



# Harmonized Sales Tax for British Columbia New Housing and Other Real Property - Transitional Rules

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# Outline

- Application of HST to newly constructed and substantially renovated housing
- Grandparenting rule
- B.C. new housing rebate
- B.C. new residential rental property rebate
- Transitional tax adjustment
- PST transitional new housing rebate

# Outline

- B.C. builder/reseller disclosure requirements
- General Transition Rules
- Progress payments and holdbacks
- Non-residential real property
- Electronic filing

# Introduction

Important dates for the transitional rules for residential real property:

- **November 18, 2009:** Date the Government of British Columbia announced the real property transitional rules
- **July 1, 2010:** Implementation date for the HST in British Columbia
- HST at 12 % (GST at 5% plus the provincial part of the HST at 7%)

# Introduction

## What stays the same:

- Exemptions for supplies of real property that apply for GST purposes will continue to apply for HST purposes
- Supplies of real property that are taxable for GST purposes will be taxable for HST purposes
- Registration, elections and approvals will still be in effect

# Harmonized Sales Tax

## Sales of new housing

- HST will apply to sales of newly constructed or substantially renovated housing sold by a builder
- HST will apply to all types of housing – single unit houses, condominiums, multiple unit housing

# Harmonized Sales Tax

## Sales of new housing

- If **either** ownership **or** possession of the housing transfers before July 1, 2010, only GST applies
- Generally, HST would apply where **both** ownership **and** possession of the housing transfer on or after July 1, 2010
  - This is also the general rule for sales of real property other than housing, e.g. lots, commercial real property
- Exception – grandparented sales of housing

# Grandparenting

## Sales of new single unit housing (not condominium units)

No provincial part of HST where:

- Written agreement of purchase and sale entered into on or before November 18, 2009
- Ownership and possession of housing transfer on or after July 1, 2010
- Purchaser is an individual

GST still applies

# Grandparenting

## Sales of new condominiums

No provincial part of HST where:

- Written agreement of purchase and sale entered into on or before November 18, 2009
- Ownership and possession of condominium transfer on or after July 1, 2010
- Purchaser is a person (e.g., individual or corporation)

GST still applies

# Grandparenting Exceptions

Grandparenting rules do not apply to:

- Owner-built housing
- Mobile homes, including modular homes, and floating homes
- Duplexes and traditional apartment buildings

# Grandparenting – assignments and resales

- An assignment of a grandparented sale or a subsequent resale may continue to be grandparented if certain conditions are met



# Grandparenting ITCs on building inputs

- Generally, GST/HST registrants would be eligible to claim input tax credits (ITCs) for the HST payable on inputs including inputs to construct housing sold on a grandparented basis
- Large businesses would be subject to a temporary recapture of ITCs
- Tax Information Notice - HST Notice #4, *Temporary Recapture of Input Tax Credits Requirement* issued by B.C. Ministry of Finance on February 19, 2010 and updated on May 14, 2010

# Examples

## ■ Case 1

- Contract Date Before Announcement Date, Before Effective Date
- Closing Date Before Announcement Date, Before Effective Date
- Example
  - Contract Date: September 2009
  - Closing Date: October 2009
  - No HST only GST

## ■ Case 2

- Contract Date Before Announcement Date, Before Effective Date
- Closing Date After Announcement Date, Before Effective Date
- Example
  - Contract Date: September 2009
  - Closing Date: November 2009
  - No HST only GST

# Examples

- **Case 3**
- Contract Date Before Announcement Date, Before Effective Date
- Closing Date After Announcement Date, After Effective Date
- Example
  - Contract Date December, 2008
  - Closing Date December, 2010
  - Grandparented – no HST only GST
- **Case 4**
- Contract Date After Announcement Date, Before Effective Date:
- Closing Date After Announcement Date, Before Effective Date:
- Example
  - Contract Date: December, 2009
  - Closing Date: January, 2010
  - No HST only GST

# Examples

- **Case 5**
- Contract Date After Announcement Date, Before Effective Date:
- Closing Date After Announcement Date, After Effective Date:
- Example
  - Contract Date: December, 2009
  - Closing Date: August, 2010
  - HST at 12%
  
- **Case 6**
- Contract Date After Announcement Date, After Effective Date
- Closing Date After Announcement Date, After Effective Date
- Example
  - Contract Date: August 2010
  - Closing Date: December 2010
  - HST at 12%

# Upgrades

- Upgrades generally form part of the agreement of purchase and sale for housing
- Where existing agreement is modified, varied or otherwise materially altered, it is considered to be a new agreement and the transitional rules will apply based on the date of the new agreement
- GST/HST Policy Statement P-249, *Agreements and Novation*

# Builder disclosure requirements

- Builder required to disclose in purchase and sale agreement entered into after November 18, 2009 and before July 1, 2010:
  - whether provincial part of HST applies, and
  - if so, whether the stated price includes provincial part of the HST, the British Columbia new housing rebate and the PST transitional new housing rebate, if applicable

# Builder disclosure requirements

- If disclosure requirements are not met:
  - stated price in the agreement will be considered to include the provincial part of the HST, and
  - purchaser would not be required to pay the provincial part of HST in addition to the stated price

# B.C. new housing rebate

- Rules and conditions for claiming the rebate generally the same as under the GST new housing rebate
- Primary place of residence of purchaser or a relation
- No B.C. new housing rebate for grandparented sales of housing

# B.C. new housing rebate

- Rebate available for same types of new housing as currently qualify under the GST:
  - Newly constructed and substantially renovated housing sold by a builder,
  - owner-built housing,
  - co-op housing,
  - floating homes, mobile homes (including modular homes)
  - housing on leased land

# B.C. new housing rebate

- Rebate for purchase of housing is equal to 71.43% of provincial part of HST paid, to a maximum rebate of \$26,250
- Rebate is available regardless of purchase price of housing
- Purchase of house with leased land: 4.47% of price of the building to maximum rebate of \$26,250
- Shares in a housing co-op: 4.47% of price paid for qualifying share to maximum rebate of \$26,250

# B.C. new housing rebate

## Example

- Written agreement of purchase and sale for a newly constructed house entered into in April 2010
- Ownership and possession transfer in August 2010
- Purchaser meets all conditions for claiming a GST new housing rebate
- Consideration for the house is \$400,000

# B.C. new housing rebate

## Example (cont'd)

- Provincial part of HST paid is: \$28,000 ( $\$400,000 \times 7\%$ )
- B.C. new housing rebate is: \$20,000 ( $\$28,000 \times 71.43\%$ )
- Federal part of HST paid is: \$20,000 ( $\$400,000 \times 5\%$ )
- GST new housing rebate is \$3,150

# BC New Housing Rebate

- There will be no changes to the federal part of the new housing rebate – the rebate decreases where the consideration for the home exceeds \$350,000 and will not be available where the consideration exceeds \$450,000.
- The provincial new housing rebate in BC is equal to 71.43% of the 7% provincial portion of the HST paid on the purchase of a residential complex, to a maximum rebate amount of \$26,250.
- There are no phase out or maximum consideration thresholds for the provincial new housing rebate.
- We will be releasing info sheets in the next few weeks that provide the method for determining the consideration, HST payable, GST/HST new housing rebate (for the federal part of the HST) and the provincial new housing rebate where a stated price includes the HST and the federal and provincial new housing rebates.

# B.C. new housing rebate

## Owner-built housing

- Rebate for owner-built housing depends on whether HST was paid on purchase of land
  - 71.43% of provincial part of HST paid to maximum rebate of:
    - \$26,250, if HST paid on the land
    - \$17,588, if HST not paid on the land

# Rentals of new housing

- HST would apply on a self-supply by a builder-landlord after June 2010
- Self-supply occurs at the later of:
  - The day possession or use of housing is first given as place of residence under lease, licence or similar arrangement, and
  - The day construction or substantial renovation of the housing is substantially complete

# Self-supply and FMV

- The method that is currently being used to determine the FMV for GST purposes may also be used to determine the FMV for purposes of the HST, provided the method is fair and reasonable.
- Any appraisal should provide the fair market value of the property on the date the self-supply is required.

# B.C. new residential rental property rebate

- Rebate available to builder-landlords, and purchaser-landlords who purchase rental properties, and pay the HST
- Rebate equal to 71.43% of provincial part of HST paid, to a maximum rebate of \$26,250 per rental unit
- Rebate would be available regardless of purchase price (or FMV for self-supply), i.e. there is no phase-out or threshold amounts as for the GST rebate

# B.C. new residential rental property rebate

- Rebate would be available for same types of rental housing as under the GST
- Rules and conditions are the same as under the GST, e.g. generally rented for a period of one year
- No B.C. new residential rental property rebate for grandparented sales of rental housing

# B.C. new residential rental property rebate - leased land

- Rebate available to landlords who make an exempt rental of land for residential use, i.e., rental of residential lot or site in a residential trailer park
- Rebate equal to 71.43% of provincial part of HST to maximum rebate of \$8,663 for each lot or site

# Transitional tax adjustment (TTA)

- Applies to grandparented sales of single unit housing and residential condominiums if construction or substantial renovation straddles July 1, 2010
- For single-unit housing, based on consideration payable and degree of completion of the housing as of July 1, 2010
- For condominium units and complexes, 2% of consideration payable

# Transitional tax adjustment (TTA)

- Builder is required to account for TTA in its net tax calculation on its GST/HST NETFILE return for reporting period in which possession of housing is transferred
- TTA does not apply to apartment buildings, duplexes, mobile homes and floating homes

# TTA – single unit housing

Degree of completion as of July 1, 2010	TTA rate as a % of consideration
< 10%	2.0%
10% ≤ and < 25%	1.5%
25% ≤ and < 50%	1.0%
50% ≤ and < 75%	0.5%
75% ≤ and < 90%	0.2%
≥ 90%	0%

# Transitional tax adjustment Example

- Builder's sale of a detached house is grandfathered
- Consideration for the sale is \$450,000
- On July 1, 2010, construction of the house is 85% complete
- What is the TTA amount that must be accounted for in the builder's net tax?

# Transitional tax adjustment

## Example – (cont'd)

- Since house is 85% complete, the rate of the TTA as a percentage of consideration is 0.2%.
- Consideration is \$450,000
- TTA is \$900 ( $\$450,000 \times 0.2\%$ )

# PST transitional new housing rebate

- PST transitional new housing rebate for newly constructed or substantially renovated housing where:
  - Construction/renovation straddles July 1, 2010
  - Housing at least 10% complete as of July 1, 2010
  - Ownership and possession of housing transfer after June 2010, and
    - For sales of single unit housing, including duplexes, purchaser must be an individual who paid the HST on the purchase,
    - For grandparented sales of condominiums, builder paid transitional tax adjustment,
    - For rental housing, the builder paid HST on self-supply, or
    - For sales of multiple unit rental housing (apartment buildings), the purchaser paid HST on the purchase

# PST transitional new housing rebate

- For purchases of single unit housing (e.g., detached house, semi-detached) or duplex, the individual would be the claimant and rebate may be assigned to builder
- For residential condominiums, apartment buildings and additions to multiple unit rental housing, the builder would be the claimant
- For single unit rental housing of a builder-landlord, the builder would be the claimant
- Not available for mobile homes, including modular homes, and owner-built homes

# PST transitional new housing rebate

- Builder must obtain from the Province of British Columbia a letter of good standing
- Issued where builder has no outstanding provincial debts
- Valid for one year unless revoked

# PST transitional new housing rebate

Degree of completion as of July 1, 2010	% of estimated PST content to be rebated
< 10%	0%
10% ≤ and < 25%	25%
25% ≤ and < 50%	50%
50% ≤ and < 75%	75%
75% ≤ and < 90%	90%
≥ 90%	100%

# PST transitional new housing rebate

## Estimated PST content

Choose one of the following 2 methods:

- \$60.00 per square metre of habitable floor space (floor space method), or
- 2% of the consideration payable on the sale the housing or, in certain situations, the fair market value (FMV) of the housing (consideration or FMV method)

# PST transitional new housing rebate

- Floor space method – rebate must be filed after June 2010 and before July 1, 2014
- Consideration or FMV method – rebate must be filed no earlier than the day HST is payable or, in the case of self-supply, deemed collected, or the day the builder is considered to have collected the TTA and before July 1, 2014

# PST transitional new housing rebate for rental properties

- The PST transitional new housing rebate will generally be available where the builder makes a self-supply on which the builder must account for the HST at 12%.
- The rebate is based on the degree of completion of the residential complex as of July 1, 2010 and the estimated PST content in the complex.
- The estimated PST content can be based on either the “consideration method” (in this case, 2% of the FMV of the complex at the time of self-supply) or the “floor space method” (\$60 per square metre of habitable floor space in the complex).

# PST transitional new housing rebate

## Example

- Builder and individual enter into a written agreement of purchase and sale for a newly constructed detached house on December 11, 2009 (i.e., not a grandparented house)
- Consideration is \$500,000
- Ownership and possession transfer under the agreement in July 2010

# PST transitional new housing rebate

## Example (cont'd)

- Construction of house is 70% complete as of July 1, 2010
- HST applies to sale of house
- Purchaser is eligible for the PST transitional new housing rebate

# PST transitional new housing rebate

## Example (cont'd)

Estimated PST content using the consideration or FMV method is:

- \$10,000 (2% of \$500,000)

B.C. PST transitional new housing rebate:

- \$ 7,500 (75% of \$10,000)

# Degree of building completion

- There are a number of methods that the CRA would generally consider as a fair and reasonable method for determining the degree of completion as of July 1, 2010.
- Progress billings made to July 1, 2010 as a percentage of the consideration payable for the complex
- Capital and operating costs incurred to July 1, 2010 as a percentage of total costs
- Floor space completed as of July 1, 2010 as a percentage of total floor space of the completed building
- Fair market value of the property as of July 1, 2010 as a percentage of the FMV if the complex were substantially complete as of July 1, 2010
- Note that methods used to determine the degree of completion for purposes of the FST new housing rebate may still be appropriate for determining the degree of completion on July 1, 2010.

# Progress payments and holdbacks

- HST applies to progress payments for contracts to construct, renovate, alter or repair real property to the extent the payment is for property delivered or services performed on or after July 1, 2010
- HST applies to holdbacks to the extent that the progress payment to which the holdback relates is subject to the HST

# General Transition Rules

- Generally, HST will apply to supply of goods where both delivery and ownership transfer after June 2010.
- Generally, HST will apply to supplies of services to the extent that the service is performed after June 2010.
- GST/HST NOTICE 247 – Questions and Answers on General Transitional Rules for Personal Property and Services
- GST/HST Info Sheet GI-056 – Transition to the Harmonized Sales Tax - Services

# General transition rules

## ■ October 14, 2009

- If consideration is paid or due after Oct. 14, 2009 and before May 2010 supplier does not charge HST, certain non-consumers or FIs may need to self-assess

## ■ May 1, 2010

- Date that supplier would have to collect HST on prepayments, but only to extent that property and services are provided after June 2010

## ■ July 1, 2010 – Implementation Date

- Date that HST generally begins to apply

# Example

- On September 13, 2010 a final progress payment of \$20,000 less a holdback amount is due under a contract to construct a house
- 80% of the progress payment relates to property delivered and services performed on or after July 1, 2010
- \$15,000 (10% of the value of the contract) is the amount of the holdback

# Example

- HST applies to 80% of the holdback amount i.e.,  
80% of \$15,000 = \$12,000
- HST is \$1,440 (12% of \$12,000)
- GST applies to 20% of the holdback amount i.e.,  
20% of \$15,000 = \$3,000
- GST is \$150 (5% of \$3,000)

# Non-residential real property Sales

- HST applies to sales of non-residential real property where **both** ownership **and** possession transfer to the purchaser on or after July 1, 2010
- Where the sale is currently exempt under GST, the sale will also be exempt under HST (e.g., certain sales of vacant land by individuals)
- Registrants constructing commercial properties can claim input tax credits (ITCs) for HST paid on construction expenses
- No ITCs for PST paid

# Non-residential real property sales

- Date of written agreement does not affect application of HST i.e., no grandparenting provision for sale of non-residential real property
- Generally, vendor not required to collect HST on taxable sale of real property to GST/HST registered person; purchaser required to account for HST on their own GST/HST return

# Non-residential real property leases

- HST applies to leases of non-residential real property
- Where lease is currently exempt under GST, lease will also be exempt under HST (e.g., sites in a residential trailer park)

# Non-residential real property leases

- GST applies when the lease interval begins before July 2010 and ends before July 31, 2010
- HST applies when the lease interval begins on or after July 1, 2010
- Transitional rules apply where the lease interval straddles July 1, 2010 and ends after July 30, 2010, such that HST applies to a part of the lease interval

# Non-residential real property Leases

When the lease interval begins before July 2010 and ends on or after July 31, 2010:

- GST applies to the consideration that becomes due or is paid before May 2010; certain non-consumers may have to self-assess the provincial part of the HST
- When the consideration becomes due or is paid without having become due on or after May 1, 2010:
  - GST applies to the consideration attributable to that part of the lease interval that occurs before July 2010
  - HST applies to the consideration attributable to that part of the lease interval that occurs on or after July 1, 2010

# Example 1

- Operator of a trailer park leases a site in the park to an individual for personal use
- Lease is from May 1, 2010 to October 31, 2010
- Lease payment is due on May 1, 2010 but individual pays on April 15, 2010
- GST applies to lease payment, HST does not apply

## Example 2

- Operator of a trailer park leases a site in the park to an individual for personal use
- Lease is from May 1, 2010 to October 31, 2010
- Lease payment is due on May 1, 2010 and is paid on May 15, 2010
- HST applies to 4/6 months or 67% of lease payment

# Real estate agent commissions

- Commission paid to a real estate agent is in respect of a service
- General transitional rules for services apply
- GST applies when 90% or more of the service is performed before July 2010

# Real estate agent commissions

When more than 10% of the service is performed on or after July 1, 2010:

- GST applies to the consideration that becomes due or is paid before May 2010.
- When the consideration becomes due or is paid without having become due on or after May 1, 2010:
  - GST applies to the consideration that relates to the portion of the service performed before July 2010
  - HST applies to the consideration that relates to the portion of the service performed on or after July 1, 2010

# Example

- A purchaser enters into an agreement of purchase and sale for housing on May 15, 2010
- Ownership and possession of the house transfer to the purchaser on July 5, 2010
- Real estate agent performs more than 90% of their service before July 2010
- The agent is paid for their service on July 5, 2010
- GST applies to the real estate agent's commission

# Example

- A purchaser enters into an agreement of purchase and sale for housing on May 15, 2010
- Ownership and possession of the house transfer to the purchaser on August 5, 2010
- Real estate agent performs 50% of their service before July 2010
- The agent is paid for their service on August 5, 2010
- GST at 5% applies to 50% of the real estate agent's commission, and
- HST applies at 12% to 50% of the commission.

# Electronic filing

- Registrants are required to file electronically for reporting periods ending on or after July 1, 2010 if they are over the \$1.5 million threshold or are required to recapture input tax credits (ITCs)
- Builders who are registrants affected by the HST transitional housing rules are required to file their GST/HST returns using GST/HST NETFILE for reporting periods ending on or after July 1, 2010
- Builders over the \$1.5 million threshold will be required to use GST/HST NETFILE or TELEFILE if they are reporting new housing rebates that they paid or credited to purchasers

# Electronic filing

- The total amount of the transitional tax adjustment that is required to be included in the builder's net tax for the reporting period
  - The amount of all PST transitional new housing rebates claimed for the reporting period, including rebates assigned to the builder
- Refer to GST/HST Notice 249, *Questions and Answers on the New Reporting Requirements for GST/HST Registrants*

# GST/HST NETFILE return

- Builders must report the following information on the GST/HST NETFILE return:
  - The number of grandparented housing units sold during the reporting period where the purchaser was not entitled to claim the GST new housing rebate or new residential rental property rebate and the total sale prices for those units
  - For first resellers, the number of grandparented housing units purchased by the first reseller that were sold during the reporting period and were subject to the HST and the total purchase prices of those units

# Publications

- CRA Notice 246 is a Q&A document on the rules surrounding the implementation of the HST for housing in BC.
- In addition, we will be publishing a number of General Information sheets (tentatively numbered GI-076 through GI-103), each on specific topics and in fairly plain language, on HST issues and real property.
- These publications are, or will soon be, available on the CRA website.

# Publications and resources

- CRA Web site [www.cra-arc.gc.ca](http://www.cra-arc.gc.ca)
- GST/HST Rulings 1-800-959-8287

