REPORT FOR ACTION

Municipal Non-Resident Speculation Tax on Foreign Buyers of Residential Property

Date: January 16, 2024
To: Executive Committee
From: Chief Financial Officer and Treasurer
Wards: All

SUMMARY

As part of the Updated Long-Term Financial Plan considered in September 2023, City Council directed staff to report back with an implementation plan to introduce a new land transfer tax on foreign buyers of residential property in the City. This report recommends introduction of a new Municipal Non-Resident Speculation Tax (MNRST) on foreign buyers of certain residential property, effective January 1, 2025.

The primarily objective of the MNRST is to safeguard and enhance the availability of residential housing supply and to maintain a level of affordability in the residential real estate market by discouraging international buyers from purchasing property in the City of Toronto, particularly those buyers who do not intend to live in the property, or where the purchase is for purely speculative motives. Staff are recommending introduction of a 10% rate on the residential purchase price, which, when coupled with other land transfer tax related impacts, is expected to effectively deter real estate speculation.

The Province of Ontario currently levies its own Non-Resident Speculation Tax (NRST) of 25% of the purchase price on the purchase or acquisition of an interest in certain residential property located anywhere in Ontario by foreign entities (individuals who are not citizens or permanent residents of Canada and foreign corporations) and taxable trustees. Originally implemented in 2017, the purpose of the provincial NRST was to discourage speculation and thereby 'help to address unsustainable demand' in the Greater Golden Horseshoe area.

To ensure successful implementation, it is recommended that the MNRST mirror the current provincial NRST provisions, as outlined further in this report, as it pertains to applicability, rebates, refunds and exemptions. Implementation is being recommended for January 1, 2025, in recognition of a current federal *Prohibition on the Purchase of Residential Property by Non-Canadians Act* which temporarily bans the purchase of homes by foreign buyers from January 2023 to December 2024.

Overall, the introduction of the MNRST is expected to have a positive impact on reducing speculation, and where speculation may persist the MNRST will positively

contribute to the City's multi-year budgeting strategy.. Preliminary estimates indicate the City may generate up to $15 million in revenue in 2025, following the lifting of the federal ban. These estimates have been reflected in the City's enhanced multi-year budget modelling introduced as part of the 2024 budget process and are intended to offset one-time bridging actions applied to the 2024 budget.

In addition, the New Deal Agreement with the Province identified the NRST as a key opportunity for the City and the Province to strengthen alignment of incentives to help ensure availability of housing to residents. Staff will continue to engage in discussions with the Province to promote alignment between the NRST and MNRST, among other financial-related incentives, while monitoring any potential impacts of the federal ban in order to refine estimated impacts for 2025.

RECOMMENDATIONS

The Chief Financial Officer and Treasurer recommends that:

1. City Council approve the implementation of a Municipal Non-Resident Speculation Tax (MNRST) on foreign buyers of residential property in the City of Toronto, effective January 1, 2025, at a rate of 10% of the value of consideration for the purchase of property.

2. City Council approve the final tax design features for the MNRST as set out in Attachment 2 to this report, and amend the City of Toronto Municipal Code Chapter 760, Taxation, Municipal Land Transfer Tax, to add the MNRST.

FINANCIAL IMPACT

The introduction of an MNRST is primarily being recommended as a policy tool, with the objective of curbing real estate speculation, rather than a tool to maximize revenue generation. As discussed later in the report, in consideration of the Federal Foreign Homebuyer Ban in place until the end of 2024, staff are recommending the MNRST be effective as of January 1, 2025, as both the policy and resulting revenue benefits would have minimal impacts in 2024.

Preliminary estimates of potential revenues for the City of Toronto in 2025 range from $9.6 million to $15 million with the application of a 10% MNRST rate. As identified below in Table 1, these estimates will significantly vary according to the federal ban currently in place. While the ban is scheduled to be lifted at the end of 2024, there is a possibility of further extension.

The full impact of the federal ban has not yet been fully quantified and these estimates will continue to be refined throughout the year based on provincial experiences, federal updates, and additional availability of non-resident buyer data, to support the 2025 budget process.

Table 1: Estimated Revenue in 2025 ($ millions)

Scenario	2025 Estimated Revenue
1. Lifting of Federal Ban for 2025	$14 - $15 million
2. Should Federal Ban Remain for 2025	Up to $9.6 million

These estimates are informed by the annual revenues collected through the provincial NRST, specifically by the amounts collected for properties registered in the City of Toronto. From the implementation of the provincial NRST in April 2017 to December 2022, the Province collected approximately $1.06 billion in total, with approximately half of this revenue attributable to home purchases in the City of Toronto (link). During that same time period, the Province charged an NRST rate ranging from 15% at its inception to 25% as of October 2022. While 2023 data is still being finalized and verified, the Province estimates that NRST revenue attributable to property purchases in Toronto is down by over 65% in 2023, resulting in an estimated $31.2 million for the year, in comparison to $91.5 million in 2022.

Table 2: Provincial NRST Collected in Ontario and Toronto

Year	Ontario NRST Total Revenue* ($ millions)	Toronto Portion of NRST Revenue* ($ millions)	# of NRST Registrations in Toronto
2023	Activity being confirmed for 2023, revenues to be impacted by the federal ban		
2022	200.3	91.5	533
2021	167.8	76.3	603
2020	168.1	83.1	606
2019	170.4	88.7	737
2018	196.1	105.1	894
2017 (April - Dec)	156.7	76.4	781
Total	**$1,059.4**	**$521.1**	**4,153**

*The NRST collected is still subject to ongoing rebates and refunds that could significantly reduce the NRST net revenue over time.

The potential revenues of the MNRST have been factored into the City's multi-year budgeting strategy presented during the 2024 budget process, with financial benefits to be realized in 2025 and future years, in support of the City's goal of enhanced financial sustainability. As revenues are realized from the MNRST and introduction of other financial actions, the City can rely less on one-time bridging actions required to develop a balanced budget.

As noted, revenue estimates will continue to be further refined throughout the year in consideration of the Province's experiences, federal impacts and real estate trends. Potential revenues associated with the MNRST will be impacted by a variety of factors including real estate market conditions and immigration trends.

DECISION HISTORY

At its meeting on September 6, 2023, during consideration of the Updated Long-Term Financial Plan, City Council directed the Chief Financial Officer and Treasurer to report back with an implementation plan to introduce a new land transfer tax on foreign buyers of residential property in the City including a recommended tax, collection, and enforcement design, estimated revenues, and required timelines for implementation by the end of 2024.

City Council also requested the Chief Financial Officer and Treasurer, as part of the report back on an implementation plan to review options for curbing real estate speculation, to include the feasibility of a land transfer tax, above the otherwise applicable rate, on buyers of residential resale property where the purchaser owns more than one (1) property within the City of Toronto at the time of purchase, with appropriate exemptions such as purchase for a direct family member.
[Item EX7.1 - Updated Long Term Financial Plan]

COMMENTS

Tax Design

The proposed MNRST would apply the same criteria to applicability, rebates, refunds and exemptions as the provincial NRST. As such, the MNRST would apply to all foreign entities or taxable trustees who purchase or acquire certain residential property in Toronto.

As defined by the province and further included in Attachment 2, a 'foreign entity' is either:

- **A foreign national** - defined in the federal Immigration and Refugee Protection Act as an individual who is not a Canadian citizen or permanent resident of Canada; or

- **A foreign corporation** - defined as a corporation that is incorporated outside of Canada or, in certain circumstances, is controlled by a foreign entity

Per the Province, a 'taxable trustee' is either a trustee for:

- A trust with at least one trustee that is a foreign entity; or

- A trust with at least one beneficiary that is a foreign entity.

The proposed MNRST, consistent with the provincial NRST, includes existing exemptions that apply to the general land transfer tax. In addition, an exemption from the MNRST may be available if the applicant is a:

- **Nominee** - a foreign national who is nominated under the Ontario Immigrant Nominee Program (nominee) at the time of the purchase or acquisition, and the foreign national has applied or certifies that they will apply to become a permanent resident of Canada;

- **Protected person** - a foreign national on whom refugee protection is conferred (protected person) under section 95 of the *Immigration and Refugee Protection Act* at the time of the purchase or acquisition; or

- **Spouse** - a foreign national who jointly purchases residential property with a spouse (as defined in the Land Transfer Tax Act), who is a Canadian citizen, permanent resident of Canada, nominee, or protected person.

In addition, a rebate may be available to foreign nationals who become permanent residents of Canada within four years of the date of the purchase or acquisition.

The MNRST will apply to the entire transaction (i.e. on the full purchase price) of transfer of land which contains at least one and not more than six single family residences. Examples of land containing at least one single family residence include: land containing a detached house; a semi-detached house; a townhouse; or a condominium unit. In a situation involving the purchase of multiple condominium units, each unit is considered land containing one single family residence.

The MNRST will not apply to other types of land such as multi-residential apartment buildings with more than six units; agricultural land; commercial land; or industrial land.

Policy Rationale

The primarily policy objective of the Municipal Non-Resident Speculation Tax is to enhance the availability of residential housing supply and to maintain a level of affordability in the residential real estate market by discouraging international buyers from purchasing property in the City of Toronto, particularly those buyers who do not intend to live in the property, or where the purchase is for purely speculative purposes. Any revenues generated from the MNRST will provide an additional financial benefit to the City in support of its long-term financial sustainability.

An additional municipal tax applied to the purchase of property by non-residents will act as a deterrent to speculative purchases, particularly for those purchasers who do not intend to occupy the property. Additional commentary is provided in the next section on the combined effects of the applicable land transfer taxes a potential purchaser would be subject to at the municipal and provincial level.

Staff are recommending an MNRST rate of 10% as an appropriate measure to curb speculation while generating sufficient revenues to offset administrative and ongoing costs associated with the tool. Staff have recommended a rate significantly lower than the provincial rate of 25% in recognition that Toronto is the only municipality that can levy an additional land transfer tax. Consistent with the provincial approach, staff recommend an initial rate of 10% and may consider future rate changes following evaluation of the effectiveness of the MRNST in discouraging speculative purchases.

Potential Impacts on Homebuyers

It is important to consider the cumulative impact of land transfer related taxes on potential purchasers. Table 3 identifies illustrative examples of impacts on potential homebuyers within different purchase price scenarios.

A foreign purchaser of residential property would be subject to existing provincial and municipal land transfer taxes. The provincial NRST is imposed under the *Land Transfer Tax Act* and applies in addition to the provincial land transfer tax. Effective January 1, 2024, for purchases of $3 million or greater, this would also include a graduated municipal land transfer tax (MLTT) rate, as approved by City Council in September 2023. A foreign national is not currently eligible to receive a provincial rebate or MLTT rebate under the first-time homebuyer programs.

In addition to the one-time land transfer tax tools noted below, the City of Toronto also has implemented a Vacant Home Tax, which aims to increase the supply of housing by discouraging owners from leaving their residential properties unoccupied. Any potential foreign buyers who choose to keep their properties vacant will also be subject to this property tax, within the relevant taxation year. In October 2023, City Council voted to increase the rate to 3% of the assessed property value. In the scenarios below, this means homebuyers who choose to keep their properties vacant would also be subject to an annual 3% property tax on the *assessed property value* (which is not necessarily the same as purchase price).

Together, these tools should be an extremely effective measure in discouraging speculative purchases.

Table 3: Illustrative Examples of One-Time Land Transfer Tax Related Impacts

(All scenarios assume the purchaser meets the definition of a foreign national)

Description	Scenario 1	Scenario 2	Scenario 3	Scenario 4
Purchase Price	**$500,000**	**$750,000**	**$1,000,000**	**$3,500,000**
Provincial Land Transfer Tax	$6,475	$11,475	$16,475	$73,975
Provincial NRST	$125,000	$187,500	$250,000	$875,000
Total Provincial	**$131,475**	**$198,975**	**$266,475**	**$948,975**
Municipal Land Transfer Tax	$6,475	$11,475	$16,475	$78,975
Municipal NRST	$50,000	$75,000	$100,000	$350,000
Total Municipal	**$56,475**	**$86,475**	**$116,475**	**$428,975**
Total Land Transfer Taxes	**$187,950**	**$285,450**	**$382,950**	**$1,377,950**
% of Purchase Price	37.6%	38.1%	38.2%	39.4%

As noted earlier in the report, if any of these potential homebuyers did become a permanent resident of Canada within four years of the purchase date, they would be eligible to apply to receive a full rebate of both the provincial NRST and MNRST paid. While the rebate opportunity exists, these tools may have a negative impact on potential homebuyers who cannot afford the one-time upfront expenses associated with purchasing a property in the City of Toronto.

Prior to March 30, 2022, the Province offered specific rebates for international students and foreign nationals working in Ontario. However, the province no longer offers these rebate opportunities. In keeping with the New Deal discussions, the City is recommending full alignment with the provincial criteria and eligibility, as such the City is not currently considering implementation of additional rebates for these groups of residents.

Provincial Alignment

The New Deal Agreement with the Province of Ontario specifically identifies that both the Province and the City are committed to improving alignment of incentives to help ensure availability of housing to residents, through tools such as the Vacant Home Tax and the NRST. The introduction of an MNRST will help to further strengthen this shared policy objective. The City will continue to engage with their provincial counterparts to ensure these tools are aligned and continue to work together to achieve the policy objectives of limiting speculation.

With the exception of the recommended rate, the proposed MNRST mirrors all elements of the provincial NRST provisions including applicability, rebates, refunds, and exemptions. This is consistent with the application of the municipal land transfer tax, which parallels all elements of the provincial land transfer tax. As will be further discussed in the implementation section, alignment with the provincial framework will be critical to ensuring this tax can be implemented by January 1, 2025. Any changes or deviations from the provincial framework will result in delays and a potential increase in production, development, and one-time set-up costs. Alignment with the provincial framework also ensures it is simpler and more understandable for potential homebuyers.

Federal Foreign Homebuyer Ban

The federal government has implemented a temporary foreign homebuyer ban (Federal Ban) under the *Prohibition on the Purchase of Residential Property by Non-Canadians Act* for a period of two years from January 1, 2023, to December 31, 2024, for the purposes of making homes more affordable for people living in Canada. Attachment 1 provides additional information.

The federal ban applies to non-Canadians including individuals who are not a Canadian citizen nor a permanent resident of Canada nor a person registered as an Indian under the *Indian Act*. The ban also applies to foreign corporations which are incorporated outside of Canada or, in certain circumstances, controlled by a non-Canadian.

The federal ban prohibits, with certain exemptions, the purchase of residential property that is either a building containing one to three dwelling units, or a part of a building that is a detached, semi-detached house, rowhouse unit or condominium unit located in urban centres (i.e., Census Metropolitan Area or Census Agglomeration).

The federal ban allows for certain purchases by eligible foreign entities including international students who buy a home for $500,000 or less, foreign workers holding a work permit or authorization, individuals fleeing international crises (currently only those entering Canada under the Canada-Ukraine Authorization for Emergency Travel), individuals who have made a claim for refugee protection (but have not yet obtained protected person status) and diplomatic or consular staff and their family members.

City staff will continue to monitor the implications of the federal ban on both the real estate market and on potential revenues associated with the MNRST. Since the ban came into effect, provincial NRST revenue collected in 2023 for properties registered in Toronto is down over 65% compared to 2022, going from $91.5 million to $32.1 million. At this time, the ban is expected to end in December 2024.

Implementation and Collection

Adoption of this report provides the necessary approvals for the implementation of the MNRST through the amendment of the City of Toronto Municipal Code Chapter 750, Municipal Land Transfer Tax.

To implement the MNRST, City will work with Teranet Inc. (Teranet) and the Province by leveraging existing agreements. When the MLTT was introduced by the City in 2008, a memorandum of understanding (MOU) was created between the City and the Province related to the collection and enforcement of the MLTT and the sharing of information. The MOU included an ancillary agreement with Teranet for the collection of MLTT through the electronic land registration process. Due to fact that the NRST is not a separate tax from the LTT, the MOU between the City and the Province will allow for the proposed MNRST.

When the NRST was introduced, the Province made arrangements with Teranet to have it collected through Teranet's proprietary Teraview™ system, in addition to its collection of "regular" LTT. Registrants are expected to have the applicable NRST and LTT in their bank accounts, with those funds being withdrawn at the time of registration of the transfer. As part of the registration process, all taxpayers are required to make a declaration as to the NRST liability. They must declare if the NRST tax is payable or if it is not payable. If they declare that the tax is not payable (exempt), they must declare why. Teranet remits the sums collected to the Province.

The City has received a commitment from Teranet that a similar set up can be achieved, provided that the MNRST is similar in nature to the provincial NRST. The entire implementation is expected to take approximately six months to complete and will be included as part of the regular revenue cycle. In addition, the City would need to consider an appropriate amount of time for the market to adjust to the pending change. Staff are proposing a minimum adjustment period of 60 days before the tax becomes applicable. Given this, it is recommended that the MNRST become payable for all property transfers that are registered commencing January 1, 2025.

The costs to develop and implement the MNRST and ongoing annual costs are summarized in Table 4 below. As the MNRST will be subject to rebates and refunds, the City will require additional staff resources (3 FTEs) to help manage the associated volume. The costs for these resources will be recovered from the revenues associated with the MNRST.

Table 4: MNRST Implementation Costs

Type of Cost	Estimated Amount ($ millions)
One-Time Set-Up Costs including production and development	$0.265
Annual Ongoing Costs for Program Administration	$0.415

Additional Information

During consideration of the Updated Long-Term Financial Plan, City Council requested the Chief Financial Officer and Treasurer, as part of the report back on an implementation plan to review options for curbing real estate speculation, to include the feasibility of a land transfer tax, above the otherwise applicable rate, on buyers of residential resale property where the purchaser owns more than one (1) property within the City of Toronto at the time of purchase, with appropriate exemptions such as purchase for a direct family member (Item EX7.1).

Staff are working with the Municipal Property Assessment Corporation (MPAC) to validate information and data on property ownership. Initial analysis estimates that an additional rate on properties that are not the principal residence of the property owner would apply to a very small number of property owners and an even smaller number of actual transactions in a year and would not yield significant revenues that would warrant implementing such measures.

Next Steps

Applying lessons learned during the implementation of other land transfer tax related revenues, and in alignment with the provincial government through ongoing discussions following the New Deal Agreement, staff will continue to develop appropriate communication, enforcement and audit processes in order to successfully implement the MNRST for January 1, 2025.

Overall, the MNRST will help to discourage speculation in the residential real estate market in support of the City's broader objective to safeguard and enhance the availability of residential housing supply and to maintain a level of affordability in the residential real estate market for residents of Toronto.

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SIGNATURE

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Chief Financial Officer and Treasurer

ATTACHMENTS

Attachment 1: Federal Foreign Homebuyer Ban
Attachment 2: Summary of MNRST Provisions

Attachment 1: Federal Foreign Homebuyer Ban

- The Federal government has implemented a temporary foreign homebuyer ban (Federal Ban) under the Prohibition on the Purchase of Residential Property by Non-Canadians Act for a period of two years from January 1, 2023, to December 31, 2024.

- The ban applies to non-Canadians including:

  - An individual who is not a Canadian citizen nor a permanent resident of Canada nor a person registered as an Indian under the Indian Act.

  - A foreign corporation that is incorporated outside of Canada or, in certain circumstances, is controlled by a non-Canadian.

- The table below provides a generalized, high-level overview of selected interactions between the Federal Ban and the MNRST:

Federal Ban Applies	**Federal Ban Does Not Apply**
Purchases of residential properties (1-3 dwelling units) located in urban centres by most foreign nationals and foreign corporations.	Certain purchases by eligible foreign entities including: - International students who buy a home for $500,000 or less; - Foreign workers holding a work permit or authorization; - Individuals fleeing international crises (currently only those entering Canada under the Canada-Ukraine Authorization for Emergency Travel); - Individuals who have made a claim for refugee protection (but have not yet obtained protected person status); and - Diplomatic or consular staff and their family members.

- MNRST revenue may be impacted as the Federal Ban applies to the purchase of residential property that is a building containing 1-3 dwelling units, or a part of a building that is a semi-detached house, rowhouse unit or condo unit located in urban areas including the City of Toronto (i.e., Census Metropolitan Area or Census Agglomeration).

Attachment 2: Summary of MNRST Provisions

Persons Subject to the MNRST

- MNRST applies to foreign entities or taxable trustees who purchase or acquire certain residential property in the City of Toronto

- A *foreign entity* is either a foreign national or a foreign corporation.

    - A *foreign national*, as defined in the *Immigration and Refugee Protection Act (Canada)*, is an individual who is not a Canadian citizen or permanent resident of Canada.

    - A *foreign corporation* is a corporation that is incorporated outside of Canada or in certain circumstances is controlled by a foreign entity.

- A *taxable trustee* is one of the following:

    - A trustee of a trust with at least one trustee that is a foreign entity, or

    - A trustee of a trust with at least one beneficiary that is a foreign entity.

- Effective **January 1, 2025**, the MNRST rate is **10%**.

- The MNRST applies in addition to the general Municipal Land Transfer Tax (MLTT) in Toronto.

Types of Property Subject to the MNRST

- MNRST applies to the transfer of land which contains at least one and not more than six single family residences.

    - Examples of land containing one single family residence include land containing a detached house, a semi-detached house, a townhouse, or a condominium unit.

    - In a situation involving the purchase of multiple condominium units, each unit is considered land containing one single family residence.

- MNRST does not apply to other types of land such as multi-residential apartment buildings with more than six units, agricultural land, commercial land, or industrial land.

Value of the Consideration

- MNRST is calculated on the “value of the consideration”, which is normally the amount paid for the land in addition to the remainder of any mortgage or debt assumed as part of the purchase agreement.
    - For example, when purchasing a vacant lot with a construction contract, the value of the consideration is the total cost of the lot, plus the cost of the construction contract.

- However, in certain cases, the value of the consideration is based on the “fair market value” of the land, such as where the transfer is of:
    - A lease with a term that can exceed 50 years,
    - Land from a corporation to one of its shareholders, or
    - Land to a corporation if corporate shares are issued.

Exemptions

- Exemptions that apply to the general land transfer tax also apply to MNRST[1].
- In addition, an exemption from the MNRST may be available in the following situations:
    - *Nominee:* A foreign national who is nominated under the Ontario Immigrant Nominee Program (nominee) at the time of the purchase or acquisition, and the foreign national has applied or certifies that they will apply to become a permanent resident of Canada;
    - *Protected person*: A foreign national on whom refugee protection is conferred (protected person) under section 95 of the Immigration and Refugee Protection Act (Canada) at the time of the purchase or acquisition; or,
    - *Spouse*: A foreign national who jointly purchases residential property with a spouse (as defined in the Land Transfer Tax Act), who is a Canadian citizen, permanent resident of Canada, nominee, or protected person.
- To qualify for an exemption, the foreign national (and if applicable their spouse) must certify they will occupy the property as their principal residence.

Rebates

- A rebate of MNRST may be available to foreign nationals who become permanent residents of Canada within four years of the date of the purchase or acquisition.
    - Applications for the rebate must be received within 90 days of becoming a permanent resident of Canada.
- To qualify for a rebate, the foreign national must exclusively hold the property or hold the property exclusively with his or her spouse.
- The property must also have been used as the foreign national’s (and if applicable their spouse’s) principal residence until they apply for the refund.

1 This includes (but is not limited to) certain transfers of land between spouses, transfers to Crown or Crown Agents, and the acquisition of certain life lease interests.