

HST Transitional Rules for New Home Builders & Buyers

Overview

On July 23, 2009, BC Ministry of Finance announced its plans to implement a Harmonized Sales Tax for BC (the HST) which would come into effect on July 1, 2010. This publication provides measures to help British Columbians who are buyers and builders of new homes make the transition from the current PST to the upcoming HST.

The HST will generally use the same rules and tax base as the GST. As a result, new homes in BC that are subject to 5% GST will be subject to the 12% HST once BC harmonizes its 7% provincial sales tax with the 5% federal GST effective July 1, 2010. In BC, builders and buyers of new homes will be affected by the harmonization of its provincial sales tax with the federal goods and services tax. References to “new homes” include both newly constructed and substantially renovated housing. These topics were summarized in the BC Ministry of Finance Tax Information HST Notice #3 dated November 18, 2009 (the Notice).

New Housing Rebate

BC will provide new home buyers that qualify a rebate of the provincial component of HST equal to 5% of the purchase price of new homes (including mobile and floating homes). The full rebate applies to homes priced up to \$525,000. New homes purchased for \$525,000 or more will be eligible for a flat rebate of \$26,250.

New home buyers may also be eligible for the federal GST new housing rebate which generally equals 36% of the tax paid on the first \$350,000 of the purchase price. The amount of the GST rebate is phased out for homes priced between \$350,000 and less than \$450,000. Recreational properties such as cottages and ski chalets not used as primary residences would generally not qualify for the new housing rebate.

Price of Eligible New Home (not including GST or HST)	5% Federal Portion: New Housing Rebate	7% BC Portion: New Housing Rebate	Total Rebates
\$350,000	\$6,300	\$17,500	\$23,800
\$400,000	\$3,150	\$20,000	\$23,150
\$450,000	\$0	\$22,500	\$22,500
\$525,000 and above	\$0	\$26,250	\$26,250



New Rental Housing Rebate

Similar to the rebate for new homes, an HST rebate will be available for new rental housing to be rented out for use by the tenants as primary residences. Qualifying housing will include substantially renovated rental housing, co-operative rental housing, additions to traditional apartment buildings, long-term residential care facilities, rental mobile homes and rental floating homes for use as primary residences. This rebate will apply across all price ranges up to a maximum of \$26,250.

Landlords who purchase new rental property will be eligible for the rebate, calculated as 5% of the purchase price of a new rental property, up to a maximum rebate of \$26,250. Landlords who build rental housing and will be subject to HST under the “self-supply” rules will also be eligible for the rebate. A rebate will also be available for leased land if the land is used for residential purposes. This rebate will be 5% of the lease amount up to a maximum of \$8,663.

BC’s Transitional Rules for Residential Real Property

New Home Sales

In general, sales of new homes will be subject to HST when both ownership and possession of the home are transferred after June 2010, subject to the grandfathering rules outlined below. The provincial portion of the HST will not apply to builders’ sales of new homes that are taxable under the GST when, under a written agreement of purchase and sale, ownership or possession of the home is transferred before July 2010.

New Rental Homes: Builder-Landlords

Builders of new single homes or residential condominiums who rent out their new homes or condos (or, in the case of new traditional apartment buildings, the first unit in the building) are generally required to self-assess GST when they rent out the homes under the “self supply” rules.

These builders will be required to pay the provincial portion of the HST on the self-supply if they rent out the new homes or condos (or the first unit of a new traditional apartment building) after June 2010. If these builders rent out the homes before July 2010, they will not be required to pay the provincial portion of the HST on the self-supply.

Grandfathering Rules

Under the proposed grandfathering rules, sales of new homes under written agreements of purchase and sale entered into on or before November 18, 2009, will not be subject to the provincial portion of the HST if both ownership and possession of the homes are transferred after June 2010.



Grandfathered purchase and sale agreements that are assigned to third parties will generally retain their grandfathered status if certain conditions are met. Grandfathering will not apply to traditional apartment buildings, duplexes, mobile homes, floating homes and homes built by owners for their individual use. However, these homes may qualify for one or more of the PST transitional new housing rebates described below and the BC new housing rebates described above.

Transitional Tax Adjustment for Grandfathered Homes

Builders will be entitled to recover the provincial portion of the HST payable on their expenditures by claiming input tax credits (ITC), subject to the restrictions on claiming the provincial portion of the HST on certain purchases applicable to large businesses (those with annual GST / HST taxable revenues in excess of \$10 million).

However, for grandfathered homes, builders in BC will generally be required to pay a “transitional tax adjustment” based on the completion of the home on July 1, 2010 to account for PST that would otherwise have been embedded in the grandfathered homes under the current PST system.

The transitional tax adjustment for grandfathered sales of new single homes and condominiums will have different calculations for each category.

Grandfathered Single Unit Homes

For grandfathered single unit homes (including single detached, semi-detached and attached homes), the builder will be required to pay a transitional tax adjustment, calculated as a percentage of 2% of the greater of the purchase price and the fair market value of the home as at July 1, 2010, assuming the home was substantially complete as of that date, based on the extent of the construction or substantial renovation completed as of July 1, 2010, as follows:

Completion of Home on July 1, 2010	Transitional Tax Adjustment (TTA)
Less than 10%	2% (100% of the TTA rate of 2%)
10% or more but less than 25%	1.5% (75% of the TTA rate of 2%)
25% or more but less than 50%	1% (50% of the TTA rate of 2%)
50% or more but less than 75%	.5% (25% of the TTA rate of 2%)
75% or more but less than 90%	.2% (10% of the TTA rate of 2%)
90% or more	0% (0% of the TTA rate of 2%)



For example, if a builder entered into an agreement to sell a new home to an individual purchaser for \$500,000 on or before November 18, 2009 for completion in October 2010 and the home was 55% completed on July 1, 2010, the builder will be required to pay a transitional tax adjustment of \$2,500 ($\$500,000 \times .5\% = \$2,500$).

Grandfathered Condominiums

For grandfathered condominiums, the builder will be required to pay a transitional tax adjustment of 2% of the greater of the sale price and the fair market value of the home as at July 1, 2010, assuming the home was substantially complete as of that date. However, the builder may be entitled to the PST transitional housing rebate.

PST Transitional Housing Rebate

Overview

BC has proposed a PST transitional housing rebate for new homes that are subject to the provincial portion of the HST after June 2010 to provide relief for the PST embedded in the home if the home was constructed in whole or in part prior to July 2010.

The rebate will generally be available for non-grandfathered single homes, condominiums and traditional apartment buildings. The rebate will also be available for grandfathered condominiums if the transitional tax adjustment would be payable by the builder (see above).

For eligible HST-taxable single homes (including detached, semi-detached and attached homes and duplexes), the PST transitional housing rebate would be available to individuals purchasing the home (or builders who first rent the home) after June 2010. Individuals will have the option to apply for the rebate directly with the Canada Revenue Agency (CRA) or through the builder. Individuals will be required to obtain from the builder a certification of the percentage of completion of the home as of July 1, 2010 to make a claim with the CRA. The rebate will not apply to grandfathered homes.

For eligible condominiums or traditional apartment buildings, the PST transitional housing rebate would be available to the builder (rather than the purchaser). The rebate would be available for these homes in cases where the transitional tax adjustment or the HST would apply.

Transitional Rebate Calculations

The PST transitional rebate will be based on the proportion of the estimated embedded PST in the home and on the degree of completion of the home as of July 1, 2010.

BC proposes two methods for eligible applicants to estimate the embedded PST content: either an amount based on a prescribed amount of \$60 per square metre of floor space in the home or an amount calculated as 2% of the total value of consideration or fair market value, as the case may be.



The rebate will be calculated based on the extent of construction or substantial renovation completed as of July 1, 2010, as follows:

Completion of Home on July 1, 2010	Transitional Rebate
90% or more	100% of the estimated PST content
75% or more but less than 90%	90% of the estimated PST content
50% or more but less than 75%	75% of the estimated PST content
25% or more but less than 50%	50% of the estimated PST content
10% or more but less than 25%	25% of the estimated PST content
Less than 10%	0% of the estimated PST content

For example, an individual purchases an eligible new home for \$500,000 plus \$60,000 HST in October 2010. If the home was 55% complete on July 1, 2010, the individual may be entitled to a transitional rebate of \$7,500 under the "selling price method" ($\$500,000 \times 2\% = \$10,000$ estimated PST content $\times 75\% = \$7,500$).

The PST transitional new housing rebate will be administered by the CRA. As a condition of obtaining the rebate, a builder will be required to obtain a "clearance certificate" from the province and attach it to the first PST transitional new housing rebate application submitted to the CRA. Generally, a clearance certificate will be provided if a builder has no outstanding provincial tax debts.

Disclosure Requirements for Agreements Signed after November 18, 2009

BC has proposed the following disclosure requirements for purchase and sale agreements entered into after November 18, 2009 and before July 1, 2010. In such cases, the builder is required to disclose in the written agreement whether or not the provincial portion of the HST will apply to the sale and, if so, whether or not the stated price in the agreement includes the applicable provincial portion of the BC HST, net of the BC new housing rebate and the PST transitional new housing rebate.

If the builder does not make the disclosure as noted above, the stated price in the written agreement would be deemed to include the provincial portion of the HST and the purchaser would not be required to pay the provincial portion of the HST in addition to the stated price in the agreement.

Please contact your Manning Elliott advisor if you have any questions on the HST, GST or any other tax or accounting matters.

