

# Non-Resident Speculation Tax

## UPDATE

The Ministry of Finance recommends that all transfers registered on or after April 21, 2017, include one of the three statements regarding the Non-Resident Speculation Tax (NRST) as set out in the “Payment of the NRST” section below.

Completing this will become mandatory as of May 5, 2017. However, during the transition period from April 21 to May 5, 2017, omitting one of these statements will not affect the registration of the transaction or incur penalties.

**The implementation of the Non-Resident Speculation Tax is subject to the approval of the Legislature.**

### Overview

The non-resident speculation tax (NRST) is a 15 per cent tax on the purchase or acquisition of an interest in residential property located in the Greater Golden Horseshoe (GGH) by individuals who are not citizens or permanent residents of Canada or by foreign corporations (“foreign entities”) and taxable trustees.

The NRST applies in addition to the general land transfer tax in Ontario.

The GGH includes the following geographic areas: Brant, Dufferin, Durham, Haldimand, Halton, Hamilton, Kawartha Lakes, Niagara, Northumberland, Peel, Peterborough, Simcoe, Toronto, Waterloo, Wellington and York. Refer to the map at the end of the document.

### Effective Date

Upon the enactment of legislation, the NRST will be effective as of April 21, 2017. Binding agreements of purchase and sale signed on or before April 20, 2017 are not subject to the NRST.

### Entities Subject to the NRST

The NRST applies to **foreign entities** or **taxable trustees** who purchase or acquire residential property in the GGH.

A **foreign entity** is either a foreign national or a foreign corporation.

A **foreign national**, as defined in the *Immigration and Refugee Protection Act* (Canada), is an individual who is not a Canadian citizen or permanent resident of Canada.

A **foreign corporation** is a corporation that is one of the following:

- Is not incorporated in Canada;
- Is incorporated in Canada but is controlled in whole or in part by a foreign national or other foreign corporation, unless the shares of the corporation are listed on a Canadian stock exchange; or
- Is controlled directly or indirectly by a foreign entity for the purposes of section 256 of the *Income Tax Act* (Canada).

For the purposes of the NRST, a **taxable trustee** is a trustee that is one of the following:

- A foreign entity holding title in trust for beneficiaries, or
- A Canadian citizen, permanent resident of Canada, or a corporation holding title in trust for foreign entity beneficiaries.

## **Types of Property Subject to the NRST**

The NRST applies to the transfer of land which contains at least one and not more than six single family residences. Examples of land containing one single family residence include detached and semi-detached houses, townhouses and condominium units. In a situation involving the purchase of multiple condominium units, each unit would be considered land containing one single family residence. Examples of land containing more than one single family residence that are subject to the tax include duplexes, triplexes, fourplexes, fiveplexes and sixplexes.

The NRST does not apply to other types of land such as multi-residential rental apartment buildings with more than six units, agricultural land, commercial land or industrial land.

The NRST applies on the value of the consideration for the residential property. If the land transferred includes both residential property and another type of property, the NRST applies on the portion of the value of the consideration attributable to the residential property. For example, if the purchase price of the transaction is \$1,000,000 and contains one single family residence with a value of the consideration of \$400,000, and commercial land with a value of the consideration of \$600,000, the 15 per cent NRST would only apply to the \$400,000 portion.

## **General Application**

The 15 per cent NRST applies to the value of the consideration for a transfer of residential property if any one of the transferees is a foreign entity or taxable trustee.

For example, if a transfer of residential property is made to four transferees, one of whom is a foreign entity that acquires a 25 per cent share in the land, the NRST would apply to 100 per cent of the value of the consideration for the transfer.

Each transferee is jointly and severally liable for any NRST payable. If a foreign entity or taxable trustee does not pay the NRST, the other transferees will be required to pay the tax. This applies even if the other transferees are Canadian citizens or permanent residents of Canada.

The NRST does not apply when a person purchases or acquires residential property as a trustee of a mutual fund trust, real estate investment trust or specified investment flow-through trust.

The NRST applies to unregistered dispositions of a beneficial interest in residential property. This includes purchases and acquisitions of residential property where section 3 of the *Land Transfer Tax Act* is applicable.

## **Exemptions**

An exemption to the NRST is available to a foreign national who receives confirmation under the Ontario Immigrant Nominee Program (“nominee”). To qualify for this exemption, the foreign national must be confirmed under the Ontario Immigrant Nominee Program at the time of the purchase or acquisition and the property must be used as the foreign national’s principal residence.

An exemption is also available to a foreign national who is conferred the status of “convention refugee” or “person in need of protection” (“refugee”) under the *Immigration and Refugee Protection Act* at the time of the purchase or acquisition.

A foreign national who has a spouse (as defined in the *Land Transfer Tax Act*), who is a Canadian citizen, permanent resident of Canada, “nominee” or “refugee” is exempt from the NRST if the foreign national jointly purchases residential property with that spouse.

However, the exemption does not apply if the Canadian citizen, permanent resident of Canada, “nominee”, or “refugee” and his or her foreign national spouse purchased the property with another foreign national. For example, if three parties purchase a property as follows:

- one Canadian citizen and his or her foreign national spouse; and
- a third party who is a foreign national,

the exemption would not apply and NRST would be payable.

## **Rebates**

A rebate of the NRST may be available in the following situations:

- The foreign national becomes a Canadian citizen or permanent resident of Canada within four years of the date of the purchase or acquisition;
- The foreign national is a student who has been enrolled full-time for at least two years from the date of purchase or acquisition in an “approved institution”, as outlined in Ontario Regulation 70/17 of the *Ministry of Training, Colleges, and Universities Act*; or
- The foreign national has legally worked full-time in Ontario for a continuous period of one year since the date of purchase or acquisition.

In order to be eligible for the rebates, the foreign national must exclusively hold the property, or hold the property exclusively with his or her spouse. The property must also have been used

as the foreign national's (and if applicable their spouse's) principal residence for the duration of the period.

The rebate will be paid with interest, calculated at the prescribed refund rate under the *Land Transfer Tax Act*.

Supporting documentation will be required to substantiate all applications for rebates.

## **Tax Avoidance and Offences**

All transfers of land in Ontario are subject to audit.

Anti-avoidance provisions will be enforced to ensure the NRST is reported and paid as required. This includes examining circumstances where Canadian citizens or permanent residents of Canada, as taxable trustees, hold property in trust for a foreign entity or are trustees where a beneficiary may be a foreign entity. This also includes preventing the use of multiple conveyances to avoid the NRST.

Failure to pay the NRST as required may result in a penalty, fine and/or imprisonment.

## **Payment of the NRST**

**NOTE:** All transfers registered on or after April 21, 2017 must contain a statement expressly acknowledging that consideration has been given to the application of the NRST. Registrants are required to provide one of the following three statements:

The Non-Resident Speculation Tax does not apply to this transfer because the binding agreement of purchase and sale was signed on or before April 20, 2017.

The Non-Resident Speculation Tax does not apply to this transfer because (*registrant to provide explanation for non –application*).

The Non-Resident Speculation Tax applies to this transfer and has been paid to the Ministry of Finance, as confirmed by Receipt # \*\*\*\*\*

For paper registrations, the applicable statement is to be inserted in paragraph 5 of the [Land Transfer Tax Affidavit](#). For registrations processed through Teraview, the applicable statement is to be inserted in Land Transfer Tax statement 9151 (Other remarks and explanations), which is found under the Explanations Tab.

Taxpayers reporting unregistered dispositions of land to the Ministry of Finance (MoF) must also expressly acknowledge in a covering letter that consideration has been given to the application of the NRST and whether or not it is payable on the reported transaction.

## **Electronic registrations**

For an interim period, Ontario's electronic registration system (operated by Teranet) will not be able to collect the NRST. During this interim period, to ensure compliance with the legislation, affected purchasers/transferees should pre-pay both the Land Transfer Tax and the NRST directly to the MoF's office in Oshawa. Once the MoF accepts the pre-payment of the taxes, the transfer may be registered electronically without further payment of Land Transfer Tax or NRST.

The Ministry will provide a letter confirming receipt of NRST with a receipt number.

### **Registrations made at Land Registry Offices**

NRST payable on registrations that must be made at a Land Registry Office must be pre-paid directly to the MoF. If the transfer is subject to NRST, both the Land Transfer Tax and NRST should be pre-paid directly to the MoF.

The transfer will be stamped with a direction to the Land Registrar that no further Land Transfer Tax is payable at registration and the MoF will also provide a letter confirming receipt of NRST.

### **Dispositions / Unregistered transfers**

If a transfer will not be registered on title, a *Return on the Acquisition of a Beneficial Interest in Land* form, along with the payment of the Land Transfer Tax and the NRST must be submitted to the MoF within 30 days of the transfer of land. For more information, see [Land Transfer Tax and the Treatment of Unregistered Dispositions of a Beneficial Interest in Land](#)

### **How to pre-pay the Land Transfer Tax and the NRST to the MoF**

The following documentation must be submitted to the MoF:

For transfers to be registered and unregistered transfers / dispositions:

1. Cheque for the Land Transfer Tax and the NRST (certified, if not drawn on the solicitor's trust account), made payable to the "Minister of Finance"
2. Copy of the Agreement of Purchase and Sale, with all schedules attached
3. Copy of the draft Statement of Adjustments (if applicable)
4. If the value of the consideration is based on the fair market value of the land, any appraisals or documentation that is evidence of the fair market value of the land
5. Any additional documents as may be required to determine the value of the consideration

In addition, for transfers to be registered:

6. [Authorizing or Cancelling a Representative](#) form(s), completed by each transferee
7. Copy of the Document "in preparation" or three copies of the Transfer/Deed if registration is done on paper
8. If registration is done on paper, two completed [Land Transfer Tax Affidavits](#).

Please submit the required documentation to the following address, either by mail, courier or in person:

Ministry of Finance  
Compliance Branch  
33 King Street West, 3rd Floor  
Oshawa ON L1H 8H9

**Additional information:**

If you have administrative or technical questions about the NRST, contact:

Ministry of Finance  
Land Tax Section  
33 King Street West  
Oshawa ON L1H 8H9

- 1-866-ONT-TAXS (1-866-668-8297)
- Fax: 905-433-5770
- 1-800-263-7776 for teletypewriter (TTY)

**Map of the Greater Golden Horseshoe**

