



Non-Resident Speculation Tax

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Effective as of April 21, 2017, the Non-Resident Speculation Tax ("NRST") is a fifteen percent tax on the cost of homes located in the Greater Golden Horseshoe when bought by a foreign buyer. Affected areas include Brant, Barrie, Niagara, and, of course, the City of Toronto. A foreign buyer is defined to include either an individual who is not a Canadian citizen or a permanent resident of Canada or a corporation that is either not incorporated in Canada or a corporation that is incorporated in Canada but is under foreign control.

There are many exemptions to the NRST, which include: a foreign national nominated under the Ontario Immigrant Nominee Program at the time of the purchase and who has applied to become a permanent resident of Canada; a foreign national with refugee protection at the time of the purchase; and a foreign national who jointly purchases residential property with a spouse who is a Canadian citizen, permanent resident of Canada, nominee or protected person. There are several rebates of the NRST available, which include: a foreign national who becomes a permanent resident of Canada within four years of the purchase date; a foreign national who is a student enrolled full-time at a campus located in Ontario for at least two years from the purchase date; and a foreign national who has worked full-time under a work permit in Ontario for at least a year after the date of purchase.

As a result of the imposition of this new tax, lawyers, including the lawyers at De Francesca Law Office, are now required obtain sensitive information from purchasers and report it to the Ontario government. We are now required to verify the following:

- a. Whether the purchaser or their family members will be occupying the purchased property as a principal residence, and if the purchaser's family members will be occupying the property as a principal residence, their relationship to the purchaser;
- b. Whether the purchaser intends to lease out all or part of the property;
- c. Whether the purchaser has not been physically present in Canada for 183 days out of the 12-month period prior to purchase closing date;
- d. Whether each purchaser is a Canadian citizen or a permanent resident of Canada, and as to the purchaser's



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countries of citizenship if not a Canadian citizen or a permanent resident of Canada.

e. Whether the purchaser is acting as a trustee, nominee or in a similar capacity.

f. Whether any of the beneficial interest in the land is being acquired by one or more individuals or corporations not listed as a purchaser.

The Toronto Real Estate Board estimates that no more than five percent of Greater Toronto real estate buyers are foreign, and as such the imposition of the NRST in order to permanently resolve the present real estate bubble is much in question.

- For meetings of owners, boards must send out a preliminary notice of meeting at least 20 days prior the actual notice of a meeting. The preliminary notice must contain information such as a deadline for submitting a director's candidacy if the meeting involves electing a director; and
- A form for proxies is now required, which will help reduce tampering and misinformation. (To clarify, if a condo owner is unable to attend meetings but still wants to participate in the decision-making process they may complete a proxy form. This gives another person who plans to attend the meeting (i.e. the proxy) the power to vote on the owner's behalf.)

The first phase of changes also creates two new, separate Administrative Authorities, which are not-for-profit organizations that operate at arms-length from government. The two new Administrative Authorities are the Condominium Authority of Ontario and the Condominium Management Regulatory Authority of Ontario. The Condominium Authority of Ontario, which has already opened its doors, will administer condo owner education; develop and operate the mandatory director training courses; and effective April 1, 2018 operate and maintain for the public an electronic registry containing information on every condominium corporation in the province. The Condominium Management Regulatory Authority of Ontario will administer the licensing of condo managers.

Notably, the Condominium Authority of Ontario will administer a new tribunal called the Condominium Authority Tribunal, which has developed the first online dispute resolutions system in Ontario. This online dispute resolutions system has been established as an inexpensive and efficient way of resolving condominium disputes. For example, the filing fee to start a case with this Tribunal is only 25 dollars. If this online dispute resolutions system is effective, it may be a form of dispute resolution that other agencies and adjudicators may adopt. This first phase of reforms brings significant changes to condominium law in Ontario, even though the reforms have only just begun since the majority of the amendments to the *Condominium Act*, 1998 are still not in force.