

# Rental and Sale of Your Canadian Home as a Non-Resident of Canada



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## What are the tax consequences if I decide to rent my **Canadian principal residence**?

If you rent or sell your Canadian home while you are a non-resident of Canada, you may be liable for rather steep taxes. For instance, if you rent the property, you may have to pay a tax equal to 25% of your gross rental income. As with all tax regulations, the rules are complex. But not properly following them can result in fines and penalties. The good news is that there are ways to potentially reduce or even eliminate these kinds of liabilities – as explained by cross-border tax in our extensive article.

Assuming you are a non-resident of Canada who has rented or sold your Canadian home, this eBook provides general answers to common questions we receive at Cardinal Point Wealth Management. Everyone's situation is unique, so please contact Cardinal Point for more information and a detailed analysis of your situation.

# What are the tax consequences if I decide to rent my **Canadian principal residence**?

If you decide to rent out your Canadian home while you are a non-resident of Canada, you will be liable for tax equal to 25% of your gross rental income. Your tenant, or better yet, your nominated Canadian resident rental agent, should deduct this amount from rental payments received and remit it directly to the Canada Revenue Agency (CRA) on your behalf. The Canadian resident rental agent must pay the tax to the CRA by the 15th day of the month following the date the rental income is paid or credited to you. The Canadian resident rental agent must then file an annual Form NR4 – Statement of Amounts Paid or Credited to Non-Residents of Canada – to the CRA before March 31st of the year after the year in which the rental income was paid or credited to you. Generally, the non-resident tax withheld is considered the final tax payable to Canada on that income.





## Can I reduce or eliminate the 25% **Canadian withholding tax**?

It is possible for the 25% withholding tax to be reduced or even eliminated if you elect to be taxed on the net rental income as though you were a Canadian resident. The personal income tax rates would be applied to the net rental income (e.g., after deducting expenses), and, in most cases, the Canadian tax will be significantly less than the 25% withholding tax applied to the gross rental income.

## How do I make this **election**?

To make the election, you must file Form NR6 – Undertaking to File an Income Tax Return by a Non-Resident Receiving Rent from Real or Immovable Property or Receiving a Timber Royalty – to the CRA before you commence renting your Canadian residence. On Form NR6, you must estimate the net rental income (gross rent less anticipated expenses other than depreciation). A withholding tax of 25% will then be based on the net rental income, if any. A new Form NR6 will then be required to be filed annually for each year you rent your Canadian home as a non-resident of Canada. This annual NR6 is due to the CRA before January 1st of the upcoming rental year or before the first rental payment is paid or credited to you each calendar year.

You will also be required to nominate a Canadian resident individual to act as your agent in Canada (Canadian resident rental agent). This Canadian resident rental agent will be responsible for remitting the necessary withholding taxes and filing certain reporting slips.



## When do I have to file a return to **report the rental income?**

If you make the election to be withheld on your net rental income at the end of each taxation year (December 31st), you must file a Section 216 income tax return with the CRA and report the actual rental income and expenses. Net rental income is taxed at regular marginal rates in this return, but no personal tax credits may be claimed. The Section 216 return must be filed by June 30th, following the end of the calendar year. Failure to file the return by June 30th can result in you being subject to a 25% withholding tax on the gross rental income without the benefit of deductible expenses such as mortgage interest, property taxes, maintenance and repairs, insurance, and Capital Cost Allowance. Note that Capital Cost Allowance (effectively depreciation for tax purposes) is an optional deduction in Canada.

## What if the initial withholding is greater than the **final tax liability?**

If the taxes calculated are less than the amounts withheld and remitted during the year, the excess will be refunded. If the taxes are greater than the withholding, the balance is payable no later than April 30th of the calendar year following the year in which the rental income is earned, preferably with the filing of the Section 216 return, so it is usually best to plan on filing by April 30th instead of June 30th.

## Are there additional filings if the **home is jointly owned?**

Most non-resident couples with jointly owned rental property in Canada file a single Section 216 return to show the rental income attributable to just one of the owners. This is simpler but not technically correct. Each owner should file a Section 216 return to report their share of the income and expenses, particularly if a sale in the near future is being considered. Separate T2062s will need to be filed, and Capital Cost Allowance recaptured.

# What are the Canadian tax implications if I sell **Canadian real estate as a non-resident of Canada?**



As a non-resident of Canada, you are taxable on the sale of Canadian real property or shares in a corporation whose value is derived primarily from real property located in Canada. Prior to selling your Canadian real property or within 10 days following the sale, you should notify the CRA via Form T2062 – Request by a Non-Resident of Canada for a Certificate of Compliance Related to the Disposition of Taxable Canadian Property. Failure to provide such notice within the 10-day limit will subject you to a penalty of \$25 per day to a maximum of \$2,500. You can report any years in which you designate this residence for the Principal Residence Exemption on Form T2062. Note that only the years in which you are resident in Canada will qualify for the Principal Residence Exemption. Please see our blog entitled “Canadian ‘Change of Use’ Rules for Cross-Border Real Estate” for a detailed analysis of the Principal Residence Exemption. Note that you only need to be a resident for one single day in any given year to qualify for the Principal Residence Exemption for that year.

As a non-resident selling Canadian real estate, you are subject to a 25% withholding on the gross proceeds unless a Certificate of Compliance is granted by the CRA. Upon acceptance of the Certificate of Compliance, the CRA will limit the withholding to 25% of the estimated net gain before selling commissions and costs only.

If the property is jointly owned with another non-resident of Canada, each owner must make a separate notification to the CRA and file his/her own Canadian income tax return to report his/her share of the income.

As the CRA can experience significant delays (up to three to six months) in processing Form T2062, it is important that your application be submitted as soon as possible to avoid any possible withholding of sale proceeds by your legal advisor. The application can be filed prior to closing once a negotiated sale has been reached.

If the gain on the sale of the Canadian property was not completely exempted from tax by the Principal Residence Exemption (PRE), you should file an S.216 Canadian tax return to report the sale, claim the appropriate PRE, and do a final settlement with the CRA. Your ultimate tax liability to Canada may be more or less than the amounts already withheld. If less, then you will be able to claim your refund. You cannot file your resident country tax return until you know how much Canadian tax is available as a foreign tax credit.

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Finally, you should calculate and report any capital gain or loss under the rules of your current tax residence jurisdiction. There may be a foreign tax credit available from the Canadian ultimate tax liability to help reduce or eliminate the tax from your current tax residence jurisdiction.

**Contact Cardinal Point for more information**

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