

February 23, 2024

The Honorable Sean Fraser, M.P.
Minister of Housing, Infrastructure and Communities
180 Kent Street, Suite 1100
Ottawa, Ontario K1P 0B6

Subject: Prohibition on the Purchase of Residential Property by Non-Canadians Act

Dear Minister Fraser:

I am writing on behalf of the Worldwide Employee Relocation Council (WERC), the professional association for global talent mobility. WERC comprises over 4,000 corporate and service provider members around the world and represents the individuals and organizations that oversee and implement the movement of employees around the world for employment purposes, including for relocation programs occurring within their home country or to/from an international destination.

Following the recent announcement on February 4, 2024 by Finance Minister and Deputy Prime Minister Chrystia Freeland, M.P., that the Canadian Government intends to extend the Prohibition on the Purchase of Residential Property by Non-Canadians Act to January 2027, we are compelled to respectfully urge the Government to enact a critical amendment to Regulations SOR/2022-250 to allow an exemption for all transactions relating to the acquisition of residential properties for employer-sponsored employee relocation programs occurring to, from, or within Canada.

Impacts on Relocation Management Companies and their Corporate Clients:

Since the Act went into effect last year, the regulations have prevented individuals moving to, from, or within Canada from leveraging support from relocation management companies (RMCs) with their residential property transactions in Canada. RMCs are frequently utilized by multinational corporate clients to facilitate various aspects of a relocation for their employees, and a common aspect of employee relocations is a home sale program - realtor and brokerage services inclusive of purchase and sale of a residential property in Canada.

By utilizing RMCs to manage relocations, companies moving their talent to, from, or within Canada can ensure a standard approach and comprehensive level of support for their employees. In doing so, they can also enhance and strengthen the inclusivity and accessibility of their employee mobility programs by tapping into the expertise of RMCs relating to cross-border and global real estate transactions.

Under the Act, most RMCs have been deemed non-Canadian corporations because they are either U.S.-headquartered or are Canadian subsidiaries of a U.S.-based organization without sufficient share capital in Canada, which then precludes them from providing home sale services.

The inability of RMCs to support Canadian transferees with their home-related transactions in Canada under this Act, has adversely affected an estimated 2,500 relocations for employees and their families in the last year. This result has, in turn, damaged the competitiveness of employers, including those headquartered in Canada, that relocate their talent to, from, and across Canada while negatively impacting RMC volume and revenue in Canada. The value of being able to offer home sale services as part of a relocation package cannot be understated. The stress and uncertainty around selling a home is almost entirely eliminated for the employee and their family, as with the unlocked equity from their home the employee is given certainty and peace of mind around being able to relocate to their new location in the timeframe that their employer needs.

Furthermore, a lack of access to RMC support for relocation inadvertently leads to potential inequalities that can disadvantage employees and their families during complex international assignments. For instance, Canadians relocating to the US are unable to receive certain tax benefits that would be available if an RMC were involved in their transaction. This means Canadian transferees may face a larger US tax liability related to their home sale compared to individuals who are able to utilize RMC services. The added tax expense is typically borne by the Canadian employer and increases their home sale benefit costs by a conservatively estimated 55%-67%.

While these unfavorable impacts may not have been identified or anticipated by the Government or Parliament in introducing, adopting, and implementing the Act, they have become unintended consequences, with repercussions for Canadian employers' relocation program benefits as well as for transferees.

We understand that RMC purchases of residential real estate are not the types of acquisitions that the Government or Parliament are targeting with this legislation. RMCs purchase residential property at fair market value from the relocating employee, with the intent of selling the property as quickly as possible by marketing it immediately, and often close with a third-party purchaser (who is commonly a citizen of that country) shortly after purchasing the property.

RMCs are not in the business of building portfolios of property to hold on to, and homes purchased are not held onto any longer than needed. As a result, homes purchased by RMCs connected with a relocation program are not rented or leased out. Further, RMCs are not in the business of inflating market conditions – commonly they sell the property for the same fair market price they purchased the property for.

In addition to its impact on RMCs, the definition of non-Canadian companies also precludes many of the largest employers in Canada from being involved with the home sale transactions of their transferees. For example, a Canadian Fortune 500 company with a sizeable presence across Canada indicated that, because they are listed not just on the Toronto Exchange but also exchanges in the United States and UK, they cannot confirm if any one non-US person or entity

has more of a 10 percent ownership stake triggering exclusion under the Act. This result harms the operations and competitiveness of Canadian employers and is another unintended consequence of the Act.

We applaud the Government's actions in March 2023 to implement amendments to the Act remedying several issues identified post-passage, particularly with respect to allowing temporary foreign nationals with at least 183 days remaining on their valid permit or work authorization to purchase one residential property. As the Government will need to amend the regulations in order to extend the existing prohibitions for an additional two years, we would respectfully urge implementation of an amendment to address the unintended impacts on the facilitation of services by an RMC as I have outlined in this letter.

The practice of exemptions for employee relocation programs is one that has previously been implemented at the provincial level. For example, provincial governments have created regulations in their land transfer tax legislation that exempts transactions related to employee relocations in most cases from land transfer taxes. We posit that an opportunity exists at this time to follow these precedents set at the provincial level and implement an exemption in the Act.

We appreciate the Government's consideration of this request, and WERC and our members are ready to provide any additional information or assistance that may be of support to the Ministry regarding this matter.

Should you have any questions or wish to discuss this matter further, please contact me or my colleague Mike Jackson, Vice President of Member Engagement and Public Policy, at mjackson@worldwideerc.org or phone at +1-703-842-3400.

Sincerely,



Anupam Singhal
President & CEO
asinghal@worldwideerc.org