# Non-Residents of Canada
# Investing in Canadian Real Estate

## 1. Canadian income tax

As a general rule, a non-resident of Canada is subject to a 25% withholding tax rate on **gross** rental income. However, there are three alternatives available to you with respect to the Canadian rental property:

1) You may choose to have an agent/tenant withhold **25% tax** from **gross** rental income and remit the funds directly to Canada Revenue Agency (CRA). The agent is required to complete a form ("Information Return - Form NR4") to report both the amount of gross rent received and taxes remitted to the CRA. This return is required to be completed no later than March 31st of the following year. Failure to file this return could result in interest and penalties to the agent. If there is no agent, it is normally the non-resident owner (rather than the tenant) who is responsible for remittance and reporting to the CRA.

2) You may elect to file a Canadian tax return under Section 216 of the Income Tax Act within two years from the end of the taxation year in which the rents were received and pay tax at the **graduated tax rates** on **net** rental income. In this case, the agent/tenant is still required to withhold and remit tax from gross rental income at the 25% rate, and the agent must also complete Form NR4. However, the withholding tax is credited against the tax liability as determined on the individual's return, and any excess tax withheld is refunded.

   In calculating the net rental income, CCA (capital cost allowance) may be taken into consideration. The purchase of the real property includes both land and building. The CCA rate on buildings is 4% and there is no CCA on land. Other expenses are, but not limited to, annual property tax, mortgage interest expense, property management fees, and other rental related expenses.

3) An undertaking can be made by filing Form NR6 at the beginning of each taxation year (January 1st) or in the year in which the property is first being rented, on or before the date that the first rental payment is due. This election allows for the 25% tax to be withheld from the **net** rental income instead of **gross** rent.

   However, it should be noted that you should file a Section 216 tax return within 6 months from the end of the tax year in which rents were received. Otherwise, the difference between tax computed at the rate of 25% of gross rents for the year and the amount of tax previously remitted for the year becomes due and payable. In other words, you will lose the ability to pay tax on net rental income at the graduated rates. For purposes of completing Form NR6, capital cost allowance is disregarded in determining the estimated net rental income or loss for the particular year. By filing Form NR6, you may reduce and potentially eliminate the taxes due on the rental income.

For non-residents, rental losses cannot be carried forward or carried back to other taxation years.

## 2. Property transfer tax

Property transfer tax is payable at the time of purchase. The amount of tax due depends on the fair market value of the property that is transferred. This tax is calculated as 1% on the first $200,000 and 2% on the excess over $200,000.

## 3. Annual property tax

Property tax is a levy on property that the owner is required to pay. In the year of purchase or sale, the lawyer will adjust for the required amount based upon the number of days the property is owned.

### Let's talk

Please note that this information is of a general nature and not intended to address the circumstances of any particular individual or entity. We would be pleased to assist and address to your specific situation. For a deeper discussion of how this issue might affect your Canadian tax exposure, please contact:

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