontario seniors' public transit tax credit

Definitions

103.0.1 (1) In this section, and subject to the regulations made by the Minister of Finance,

"eligible cash payment for specialized transportation services" means, subject to subsection (2), a payment made to a qualified Ontario transit organization for specialized transportation services, other than a payment for an eligible electronic payment card, an eligible public transit pass, an eligible prescribed transit access method or an eligible single-use payment ticket,

- (a) for which an itemized receipt is issued, and
- (b) that permits the individual who made the payment to use the specialized transportation services of a qualified Ontario transit organization on a single occasion; ("paiement comptant admissible pour services de transport adapté")

"eligible electronic payment card" means, subject to subsection (2), an electronic payment card that is issued by or on behalf of a qualified Ontario transit organization if,

- (a) a qualified Ontario transit organization records and provides a receipt for the cost and usage of the electronic payment card, and
- (b) the electronic payment card identifies the right of the individual who is the holder or owner of the card to use Ontario public transit services of a qualified Ontario transit organization; ("carte de paiement électronique admissible")

"eligible individual" for a taxation year means an individual, other than a trust, who,

- (a) was resident in Ontario on the last day of the year, and
- (b) was at least 65 years old on the last day of the preceding taxation year; ("particulier admissible")

"eligible prescribed transit access method" means a method, prescribed by the Minister, by which an individual has the right, other than by the use of an eligible cash payment for specialized transportation services, an eligible electronic payment card, an eligible public transit pass or an eligible single-use payment ticket, to use Ontario public transit services of a qualified Ontario transit organization specified by the Minister; ("mode prescrit admissible d'accès au transport")

"eligible public transit pass" means, subject to subsection (2), a document that is issued by or on behalf of a qualified Ontario transit organization and that identifies the right of the individual who is the holder or owner of the document to use Ontario public transit services of a qualified Ontario transit organization on an unlimited number of occasions during a period of at least one day; ("laissez-passer de transport en commun admissible")

"eligible single-use payment ticket" means, subject to subsection (2), a document that is issued by or on behalf of a qualified Ontario transit organization,

- (a) for which an itemized receipt is issued, and
- (b) that identifies the right of the individual who is the holder or owner of the document to use Ontario public transit services of a qualified Ontario transit organization on a single occasion; ("ticket de paiement à usage unique admissible")

"Ontario public transit services" means services offered to the general public (other than a charter service or a service that is part of a tour) for transporting individuals from a place in Ontario to another place by means of bus, subway, train or tram, and in respect of which it can reasonably be expected that those individuals would return daily to the place of their departure, and includes any specialized transportation services even if the specialized transportation services are not offered to the general public or are offered by means other than bus, subway, train or tram; ("services ontariens de transport en commun")

“qualified Ontario transit organization” means a specified entity that is authorized under a law of Canada or Ontario to carry on a business that is the provision of Ontario public transit services and does so through a permanent establishment in Ontario; (“organisme de transport ontarien admissible”)

“specialized transportation service provider” has the same meaning as in Part IV of Ontario Regulation 191/11 (Integrated Accessibility Standards) made under the *Accessibility for Ontarians with Disabilities Act, 2005*; (“fournisseur de services de transport adapté”)

“specialized transportation services” has the same meaning as in Part IV of Ontario Regulation 191/11 made under the *Accessibility for Ontarians with Disabilities Act, 2005*; (“services de transport adapté”)

“specified entity” means,

- (a) a division, department or agency of the Government of Ontario or of a municipality in Ontario, the primary purpose of which is to provide Ontario public transit services,
- (b) a person that provides Ontario public transit services on behalf of a person described in clause (a), or
- (c) a specialized transportation service provider. (“entité déterminée”)

Rules re documents issued by qualified Ontario transit organizations to seniors

(2) The following rules apply for the purposes of this section:

1. If a qualified Ontario transit organization accepts payments, for specialized transportation services, of the sort described in the definition of “eligible cash payment for specialized transportation services” in subsection (1) and does so using a fare price that is specifically offered to individuals who are seniors, a payment by a senior to the qualified Ontario transit organization is only an eligible cash payment for specialized transportation services for the purposes of this section if it is a payment of a fare price that is specifically offered to individuals who are seniors.
2. If documents described in the definition of “eligible public transit pass” in subsection (1) are issued by or on behalf of a qualified Ontario transit organization and the documents are specifically for use by individuals who are seniors, a document of a senior issued by or on behalf of the qualified Ontario transit organization is only an eligible public transit pass for the purposes of this section if it is a document that is specifically for use by individuals who are seniors.
3. If an electronic payment card described in the definition of “eligible electronic payment card” in subsection (1) is issued by or on behalf of a qualified Ontario transit organization and the electronic payment card permits the payment of a special fare for seniors, an electronic payment card of a senior is only an eligible electronic payment card for the purposes of this section if it is an electronic payment card that can only be used to pay the special fare for seniors.
4. If documents described in the definition of “eligible single-use payment ticket” in subsection (1) are issued by or on behalf of a qualified Ontario transit organization and the documents are specifically for use by individuals who are seniors, a document of a senior issued by or on behalf of the qualified Ontario transit organization is only an eligible single-use payment ticket for the purposes of this section if it is a document that is specifically for use by individuals who are seniors.
5. The determination of whether or not a person is a senior for the purpose of paying a fare price that is specifically offered to individuals who are seniors is within the discretion of the qualified Ontario transit organization accepting payment of the fare price.
6. The determination of whether or not a person is a senior for the purpose of using a pass, card or ticket that is specifically for use by individuals who are seniors is within the discretion of the qualified Ontario transit organization issuing the pass, card or ticket.

Ontario seniors’ public transit tax credit

(3) An individual who is an eligible individual for a taxation year ending after December 31, 2016 may claim an amount in respect of and not exceeding the amount of his or her Ontario seniors’ public transit tax credit equal to the lesser of,

- (a) \$225 for a taxation year ending after December 31, 2016 and before January 1, 2018, and \$450 for a taxation year ending after December 31, 2017; and
- (b) the amount calculated using the formula,

$$A \times (B - C)$$

in which,

“A” is 15 per cent,

“B” is the total of all amounts each of which is the portion of the cost of any of the items listed in subsection (4) that is attributable to the individual’s use of Ontario public transit services during the period described in subsection (5),

“C” is the total of all amounts each of which is the amount of a reimbursement, allowance or any other form of assistance that the individual is or was entitled to receive in respect of an amount included in computing the value of “B” (other than an amount that is included in computing the income for any taxation year of the individual and that is not deductible in computing the taxable income of the individual).

Items

- (4) The items referred to in the description of “B” in subsection (3) are,
- (a) an eligible cash payment for specialized transportation services;
 - (b) an eligible electronic payment card;
 - (c) an eligible public transit pass;
 - (d) an eligible single-use payment ticket; and
 - (e) a fare medium of an eligible prescribed transit access method.

Period of use

- (5) The period of use referred to in the description of “B” in subsection (3) is,
- (a) in respect of a taxation year ending after December 31, 2016 and before January 1, 2018, the period from July 1, 2017 to December 31, 2017; and
 - (b) in respect of a taxation year ending after December 31, 2017, the year.

Part-year residents

(6) An individual who is an eligible individual for a taxation year and who is resident in Canada for only part of the year is entitled to claim for the year only the amount the individual would be entitled to claim for the year under this section that can reasonably be considered wholly applicable to any period in the year throughout which the individual was resident in Canada, computed as though that period were the whole taxation year, except that the amount that may be claimed under this section shall not exceed the amount that the individual would have been entitled to claim under this section if the individual had been resident in Canada throughout the year.

Bankruptcy

(7) An individual who becomes bankrupt in a calendar year is entitled to claim, for each taxation year that ends in the calendar year, only such amounts as the individual is entitled to claim under this section for the taxation year as can reasonably be considered wholly applicable to the taxation year, and the sum of all amounts that may be claimed under this section for all taxation years of the individual ending in a calendar year shall not exceed the total amount that the individual would have been entitled to claim under this section in respect of the calendar year if the individual had not become bankrupt.

Minister’s regulations

- (8) The Minister of Finance may make regulations,
- (a) deeming organizations to be qualified Ontario transit organizations despite the definition in subsection (1);
 - (b) clarifying the meaning of the terms defined in subsection (1).

3 Paragraph 1 of section 176 of the Act is amended by adding the following subparagraph:

xiv.i The Ontario seniors’ public transit tax credit under section 103.0.1.

Commencement

4 This Schedule comes into force on the day the *Budget Measures Act (Housing Price Stability and Ontario Seniors’ Public Transit Tax Credit), 2017* receives Royal Assent.