

# End real estate honour system, experts urge

## More rigorous enforcement, not new laws, could bring honesty to market

Immigration and tax specialists say Metro Vancouver's soaring house prices are fuelled by people who don't tell the truth when they buy and sell houses, cheating B.C. and Canada of billions of dollars in tax revenue.



**GERRY KAHRMANN** Foreigners who don't principally live in Canada but claim they do so on their real estate forms are in a position to evade paying taxes on 25 per cent of their capital gains.

Experts are recommending reforms to the property transfer system in light of complaints that Metro Vancouver's explosive housing prices are significantly driven by the unregulated global movement of billions of dollars, most recently from mainland China, which is on the verge of becoming the world's largest economy.

Vancouver tax specialist Samuel Hyman and immigration lawyer Richard Kurland say one of the first problems to fix is to properly monitor whether property sellers are honest when they say they are, or are not, residents of Canada as defined under the Income Tax Act.

Even though sellers are expected to tick a box on real estate industry forms stating whether they are Canadian residents for income tax purposes, the specialists say there is almost no monitoring of where those people live and pay taxes, which opens the door to fraudulent property transfers and tax evasion.

Non-residents who don't principally live in Canada but claim they do so on real estate forms are evading paying tax on 25 per cent of their capital gains.

"People who are not a resident in Canada for tax purposes are supposed to pay up to 25 per cent tax on the profit from the sale of their property," Kurland says.

"People who live and file taxes here don't have to pay these taxes, which should give an advantage to local buyers. But when Canada Revenue Agency doesn't collect the tax, locals lose the advantage they were supposed to enjoy.

"Canada's tax system is supposed to favour locals over foreigners, but the system does not work if B.C. fails to make people accurately declare their tax residency on the form."

In this era of mass trans-national migration, Kurland says, wealthy people around the world are paying professionals to weave them through a complex web of regulations surrounding immigration, residency requirements, real estate and taxation.

In some cases, Kurland says, the professionals are taking advantage of Canada's tax loopholes so their trans-national clients "can have their cake and eat it too."

Some, for instance, claim to real estate officials they are Canadian residents to buy and sell houses — avoiding capital gains — and to maintain their status as permanent residents.

But, Kurland says, some of the same people, at the same time, are claiming to Revenue Canada they are not residents under our tax law, so they don't have to declare their global income and property holdings and pay taxes in Canada.

Solving these problems, Hyman says, would require no new Canadian tax laws, no new taxes and no new restrictions on ownership, domestic or foreign.

The reforms would simply require more rigorous enforcement of claims by sellers and buyers about where they pay their taxes, regardless of whether they have a Canadian passport.

The reforms, which mainly require better information sharing between governments, would illuminate "market forces pushed by tax evaders, money launderers and economic fugitives parking ill-gotten gains in B.C. real estate," Hyman says.

In short, Hyman's proposed rules would require any declaration sellers make about where they live and pay taxes to be immediately crosschecked with Immigration Canada and the Canada Revenue Agency. That way, since it's the job of both Canadian immigration and tax officials to monitor where someone lives, all residency claims on real estate forms can be confirmed or exposed within days.

Kurland says whenever a person in B.C. sells a house or condominium, "there's a box to tick" on standard real estate forms in regard to whether the seller is a resident of Canada for tax purposes — that is, someone who lives in Canada more than six months of the year and pays income taxes in Canada.

But the real estate information on residency is never crosschecked with Immigration Canada or the Canada Revenue Agency. That means that the government is, by and large, trusting sellers to be honest.

The tax implications are enormous for Canada, especially in a market where wealthy transnational migrants routinely sell houses in the \$3-million-to-\$5million range.

Why would governments allow this giant loophole?

"It's a mystery," Kurland says. "The only logical conclusion is that the B.C. government fears a reduction in the number of buyers and sellers. These reforms would negatively impact only foreign buyers, who are the crew in the spotlight these days."

It may be worth mentioning that in this trans-national realm of property speculation, globalized wealth and multiple passports, Kurland says, where someone says they are a resident for tax purposes can be different from where they are a citizen.

"Citizenship is as irrelevant as hair colour when it comes to selling property," Kurland says, "because you can be a Canadian citizen and still not be a resident in Canada for tax purposes."