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Changes to Non-Resident Speculation Tax (Additional Tax on Foreign Entities and Taxable Trustees)

The Non-Resident Speculation Tax (NRST) is a tax in addition to the general Land Transfer Tax (LTT) on the purchase or acquisition of an interest in residential by individuals who are not citizens or permanent residents of Canada or by foreign corporations (foreign entities) and taxable trustees.

Effective March 30, 2022, the Non-Resident Speculation Tax has been increased to 20% and has been expanded to cover applicable conveyances of all land in Ontario.

The changes apply to conveyances of land tendered for registration after March 29, 2022.

Additional Tax Transitional Provisions

15% Additional Tax

The additional tax is 15% if all of the following criteria apply:

- the conveyance is of designated land located within the Greater Golden Horseshoe Region,
- the conveyance is pursuant to an agreement of purchase and sale or any assignment of an agreement of purchase and sale entered into on or before March 29, 2022 and on or after April 21, 2017, and
- The land is not conveyed to any foreign entity or taxable trustee other than a purchaser, or the spouse of a purchaser, under the agreement of purchase and sale or a person, or the spouse of a person, to whom the agreement of purchase and sale was assigned.

Additional Tax Not Payable

The additional tax is not payable if all of the following criteria apply:

- the conveyance is of land located outside the Greater Golden Horseshoe Region,
- the conveyance is pursuant to an agreement of purchase and sale or any assignment of an agreement of purchase and sale entered into on or before March 29, 2022, and

- the land is not conveyed to any foreign entity or taxable trustee other than a purchaser, or the spouse of a purchaser, under the agreement of purchase and sale or a person, or the spouse of a person, to whom the agreement of purchase and sale was assigned.

For clarification, the two transitional provisions will not apply if land is conveyed to any foreign entity or taxable trustee other than a purchaser, or the spouse of a purchaser, under the agreement of purchase and sale or a person, or the spouse of a person, to whom the agreement of purchase and sale was assigned. The applicable tax rate is 20%.

Updated Land Transfer Tax Statements

The NRST statements have been updated to reflect the changes:

- 9170 The transferee(s) has considered the definitions of "designated land", "foreign corporation", "foreign entity", "foreign national", "Greater Golden Horseshoe Region", "specified region", "spouse" and "taxable trustee" as set out in subsection 1(1) of the Land Transfer Tax Act and O. Reg 182/17, and declare one of the following statements:
- 9171 This conveyance is subject to additional tax as set out in subsection 2(2.1) of the Act AND
- 9189 (a) This is a conveyance of land located within the Greater Golden Horseshoe Region and is pursuant to an agreement of purchase and sale or an assignment of an agreement of purchase and sale that was entered into ON OR BEFORE March 29, 2022, AND THE LAND IS NOT BEING CONVEYED to any foreign corporation that is not a purchaser under the agreement of purchase and sale or a corporation to which the agreement of purchase and sale was assigned, or to any foreign national or taxable trustee other than a purchaser, or the spouse of a purchaser, under the agreement of purchase and sale, or a person, or the spouse of a person, to whom the agreement of purchase and sale was assigned.
- 9190 (b) This is a conveyance of land pursuant to an agreement of purchase and sale or an assignment of an agreement of purchase and sale that was entered into ON OR BEFORE March 29, 2022, AND THE LAND IS BEING CONVEYED to any foreign corporation that is not a purchaser under the agreement of purchase and sale or a corporation to which the agreement of purchase and sale was assigned, or to any foreign national or taxable trustee other than a purchaser, or the spouse of a purchaser, under the agreement of purchase and sale or a person, or the spouse of a person, to whom the agreement of purchase and sale was assigned.
- 9191 (c) This is a conveyance of land pursuant to an agreement of purchase and sale or an assignment of an agreement of purchase and sale that was entered into AFTER March 29, 2022.
- 9172 This conveyance is subject to additional tax as set out in subsection 2(2.1) of the Act. This is a combination of "designated land" and land that is not designated land. The transferee(s) has accordingly apportioned the value of the consideration on the basis that the consideration attributable to the conveyance of the designated land is AMOUNT and the remainder of land is used for TEXT purposes, AND
- 9193 (a) This is a conveyance of land located within the Greater Golden Horseshoe Region and is pursuant to an agreement of purchase and sale or an assignment of an agreement of purchase and sale that was entered into ON OR BEFORE March 29, 2022, AND THE LAND IS NOT BEING CONVEYED to any foreign corporation that is not a purchaser under the agreement of purchase and sale or a corporation to which the agreement of purchase and sale was assigned, or to any foreign national or taxable trustee other than a purchaser, or the spouse of a purchaser, under the agreement of purchase and sale, or a person, or the spouse of a person, to whom the agreement of purchase and sale was assigned.
- 9194 (b) This is a conveyance of land pursuant to an agreement of purchase and sale or an assignment of an agreement of purchase and sale that was entered into ON OR BEFORE March 29, 2022, AND THE LAND IS BEING CONVEYED to any foreign corporation that is not a purchaser under the agreement of purchase and sale or a corporation to which the agreement of purchase and sale was assigned, or to any foreign national or taxable trustee other than a purchaser, or the spouse of a purchaser, under the agreement of purchase and sale or a person, or the spouse of a person, to whom the agreement of purchase and sale was assigned.
- 9195 (c) This is a conveyance of land pursuant to an agreement of purchase and sale or an assignment of an agreement or purchase and sale that was entered into AFTER March 29, 2022.

- 9173 The transferee(s) has read and considered the definitions of "designated land", "foreign corporation", "foreign entity", "foreign national", "Greater Golden Horseshoe Region", "specified region", "spouse" and "taxable trustee" as set out in subsection 1(1) of the Land Transfer Tax Act and O. Reg 182/17. The transferee(s) declare that this conveyance is not subject to additional tax as set out in subsection 2(2.1) of the Act because:
- 9197 (a) This is a conveyance of land located outside of the Greater Golden Horseshoe Region pursuant to an agreement of purchase and sale or an assignment of an agreement of purchase and sale that was entered into ON OR BEFORE March 29, 2022, AND THE LAND IS NOT BEING CONVEYED to any foreign corporation that is not a purchaser under the agreement of purchase and sale or a corporation to which the agreement of purchase and sale was assigned, or to any foreign national or taxable trustee other than a purchaser, or the spouse of a purchaser, under the agreement of purchase and sale or a person, or the spouse of a person, to whom the agreement was assigned.
- 9175 (b) This is not a conveyance of "designated land".
- 9176 (c) The transferee(s) is not a "foreign entity" or a "taxable trustee".
- 9177 (d) Subsection 2.1(3) of the Act applies to this conveyance (the land has been conveyed pursuant to an agreement of purchase and sale entered into on or before April 20, 2017, and any assignment of the agreement of purchase and sale to any other person was entered into on or before April 20, 2017).
- 9178 (e) Subsection 2.1(4) of the Act applies to this conveyance in that the land is being conveyed to a "nominee" as defined in Ontario Regulation 182/17 and the conveyance satisfies the requirements of section 2 of the Regulation.
- 9179 (f) Subsection 2.1 (4) of the Act applies to this conveyance in that the land is being conveyed to a "protected person" as defined in Ontario Regulation 182/17 and the conveyance satisfies the requirements of section 3 of the Regulation.
- 9180 (g) Subsection 2.1 (4) of the Act applies to this conveyance in that the land is being conveyed to a "foreign national" and the foreign national's "spouse" as defined in subsection 1(1) of the Act, and the conveyance satisfies the requirements of section 4 of the Regulation.
- 9181 (h) OTHER INSERT TEXT

NOTE: the ability to claim an exemption based on the land not being situate within the specified region (Statement 9174) has been removed. The remaining exemption statements have not changed.

All conveyance must contain a declaration of NRST liability.

If the conveyance is subject to NRST, the registrant must select statement 9170 AND

- 9171 AND (9189 OR 9190 OR 9191) OR
- 9172 AND (9193 OR 9194 OR 9195)

If the conveyance is exempt from NRST, the registrant must select statement 9173 AND (9197 OR 9175 OR 9176 OR 9177 OR 9178 OR 9179 OR 9180 OR 9181).

Rebates of Additional Tax

Changes have also been made to the ability to claim rebates of additional tax. The rebate for International Students and Foreign Nationals Working in Ontario are not available on conveyances that occur after March 29, 2022. There are transitional provisions.

For more information, please review the Ontario Ministry of Finance website (<https://www.fin.gov.on.ca/en/tax/lt/>) or call 1-866-668 8297