

# **TSG**

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## **Non-Residents Owning Rental Property in Canada** *“The Regular System”*

- ✱ **25% of gross rent to be withheld and remitted to CRA as paid**
- ✱ **Canadian resident agent must remit to CRA**
- ✱ **Need a non-resident account number set-up with CRA**
- ✱ **File an NR4 showing total tax withheld for year by March 31<sup>th</sup>**
- ✱ **File an S216 Election if desired to get tax back**

## **S216 Election – Form T1159**

- **Due within 2 years from end of taxation year in which rents received**
- **Must file with actual rents received and actual expenses (including CCA)**
- **Can not carry forward losses**
- **Only rents and timber royalties and related expenditures allowed on return**

## **S216 Election – Form T1159 *cont'd***

- **No personal credits allowed**
- **Only specific deductions from total income to taxable income allowed *eg. RRSP and Support Payments***
- **Show tax withheld from NR4 as credit and receive refund or pay balance**

## How to Reduce Withholding Tax on Rental Income

- ✱ Complete NR-6 with expected gross income, expected expenses (without CCA) and expected net income
- ✱ File with CRA prior to first payment being received – file in Nov/Dec for following year
- ✱ Remit 25% tax on net amount monthly
- ✱ Must have a Canadian agent identified, sign form and remit tax

## How to Reduce Withholding Tax on Rental Income *cont'd*

- ✱ Canadian agent is liable for 25% tax on gross rent if S216 return not filed
- ✱ File NR4 summary by March 30<sup>th</sup> of year following
- ✱ File S216 return by June 30<sup>th</sup> of year following (not elective)
- ✱ Penalty of 10% of tax if NR6 not filed timely

## Example Time Line For Rental Property in 2009

- ✱ November 2008 – file NR6 for 2009 year
- ✱ Jan – Dec 2009 – file 25% withholding on estimated rental profit (not considering CCA) from NR6 calculation
- ✱ Mar 31, 2010 – file NR4 detailing taxes withheld
- ✱ June 30, 2010 – file S216 T1 return

## Statement of Account

Account number	NRJ [REDACTED]	Payer name	[REDACTED]
Statement of account as of:	2006	Amount paid	Amount owing
JULY 26, 2006	Balance from last statement	21.36 Cr	21.63 Dr
Transactions processed after the date will appear on your next statement	Present balance	21.36 Cr	21.78 Dr
<b>IMPORTANT - SEE REVERSE</b>			
		Explanation of Changes	
Date	Description	Amount	
2006-07-24	Interest charged	D.15Dr	

This is a statement of your account as of the date shown above. The amounts reported are in Canadian dollars.

Please use the return part of this form to make your next payment of non-resident tax deductions.

## **Sale of Taxable Canadian Property by a Non-Resident**

- ✱ **Purchaser is obliged to collect tax as a prepayment by non-resident**
- ✱ **Canadian T1 return is required to be filed**
- ✱ **25% of purchase price**
- ✱ **Unless non-resident has filed form T2062 or T2062A**
- ✱ **Then, 25% of estimated capital gain must be remitted from T2062 calculation**

## **Sale of Taxable Canadian Property by a Non-Resident**

- ✱ **CRA checks each one and verifies proceeds and cost**
- ✱ **T2062 must be filed prior to close of transaction or within 10 days after date of sale**
- ✱ **Issued a certificate to show taxes paid**
- ✱ **Still required to file a Canadian income tax return by April 30<sup>th</sup> of following year**
- ✱ **If claimed CCA then recapture may be applicable**
- ✱ **Overpayment is refunded to you and balance owing is due on April 30<sup>th</sup> of following year.**

# Voluntary Disclosure

## Re: Non-Residents

- ✱ **IC00-1R “Voluntary Disclosure Program”**
- ✱ **CRA provides non-residents opportunity to late-file S216 returns if following conditions are met:**
  - ✱ Voluntary
  - ✱ Complete disclosure
  - ✱ Involves a penalty
  - ✱ Information must be at least one year past due
- ✱ **One time only allowed**
- ✱ **Extension allowed to late-file a S216 return**

## Summary

- ✱ Rental of Canadian real estate by foreigners has a high administrative burden.
- ✱ Interest on gross rents will always be charged not withstanding subsequent filing of a T2016 return with no liability shown.
- ✱ There is no minimum on their desire to collect small or large balances
- ✱ Administrative burden and time delay carries through to the sale of the property
- ✱ Fortunately, there is a voluntary disclosure program BUT you only get to use it once not withstanding communication delays in dealing with a non-resident