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## **Changes to Non-Resident Speculation Tax – Effective March 27, 2024**

*(Note: Changes to Land Transfer Tax legislation impacting Non-Resident Speculation Tax (NRST) take effect on March 27, 2024. However, applicable changes to Land Transfer Tax statements in Teraview will not be implemented until April 8, 2024. Interim instructions are included in this memo.)*

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 designated land by individuals who are not citizens or permanent residents of Canada or by foreign corporations (foreign entities) and taxable trustees.

Designated land is currently defined as land that contains at least one and not more than six single family residences.

NRST is 25% of the value of the consideration, subject the following transitional provisions:

The rate is 20% for conveyances based on an agreement of purchase and sale entered in after March 29, 2022 but on or before October 24, 2022;

The rate is 15% for conveyances is of designated land situate in the Greater Golden Horseshoe Region based on an agreement of purchase and sale entered into on or before March 29, 2022 and on or after April 21, 2017.

Conveyances are not subject to NRST if:

- The conveyance is of land located in the Greater Golden Horseshoe Region and is based on an agreement of purchase and sale entered into before April 21, 2017
- The conveyance is of land located outside the Greater Golden Horseshoe Region and is based on an agreement of purchase and sale entered into on or before March 29, 2022.

For clarification, the 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 25%.

## Changes to NRST legislation

The following changes apply to conveyances registered on and after March 27, 2024:

- The definition of “designated land” is expanded to include a unit or proposed unit under the *Condominium Act, 1998* that is intended for use by a resident of the condominium complex for parking or storage purposes
  - The expanded definition does not apply to land that is conveyed pursuant to an agreement of purchase and sale or any assignment of an agreement of purchase and sale that was entered into before March 27, 2024
- The occupancy requirement necessary to claim an exemption from NRST pursuant to sections 2, 3 or 4 of Ontario Regulation 182/17 has been amended to require that each transferee certify that they will occupy the land as their principal residence within 60 days after the the day the conveyance is tendered for registration.
  - This requirement applies to foreign nationals who claim an exemption on one of the following grounds:
    - The foreign national is a nominee under the Ontario Immigrant Nominee Program (section 2).
    - The foreign national is a protected person under the *Immigration and Refugee Protection Act (Canada)* (section 3).
    - The conveyance is to the foreign national and the foreign national’s spouse, who in a nominee, protected person, Canadian citizen or permanent resident of Canada (section 4).
- A registrant claiming an exemption under section 2, 3 or 4 of the Regulation with respect to the conveyance of condominium unit intended for parking or storage purposes must certify that within 60 days after the day the conveyance is tendered for registration, each transferee will use the land in connection with their principal residence located in the same condominium complex as the parking or storage unit.
- For purposes of NRST liability, it is clarified that the determination of whether a person is spouse is in respect on the day the conveyance is registered.
- It is clarified that an NRST exemption under sections 2, 3 or 4 of the Regulation,

and that a rebate under section 5, 6 or 7 of the Regulation may not be claimed with respect to land that is conveyed to a taxable trustee.

- Rebates may be claimed by foreign nationals who meet one of the following requirements:
  - The foreign national subsequently becomes a permanent resident of Canada (section 5).
  - The foreign national must be continuously enrolled full time in Ontario at an approved institution for two years from the date the conveyance is tendered for registration (Section 6).
  - The foreign national must work full time in Ontario continuously for a year from the date the conveyance is tendered for registration (Section 7).
- The requirement under section 6 to be enrolled full-time is amended by requiring enrollment to begin within 30 days from the date the conveyance is tendered for registration.
- The requirement under section 7 to be employed full time for a year is amended by requiring that the employment begin within 30 days after the date conveyance is tendered for registration.

## **NRST statement changes IN TERAVIEW**

The NRST statements have been updated to reflect the changes:

- A new statement 9204 has been added and is to be selected when claiming an NRST exemption based on the conveyance being of a condominium unit or proposed condominium unit pursuant to an agreement of purchase or sale or an assignment of an agreement of purchase and sale entered into before March 27, 2024.
- The “nominee”, “protected person” and spousal exemption statements (9178, 9179, and 9180) have been amended by expressly requiring:
  - Acknowledgment that the conveyance is not to a taxable trustee (reference to subsection 4.3)
  - Each transferee to certify that if the conveyance is solely of land that is a condominium unit intended for parking or storage purposes, within 60 days after the conveyance is tendered for registration, each transferee will use the land in connection with their principal residence located in the same condominium complex as the parking or storage unit

A statement change was not required for registrants to confirm that a transferee was a spouse at the time of the conveyance, as transferees are already required to confirm they have read the definition of “spouse” as set out in the Land Transfer Tax Act.

The new NRST exemption statements are as follows:

- 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 sections 2, and 4.3 of the Regulation. If this is a conveyance solely of land that is a unit or a proposed unit under the Condominium Act, 1998 that is intended for use by a resident of the condominium complex for parking or storage purposes, the transferee certifies that within 60 days after the day the conveyance is tendered for registration, they will use the land in connection with their principal residence located in the same condominium complex as the land.
- 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 sections 3, and 4.3 of the Regulation. If this is a conveyance solely of land that is a unit or a proposed unit under the Condominium Act, 1998 that is intended for use by a resident of the condominium complex for parking or storage purposes, the transferee certifies that within 60 days after the day the conveyance is tendered for registration, they will use the land in connection with their principal residence located in the same condominium complex as the land.
- 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 sections 4, and 4.3 of Ontario Regulation 182/17. If this is a conveyance solely of land that is a unit or a proposed unit under the Condominium Act, 1998 that is intended for use by a resident of the condominium complex for parking or storage purposes, the transferee certifies that within 60 days after the day the conveyance is tendered for registration, they will use the land in connection with their principal residence located in the same condominium complex as the land.
- 9204 (h) This is a conveyance of a unit or a proposed unit under the Condominium Act, 1998 that is intended for use by a resident of the condominium complex for parking or storage purposes, and is pursuant to an agreement of purchase and sale or an assignment of an agreement of purchase and sale that was entered into BEFORE March 27, 2024 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.
- 9181 (i) OTHER INSERT TEXT

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 9204 OR 9181).

**Interim Instructions – claiming NRST exemption on conveyances which consists solely of condominium units intended for use for parking or storage**

Pending incorporation into Teraview of statement 9204, registrants who are claiming an exemption on grounds that the conveyance is pursuant to an agreement of purchase and sale or an assignment of an agreement of purchase and sale that was entered into before March 27, 2024, are to claim the exemption in Statement 9081 (OTHER INSERT TEXT)

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