



GMS Flash Alert

2023-005 | January 11, 2023



Canada - Rules on Residential Property Purchases by Nonresidents Impact Relocation Costs

In [GMS Flash Alert 2022-213](#) (December 2, 2022), we reported on the new laws passed in 2022 and the related updates to existing taxes that will potentially impact residential real estate in Canada for individuals relocating to and from Canada.

Regulations that were issued on December 2, 2022 (see [GMS Flash Alert 2022-227](#) December 23, 2022) clarified who is prohibited from purchasing residential real estate in Canada during 2023 and 2024. This law will impact the relocation industry in terms of the two-transaction process¹ that is used to expedite the employees' home sale and facilitate a successful relocation.² The recent regulations in Canada prohibit foreign-owned Relocation Management Companies (RMCs) and foreign-controlled Canadian subsidiaries from purchasing Canadian homes for relocated employees. This may result in taxable benefits on the reimbursement of home-sale costs because these relocation companies will not be able to execute any two-transaction home-sale programs on Canadian relocations.

WHY THIS MATTERS

As we describe in this newsletter, absent changes to recently promulgated regulations, non-Canadian-controlled employers and non-Canadian-controlled RMCs will not be able to execute any two-transaction home-sale programs on Canadian relocations, which will severely hamper their ability to facilitate Canada-outbound relocations.

This in turn could increase the relocation costs incurred by employers who will need to gross-up the employees for home-sale costs for moves from Canada to certain non-Canadian jurisdictions where home-sale costs are considered taxable benefits if not executed as a two-transaction home-sale program.

Background

The government of Canada recently passed the *Prohibition on the Purchase of Residential Property by Non-Canadians Act* (*the Act*), which prohibits nonresidents from purchasing residential real estate in Canada for a two-year period³. This law

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came into effect on January 1, 2023. The supporting Regulations to the Act that were issued on December 2, 2022, indicate that non-Canadian citizens include Canadian companies that are controlled by non-Canadians.

RMCs are used in instances where the relocated employee is not able to sell his or her current home in a timely manner. They may also be used to help ensure sale and closing costs are paid for directly by the RMC, instead of by the employee. The RMC, acting on behalf of the employer, purchases the home so that the employee has the funds to purchase a new home in the new employment destination. The RMC's home purchase also means that the employee doesn't have to incur additional costs of owning two homes at once. If an RMC isn't used, some employers choose to enter into an agreement to purchase the home directly from the employee (essentially accomplishing the same results as with using an RMC).

Effect on Canadian Relocation Companies and Employers

Because many Canadian RMCs are foreign-owned, they can no longer purchase residential real property under a two-transaction home-sale program. Foreign employers or non-Canadian-controlled subsidiaries are also prohibited from these types of transactions for their relocated employees who have a Canadian home to sell.

Employers may now be faced with having to reimburse the employee for the ongoing home-sale costs instead.

The law allows the Canadian Minister of Finance to issue regulations defining "control" and "what constitutes a purchase." The Canadian Employee Relocation Council (CERC) has approached the Canadian government to exempt relocation transactions from this new law but have been unsuccessful in their attempts to date.⁴

KPMG INSIGHTS

Under Canadian tax law, the reimbursement of home-sale costs is generally nontaxable. However, if a relocation involves a transfer out of Canada (i.e., move to the U.S., the U.K., or another jurisdiction with similar tax laws), the reimbursement may result in a taxable benefit to the employee. If the employer wants to make sure the employee is no worse off, a gross-up on the taxable benefit would be required, which in turn would add to the cost of the relocation.

Where possible, employers should seek to hire Canadian-controlled RMCs if they wish to continue to utilize the two-transaction home-sale programs on Canadian relocations.

FOOTNOTES:

1 Also referred to as a "home-sale program" which helps employees expedite their move to the new work destination while minimizing relocations costs to the employee and employer. There are typically two approaches to this type of program: 1) the RMC buys the home directly from the employee if it has sat on the market unsold for a certain period of time, or, 2) once the homeowner has received a competitive outside offer, the RMC buys the home and incurs all of the selling expenses. The RMC then sells the home to the outside buyer.

2 See "Prohibition on the Purchase of Residential Property by Non-Canadians Regulations: SOR/2022-250" at: <https://canadagazette.gc.ca/rp-pr/p2/2022/2022-12-21/html/sor-dors250-eng.html> .

FOOTNOTES continued:

3 For the text and status of Bill C-19, see the Parliament of Canada webpage: <https://www.parl.ca/legisinfo/en/bill/44-1/c-19>.

4 CERC Member Bulletin December 21, 2022, "Prohibition on the Purchase of Residential Property by Non-Canadians Act." <https://www.cerc.ca/news/626678/PROHIBITION-ON-THE-PURCHASE-OF-RESIDENTIAL-PROPERTY-BY-NON-CANADIANS-ACT.htm>.

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We are pleased to share with you the 2022 KPMG Global Assignment Policies and Practices Survey Report

For global-mobility leaders of multinational organizations, benchmarking their global-mobility policies and practices against those of other global organizations can be a powerful tool for reflecting on their current approach and preparing their talent-mobility program for the future.

The [results of this year's survey](#) shed light on how global-mobility programs are evolving in terms of mobility, tax, and immigration policies, governance, technology and more!

Contact us

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