



## ISSUES IN OWNERSHIP OF REAL ESTATE

### CANADA – BRITISH COLOMBIA Farris, Vaughan, Wills & Murphy LLP

#### CONTACT INFORMATION:

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**1. Is perpetual fee simple ownership of real property permitted? If not, what are the principal forms of ownership, or other principal form of ownership, of real property?**

Yes, perpetual fee simple ownership of real property is permitted in British Columbia.

**2. What instruments are used to convey fee simple ownership, or other principal form of ownership, of real estate?**

A Freehold Transfer is used to convey fee simple ownership (*British Columbia Land Title Act*, Section 185). The instrument must be in the prescribed form, be originally executed by the owner and, with certain limited exceptions, the owner's signature must be witnessed by a lawyer or notary public within Canada or a notary public outside Canada.

**3. How in this jurisdiction is the ownership of real property recorded or searched? Who generally performs the search?**

The most common method to search the ownership of real property is to search the title to the property in the appropriate Land Title Office within British Columbia. Searches may be conducted at a Land Title Office or via the internet at [www.bconline.gov.bc.ca](http://www.bconline.gov.bc.ca).

**4. What assurances of ownership are available to purchasers of real property (e.g., title insurance or title opinions)? What is the cost of obtaining such assurances?**

The *Land Title Act* of British Columbia creates a title registration system based on the Torrens System. Certain lands owned by the federal government and by first nations are outside the registration system. Title insurance is available in British Columbia, although is not widely used.

**5. What are the most common forms of investment vehicles? What are the most common entities employed to own investment real estate in a tax efficient manner?**

A British Columbia limited partnership, a British Columbia corporation or a corporation incorporated outside British Columbia that is extra-provincially registered in British Columbia are the most common forms of entities used.

**6. Has this jurisdiction adopted, or is it considering, legislation permitting the creation of real estate investment trusts or similar entities?**

REITs may own real estate in British Columbia.

**7. What state or local transfer, stamp or similar taxes are levied generally on sellers or buyers upon the direct transfer of real estate?**

The *British Columbia Property Transfer Tax Act* imposes transfer tax, with certain limited exceptions, on the transfer of a fee simple interest or leasehold interest with a term, including potential renewals, of more than 30 years. The tax is payable at the time of registration of the transfer of the fee simple or leasehold interest. The tax is based on the fair market value of the interest being transferred and the rate of tax is 1% on the first \$200,000 plus 2% on the balance. The tax is payable by the transferee.

In addition, GST may be payable by the purchaser of a fee simple interest under the *Federal Excise Tax Act*. GST is 6%.

**8. What state or local transfer, stamp or similar taxes are levied generally on sellers or buyers upon the transfer of interests in entities which own real estate?**

*British Columbia Property Transfer Tax Act* does not apply to transfers of the entity owning the real estate.

**9. How significant is local regulation and taxation of real estate? How significant is the variation of real estate law among political subdivisions of this jurisdiction?**

See No. 7 above.

**10. Must ultimate beneficial owners of entities which own real estate be disclosed as a matter of public record?**

No.