

Our Services

Income Tax

Acquisition

*Advising with respect to appropriate ownership structure
Coordinating with your realtor and lawyer
Advising with respect to advantages and disadvantages of
filing an NR6
Calculating the Adjusted Cost Base of land, building and
furniture*

Annual

*Preparing and filing the NR6 and estimated income
statement
Coordinating with property manager regarding
withholding taxes
Capitalizing interest and / or other expenditures to the cost
of property
Preparing and filing the T1 personal tax return, including
preparing rental income statement
Coordinating and replying to requests for information and
other review or audit requests by Canada Revenue Agency
("CRA")*

Disposition

*Estimating and explaining income tax on capital gain.
Preparing the request for Certificates of Compliance and
Comfort Letter, arranging payment of estimated taxes to
CRA and delivering the Certificates to lawyer.
Preparing and filing of T1 personal tax return to report
gain on sale and apply for income tax refund, if applicable*

*Tax planning issues which should be discussed include
ownership structure, capitalization of expenditures to
reduce tax on future gains, potential capitalization of
interest expense, risks of borrowing outside Canada and
other issues.*



*November 16, 2010
2/a2/NRBrochureMonthlyDTN*

***For more detailed pamphlets, questions, or information
on business income, nightly rentals or buying with no
rental, please see our web site and please contact us.***



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Canadian Tax for Non-residents Investing in Canadian Real Estate

(Rented Monthly)

*Providing You
with Peace of Mind*

Income and Transfer Tax

Purchase

Property Transfer Tax is payable at the time of purchase. This tax is calculated as 1% on the first \$200,000 and 2% on the excess over \$200,000. Other acquisition costs may include inspection fees, appraisals and legal fees.

The Harmonized Sales Tax (“HST”) of 12% will be charged on chattels (furniture and fixtures) which are separately identified in the purchase agreement. British Columbia Social Service Tax (commonly called Provincial Sales Tax or “PST”) was replaced by HST as of July 1, 2010. The HST of 12% will generally be charged on the purchase of a newly built property. This HST will become part of the cost. No HST will be charged on the sale of a used residential property, which includes most homes, townhouses or condos which are rented on a monthly basis. The purchaser cannot and should not register for HST.

Monthly Rental

Gross rental revenue is subject to a **withholding tax of 25%**. The Canadian property manager must withhold this tax and remit it to CRA (“Canada Revenue Agency”). If the non-resident takes no further action, this will be the final tax. If withholding tax is not remitted, the property manager will be required to pay a **penalty of 25% of gross rental revenues** plus interest.

If taxes have erroneously not been withheld and remitted to CRA, the non-resident must file a T1 tax return each year, even if there are rental losses.

The non-resident has a second option **after** the end of the taxation year. He may calculate taxable income based on **net rental income** (after deducting related expenses such as interest, property taxes, management fees, maintenance, repairs, accounting fees, etc.) and file a **T1 personal tax return**. The taxable income will be subject to **progressive tax rates ranging from approximately 22% to 43%** (for 2010).

If the income tax calculated in this manner is less than the tax originally withheld, the non-resident will receive a refund of the difference. This tax return **may be filed any time up to two years after the end of the applicable taxation year** (e.g. for the 2010 taxation year, it may be filed up to December 31, 2012). This option is normally beneficial and will usually result in a refund.

In the calculation of taxable income, depreciation (referred

to as “Capital Cost Allowance” or “CCA”) may also be taken to reduce taxable income. The CCA rate on buildings is 4%. If the property is sold for a gain, previously deducted CCA will be brought back into income at the time of sale.

A third option is available **before** the commencement of a taxation year. If the non-resident has a Canadian “agent” for income tax purposes (the management company may become the agent), the non-resident and the agent may elect to file a T1 tax return by filing form **NR6 before the beginning of the taxation year**.

In this form, they will estimate net income for the year and are only required to **withhold 25% of estimated net income**. The non-resident must then file a T1 by June 30 of the year following the taxation year. If the T1 is not filed by June 30, a **penalty of 25% of gross rental revenue** will be assessed against the agent.

This third option is usually beneficial from a cash flow point of view if there are any rental expenses. The total taxes will be the same as those in the second option mentioned above, but the non-resident does not have to wait for a refund.

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

Municipal property taxes are due annually and a portion will be payable based upon the number of days the property is owned in the year of acquisition. Thereafter, it is payable on an annual basis. The amount is based upon the assessed value and the “mill rate” set by the municipality.

If the property is rented on a nightly basis, as opposed to monthly, there are implications for both income tax and HST, on the purchase, rental and sale. Please contact us if this may be of relevance to you.

Sale

Any gain on the disposition of rental property in Canada will be subject to tax in Canada. This tax is levied in two stages. First, there is a withholding tax at the time of disposition and then a final calculation of tax as reported in the T1 personal tax return which is due after year end.

The withholding tax is paid by filing a form **T2062** and paying a **withholding tax of 25% (on the land portion) and up to 50% (on the building portion) of the interim gain on sale**. The interim gain is calculated as the selling price less the cost for tax purposes. At this stage, commission expenses, legal fees and accounting fees are not deductible in the calculation of the interim gain.

Once this form is accepted by CRA and the tax has been paid, CRA will issue a “**Certificate of Compliance**”.

CRA is concerned that the non-resident may sell the property, take the proceeds out of Canada and never pay any tax. It would be very difficult for CRA to collect tax from a non-resident who no longer has any assets in Canada. The way that CRA enforces the collection of this tax is to transfer the obligation to pay tax from the non-resident vendor to the purchaser of the property. Unless the purchaser receives a signed declaration that the vendor is a resident of Canada or receives the above-mentioned Certificate of Compliance, the purchaser will be liable for withholding tax of **25% (or in some cases, up to 50%) of the selling price**.

Therefore all knowledgeable purchasers will request a Certificate of Compliance when purchasing property from a non-resident. This procedure applies whether the purchaser is a Canadian resident or not. In practice, the purchaser's lawyer will generally hold back 25% (or in some cases, 50%) of the entire purchase price until he receives the Certificate of Compliance.

It currently takes about 12 to 16 weeks for CRA to process a Certificate of Compliance. The form T2062 may be filed prior to sale but must be filed within 10 days of closing. We suggest that it be filed as early as possible. Penalties will be assessed if it is filed later than 10 days after closing.

In the Certificate application form T2062, CRA requests information regarding the rental of the property during the period of ownership. If the property has been rented but withholding taxes have not been paid, CRA will require that all the previous tax returns be filed and all outstanding taxes, interest and penalties also be paid before they will issue the Certificate of Compliance.

After the end of the taxation year in which the property is sold, the non-resident may file a T1 personal tax return to report the disposition of the property and calculate the actual gain and the final tax. In this calculation of the actual gain, the non-resident can deduct all related selling expenses such as commissions, legal and accounting fees.

In addition, the non-resident may be allowed “**capital gains treatment**” which means that only 1/2 of the gain will be taxable. The taxable income will be subject to progressive rates from **22% to 43%** (for 2010) and if the total tax will be less than the withholding tax paid at the time of obtaining the Certificate of Compliance, the non-resident will be entitled to a refund of the difference.