

Buying and Selling Canadian Property for a Non-Resident:

An Overview for Non-Residents

Non-Residents Buying Canadian Real Estate There are no restrictions for non-residents purchasing real estate in Canada, though they may become subject to Canadian income tax laws, and will certainly encounter the following taxes on their transactions:

Property Transfer Tax (British Columbia) – The tax rate is one per cent on the first \$200,000 of the property's fair market value and two per cent on the remaining fair market value. For more information, visit the Government of British Columbia's Property Taxation Branch's website at www.rev.gov.bc.ca/rpt.

Harmonized Sales Tax (British Columbia) – The 12% HST applies to the purchase price of newly constructed and substantially renovated homes. The government has created a rebate under which, on average, buyers of new homes up to \$525,000, would not pay any more tax due to harmonization than under the old PST system, in the price of a new home. Buyers of new homes above \$525,000 will be eligible for a rebate of about \$26,250. For more information, visit the Canada Revenue Agency website at <http://www.cra-arc.gc.ca/gncy/hrmnztn/bc/menu-eng.html>.

Property Tax (municipal) – If the seller has already paid the full year's property taxes to the municipality, the buyer will have to reimburse them for the remainder of the year's taxes.

Residence Status and Income Tax

If non-residents stay in Canada for more than 182 consecutive days, they may be considered Canadian residents for Canadian income tax purposes.

Non-residents of Canada pay tax on income received from sources in Canada. The type of tax paid, and the requirement to file income tax returns, depends on the type of income received.

Canada has tax treaties with many countries, including the United States. A tax treaty is designed to avoid double taxation for people who would otherwise pay tax on the same income in two countries.

More information:

- Non-Residents, Canada Revenue Agency
www.cra-arc.gc.ca/tax/nonresidents/individuals/nonres-e.html
- Tax Treaties, Canada Revenue Agency
www.cra-arc.gc.ca/tax/nonresidents/treaty-e.html

- Cross Border Tax Issues: The Canadian Perspective, Reinhold G. Krahn. Vancouver: Lawson Lundell, December 2000
www.lawsonlundell.com/resources/CrossBorderTaxIssues.pdf

Non-Resident Sales

When selling or disposing of Canadian real estate, non-residents must notify the Canadian government within ten days of the completion of the transaction to obtain a certificate of compliance. A certificate of compliance will only be issued if the CRA has received either a prepayment on account of the taxes owing or appropriate security for the prepayment.

On January 1, 2004, the CRA will start charging a financial penalty to non-resident owners of taxable property in Canada who sell that property and do not, within ten days, provide notice of the sale to the CRA.

In other words, CRA is tightening its tax reporting condition for non-residents who own Canadian property and will charge them the greater of either \$100 or \$25 times the number of days beyond the ten that pass before the sales notice is filed with CRA. For example, if a non-resident sells taxable Canadian property and does not notify CRA until 21 days after the ten-day grace period, that individual will be charged a \$525 penalty (\$25 x 21 days).

There are exceptions to this new policy, though an accountant or lawyer is best suited to interpret their applicability in a given situation. An individual can also apply to waive or cancel the penalty through a government "fairness committee."

More information:

- Procedures Concerning the Disposition of Taxable Canadian Property by Non-Residents of Canada, Canada Revenue Agency
www.cra-arc.gc.ca/E/pub/tp/ic72-17r5/README.html
- "Tax Obligations Imposed on Non-Resident Vendors Disposing of Real Property in Canada." Real Estate Update, Lawson Lundell, Fall 2001
www.lawsonlundell.com/resources/RealEstateUpdate.pdf

Note: The above is provided for informational purposes only and does not constitute professional advice. For more information, consult legal, financial and real estate professionals, as appropriate.

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INFORMATION SOURCE: <http://www.bcrea.bc.ca/working-with-a-realtor-/buying-and-selling-canadian-property>