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LAND GAINS TAX AND RESIDENTIAL REAL ESTATE TRANSACTIONS

I. SALE BY AN ESTATE OR BY HEIRS

A. Date of death starts a new holding period, so property of a deceased person is often sold within the 6 year timeframe.

B. Land Gains tax usually applies as the property is not the primary residence of the selling Estate or the heirs.

C. Even if it will be the buyer's primary residence, the seller has the effort and expense of the filing process.

D. Since the property value is determined by the date of death, it is likely that there is little or no gain, and thus no tax due. The filing is still required and the Tax Department has to process the returns.

II. SALE OF PRIMARY RESIDENCE WITH MORE THAN 10 ACRES

A. Seller's home may be on a lot of more than 10 acres, but only 10 acres qualify for the exemption.

B. It comes as an unwelcome and often last-minute surprise to learn that an additional tax may be due because of that extra land.

III. SALE OF CAMP OR VACATION PROPERTY

A. Sale of a camp or second home within 6 years of purchase will be subject to Land Gain tax, but why should this type of transaction be penalized?

B. If the buyer plans to convert the property to a year-round, primary residence, the seller still has to go through the tax filing process to get a Commissioner's Certificate, and the Tax Department has to process that filing.

IV. SALE OF A "FIXER-UPPER"

A. There are distressed properties in Vermont that can be rehabilitated into solid and often affordable housing.

B. A potential purchaser of such property knows up-front that Land Gains tax will apply to any profit made from a subsequent sale.

C. That purchaser can avoid actually paying any tax as long as the eventual buyer will live in the home, but has to consider the expense of the Land Gains filing process.

D. The Land Gains tax may limit the pool of potential buyers of the rehabilitated house, since the seller may only be willing to sell the house as a primary residence.

E. Is the possibility of a Land Gains tax on profit a disincentive to the improvement of Vermont's housing stock?

V. CONDOMINIUM SALES

A. There is a presumption for tax calculation purposes that 10% of the sale price of a condominium unit is the land value.

B. Why is the sale of a non-primary residence condominium owned less than 6 years subject to a tax penalty?

VI. OTHER TRANSACTIONS AFFECTED BY LAND GAINS TAX

A. Foreclosed properties.

B. Resale of property purchased at a tax sale.

C. A home purchased for a family member other than the owner.