Harmonized Sales Tax: Information on the Transitional Tax Adjustment for Builders of Housing in Prince Edward Island

The Government of Prince Edward Island has proposed a harmonized sales tax (HST) that would come into effect on April 1, 2013.

The HST rate in Prince Edward Island would be 14% of which 5% would represent the federal part and 9% the provincial part.

This info sheet reflects proposed tax changes announced in the *Prince Edward Island 2012 Budget* and Revenue Tax Guide RTG185, *Implementation of the Harmonized Sales Tax in Prince Edward Island*.

Any commentary in this info sheet should not be taken as a statement by the Canada Revenue Agency (CRA) that the proposed transitional rules will be enacted in their current form.

This info sheet explains how the transitional tax adjustment would apply to builders who sell "grandparented housing" in P.E.I.

Refer to GST/HST Info Sheet GI-146, *Harmonized Sales Tax: Information for Builders of New Housing in Prince Edward Island*, for a detailed explanation of "grandparented housing".

Definitions for GST purposes, e.g., builder, residential complex, residential unit, residential condominium unit, and substantial renovation, would generally apply under the HST, as would the CRA's current policies on the application of the GST to housing. Guide RC4052, *GST/HST Information for the Home Construction Industry*, and GST/HST Info Sheet GI-005, *Sale of a Residence by a Builder Who is an Individual*, discuss many of these important terms.

Grandparented sales of housing

When newly constructed or substantially renovated grandparented housing is sold in P.E.I., the builder would not be required to collect the provincial part of the HST on the sale of the housing even though both ownership and possession are transferred to the purchaser after March 2013. Only the GST at the rate of 5% would apply to the sale.

However, the builder may be considered to have collected an amount referred to as the transitional tax adjustment and if so, would be required to include that amount in its net tax calculation.

Transitional tax adjustment – Overview

Since the provincial part of the HST would not apply to the sale of grandparented housing, the transitional tax adjustment is intended to approximate the amount of the provincial sales tax (PST) that the builder would otherwise have paid on construction materials after March 2013 and that is embedded in the sale price of the housing.

This transitional tax adjustment would be considered collected by the builder (even though not actually collected from anyone), and would have to be included in the builder's net tax calculation for the reporting period which includes the day that is:

- in the case of a detached house, semi-detached house, rowhouse unit or residential condominium unit, the earlier of the day ownership or possession of the housing is transferred to the purchaser under the written agreement of purchase and sale for the housing; or
- in the case of a condominium complex, the earlier of the day ownership of the complex is transferred to the purchaser and the day that is sixty days after the day the complex is registered as a condominium.

La version française de la présente publication est intitulée *Taxe de vente harmonisée – Renseignements sur le redressement fiscal transitoire pour les constructeurs d'habitations à l'Île-du-Prince-Édouard*.

A builder who is a GST/HST registrant that would be required to account for the transitional tax adjustment in its net tax calculation would have to file its GST/HST return using GST/HST NETFILE. Refer to GST/HST Info Sheet GI-099, *Builders and Electronic Filing Requirements*, which will be updated shortly for P.E.I., for information on the electronic filing requirements that would apply to builders of new housing in P.E.I.

The transitional tax adjustment would be considered collected by the builder and would not be payable by the purchaser. It would represent the amount of PST that the builder would have been required to pay on construction costs incurred after March 2013 and that is embedded in the sale price of the housing.

The transitional tax adjustment would not apply to sales of traditional apartment buildings, duplexes, mobile homes or floating homes, as these would not qualify as grandparented housing.

Transitional tax adjustment – Single-unit housing

For grandparented sales of newly constructed or substantially renovated single-unit housing, the builder would be considered to have collected the transitional tax adjustment if the construction or substantial renovation of the housing is less than 90% complete immediately before April 1, 2013.

For grandparenting purposes, "single-unit" housing means a detached house, semi-detached house, or a rowhouse unit, that is not a condominium, but does not include a residential condominium unit, duplex, mobile home, floating home or owner-built home.

The transitional tax adjustment for single-unit housing would be based on the total consideration payable (which excludes the GST payable and any new housing rebate) and the degree of completion of the construction or substantial renovation of the housing immediately before April 1, 2013. However, where the consideration is less than what the fair market value of the housing would have been on the day the builder and purchaser entered into the written agreement of purchase and sale, had the housing been substantially complete on that date, the consideration for purposes of calculating the transitional tax adjustment would instead be equal to that fair market value.

In recognition of the PST that will already have been paid by the builder on construction costs incurred before April 2013, the amount of the transitional tax adjustment in respect of single-unit housing would decrease as the degree of completion increases:

Degree of completion immediately before April 1, 2013	Transitional tax adjustment rate as a % of consideration
< 10%	4.5%
≥ 10% and < 25%	3.38%
≥ 25% and < 50%	2.25%
≥ 50% and < 75%	1.13%
≥ 75% and < 90%	0.45%
≥ 90%	0%

The method used to determine the degree of completion must be fair and reasonable. For information on determining the degree of completion, refer to GST/HST Info Sheet GI-105, *How to Determine the Percentage of Completion for Purposes of the Provincial Transitional New Housing Rebates and the Transitional Tax Adjustment in British-Columbia and Ontario*. The methods described in that info sheet would also apply for P.E.I.

Example 1

You are the builder of a semi-detached house in P.E.I. On December 15, 2012, you entered into a written agreement of purchase and sale for the house, which you finish constructing in July 2013. Possession and ownership are transferred to the purchaser on July 31, 2013.

As the written agreement of purchase and sale was entered into after November 8, 2012, the sale of the house would not be grandparented. Since both possession and ownership transfer under the agreement after March 2013, the sale of the house would be subject to the HST and the transitional tax adjustment would not apply.

Example 2

You are a GST/HST registrant builder of a newly constructed detached house the sale of which would be grandparented. The sale price (excluding GST and any new housing rebates) is $450,000, which is not less than the fair market value of what the substantially completed house would have been on the day you and the purchaser entered into the written agreement of purchase and sale. The construction of the house is 85% complete immediately before April 1, 2013.

The transitional tax adjustment would be equal to 0.45% of the total consideration payable for the house. You would need to include the transitional tax adjustment of $2,025 ($450,000 × 0.45%) in your net tax calculation for the reporting period that includes the date you give ownership or possession (whichever is earlier) of the house to the purchaser under the written agreement of purchase and sale. As a registrant, you would be required to file your return for this reporting period using GST/HST NETFILE.

Refer to Appendix A for a summary chart on how the transitional tax adjustment would apply to newly constructed or substantially renovated housing.

Transitional tax adjustment – residential condominium units and condominium complexes

As a general rule, the transitional tax adjustment would apply to all grandparented sales of newly constructed or substantially renovated residential condominium units or condominium complexes.

Typically, the transitional tax adjustment would be equal to 4.5% of the total consideration payable for the sale of the condominium unit or complex, as applicable, regardless of the degree of completion of such housing immediately before April 1, 2013. However, where the consideration is less than what the fair market value of the unit (or complex) would have been on the day the parties entered into the written agreement of purchase and sale for the unit (or complex), had the unit (or complex) been substantially complete on that date, the consideration for purposes of calculating the transitional tax adjustment would instead be equal to that fair market value.

Example 3

You are a GST/HST registrant that is the builder of a newly constructed 80-unit residential condominium complex in P.E.I. On June 1, 2012, you entered into a written agreement of purchase and sale for one of the condo units in the complex. Construction of the condominium complex is completed in August 2013, and the purchaser takes possession of the condo unit on September 1, 2013, as set out in the agreement, and ownership shortly thereafter.

As this is a newly constructed grandparented condo unit, you are required to collect GST at the rate of 5% on the sale. The transitional tax adjustment is an amount that you would be considered to have collected. The transitional rules would not provide that the individual has to pay this amount (either to you or to the CRA). You would be required to include the transitional tax adjustment in your net tax calculation for the reporting period in which ownership or possession (whichever is earlier) of the condo unit is transferred to the purchaser under the agreement of purchase and sale, i.e., the reporting period that includes September 1, 2013. As a registrant, you would be required to file this return using GST/HST NETFILE.

Example 4

You are a GST/HST registrant that is the builder of a newly constructed 150-unit residential condominium complex in P.E.I. Sales of 100 condo units will be grandparented. The total sale price (excluding GST and any new housing rebate) for each of the grandparented condo units is $500,000, an amount that is not less than the unit's fair market value on the day you and your purchasers entered into the written agreement of purchase and sale, had construction of the unit been substantially complete on that date. Construction of the condominium complex is 60% complete immediately before April 1, 2013.

The purchasers of the grandparented condo units would be liable to pay the GST at 5%. The transitional tax adjustment that you would need to include in your net tax calculation would be equal to 4.5% of the total sale price for each of the 100 grandparented condo units, i.e., $22,500 for each unit ($500,000 × 4.5%). The fact that the construction of the condo complex was 60% complete immediately before April 1, 2013, does not affect this calculation. The transitional tax adjustment for a particular condo unit would need to be included in your net tax calculation for the reporting period in which ownership or possession (whichever is earlier) of the particular condo unit is transferred to the purchaser under the written agreement of purchase and sale for the condo unit. As a registrant, you would be required to use GST/HST NETFILE to file a return for a reporting period in which you are required to include the transitional tax adjustment in your net tax calculation for that reporting period.

Example 5

You are a GST/HST registrant who builds a residential condominium complex on land that you own in P.E.I. On May 28, 2009, before beginning construction, you entered into a written agreement of purchase and sale for the complex with another person who intends to either sell or rent the units in the complex. Under the agreement, possession and ownership of the condominium complex transfer to the purchaser on June 1, 2013, which is prior to the complex being registered as a condominium. The total sale price of the complex (excluding GST) is $30 million. This amount is less than what the fair market value of the complex would have been on May 28, 2009, had the construction of the complex been substantially complete immediately before that date. That fair market value is $33 million.

In this case, the transitional tax adjustment would be equal to $1,485,000 (4.5% × $33 million) since the consideration payable on the sale of the complex is less than what the fair market value of the complex would have been on May 28, 2009, had construction of the complex been substantially complete on that date. You would have to include this amount in your net tax calculation for the reporting period that includes June 1, 2013 (the day ownership of the complex transfers to the purchaser since the complex is registered as a condominium on a later date). As a registrant, you would be required to file your return for this reporting period using GST/HST NETFILE.

Transitional tax adjustment for condominiums and the provincial transitional new housing rebate

In the case of residential condominiums, the 4.5% transitional tax adjustment would be in addition to the PST that would have already been paid by the builder on construction costs incurred before April 2013. To reduce the tax embedded in the condominium to approximately 4.5%, a builder may be entitled to claim a provincial transitional new housing rebate if the construction or substantial renovation of the condominium unit or complex is at least 10% complete immediately before April 1, 2013. For more information on this rebate, refer to GST/HST Info Sheet GI-151, *Harmonized Sales Tax: Provincial Transitional New Housing Rebate for Housing in Prince Edward Island*.

All technical publications related to GST/HST are available on the CRA Web site at www.cra.gc.ca/gsthsttech.

Appendix A – Summary chart

Newly constructed or substantially renovated housing

HOUSING TYPE	WOULD THE BUILDER BE REQUIRED TO ACCOUNT FOR THE TRANSITIONAL TAX ADJUSTMENT IN ITS NET TAX CALCULATION?
Residential condominium unit	Yes, if the sale of the unit is grandparented. Calculated as 4.5% of the sale price*.
Residential condominium complex	Yes, if the sale of the complex is grandparented. Calculated as 4.5% of the sale price*.
Single-unit housing (detached house, semi-detached house, rowhouse unit that is not a condominium)	Yes, if the construction or substantial renovation of the single-unit housing is less than substantially completed immediately before April 1, 2013, and the sale of the housing is grandparented. Based on the sale price* and the degree of completion of the housing immediately before April 1, 2013 (see chart on page 2).
Duplex	No
Apartment	No
Mobile home	No
Floating home	No

* "Sale price", for purposes of the transitional tax adjustment would be the **greater of**:

- the consideration payable under the written agreement of purchase and sale and any amendments to that agreement, i.e., before the GST applies and before any new housing rebate is applied; and
- what the fair market value of the housing would have been on the day the builder and the purchaser entered into the written agreement of purchase and sale, had the housing been substantially complete on that date.