



Harmonized Sales Tax: Builder Disclosure Requirements 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 the proposed disclosure requirements for a builder who sells newly constructed or substantially renovated housing in P.E.I., or who resells previously grandparented housing that would be subject to the HST at 14%.

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 and concepts.

New housing

The term "new housing" used throughout this info sheet refers to newly constructed or substantially renovated housing. Housing that has been substantially renovated is generally given the same treatment under the GST/HST as newly constructed housing. Extensive modifications must be made to the

housing in order to meet the definition of a "substantial renovation" for GST/HST purposes. For a full explanation of the factors to consider in deciding if a substantial renovation has taken place, refer to GST/HST Technical Information Bulletin B-092, *Substantial Renovations and the GST/HST New Housing Rebate*.

Builder disclosure requirements

The builder disclosure requirements set out in this info sheet would **only** apply to a builder's taxable sale of new housing where:

- the HST would be payable on the sale;
- the builder would be required to collect the tax payable on the sale; and
- the written agreement of purchase and sale for the housing was entered into by the builder and the purchaser **after November 8, 2012, and before April 1, 2013**.

If the builder and purchaser sign the written agreement of purchase and sale on different dates, for purposes of applying the disclosure requirements, the agreement is entered into on the date of the last signature of a party (i.e., the builder or purchaser) to the written agreement.

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 on how the HST would apply to sales of new housing.

Where a builder makes a taxable sale of new housing in P.E.I., the builder would be required to disclose in the written agreement of purchase and sale:

- whether the provincial part of the HST would apply to the sale, and



- whether the stated price includes the PST transitional new housing rebate, if applicable.

If the sale of the new housing by the builder is subject to the HST and the builder is required to collect that HST, but the builder does not meet the disclosure requirements in the written agreement of purchase and sale, the sale price (i.e., the consideration, as established in the agreement, before the GST or HST or any new housing rebates are taken into account) would be considered to **include** the provincial part of the HST.

The purchaser would not be required to pay the provincial part of the HST in addition to the price stated in the agreement. The builder would be considered to have collected the provincial part of the HST equal to 9% of 100/109 multiplied by the sale price.

This amount would have to be included in the builder's net tax for the reporting period that includes the earlier of the day ownership or possession of the housing transfers, under the agreement, to the purchaser.

Example 1

You are the builder of a new house situated in P.E.I. In January 2013, you enter into a written agreement of purchase and sale for the house. Under the agreement, possession and ownership transfer to the purchaser on May 15, 2013. The purchaser agrees to pay you \$350,000 on the purchase. This amount includes the GST at 5% and the GST/HST new housing rebate in respect of the GST, or the federal part of the HST, which the purchaser is entitled to claim and that you pay or credit to the purchaser. However, the agreement is silent about the application of the provincial part of the HST.

The sale of the house would be subject to the HST at 14%. However, because the written agreement of purchase and sale does not disclose that the provincial part of the HST would apply, the sale price (i.e., the price established in the agreement before the GST and GST/HST new housing rebate are taken into account) would be deemed to **include** the provincial part of the HST:

Stated price net of rebate, i.e., including GST at 5% and the GST/HST new housing rebate in respect of the GST, or the federal part of the HST	\$350,000.00
Sale price, i.e., before GST and GST/HST new housing rebate in respect of the GST, or federal part of the HST*	\$339,147.28
GST at 5% of sale price	\$16,957.36
GST/HST new housing rebate – 36% of GST paid	\$6,104.65
Provincial part of the HST you would be considered to have collected – sale price multiplied by 100/109 × 9%	\$28,002.99

You would have to include the provincial part of the HST that you would be considered to have collected in your net tax calculation for the reporting period that includes May 15, 2013.

* To determine the consideration for a house that includes the GST at 5% and the GST/HST new housing rebate, refer to GST/HST Memorandum 19.3.1.2, *Stated Price Net of Rebate – GST at 5%*.

Example 2

You are the builder of a new residential condominium complex in PEI. In February 2013, you enter into a written agreement of purchase and sale for a condo unit in the complex. Under the agreement, possession of the condo unit transfers to the purchaser on November 30, 2013 and ownership transfers shortly thereafter. The purchaser agrees to pay you \$630,000 for the condo unit. Given that the consideration exceeds \$450,000, a GST/HST new housing rebate is not available. The agreement states that the price includes the GST; however, the agreement is silent about the provincial part of the HST.

The sale of the condo unit would be subject to the HST at 14%. However, because the written agreement of purchase and sale does not disclose that the provincial part of the HST would apply, the sale price (i.e. the price established in the agreement before the GST is taken into account) would be deemed to **include** the provincial part of the HST:

Stated price including GST at 5%	\$630,000.00
Sale price i.e., before GST	\$600,000.00
GST at 5% of sale price	\$30,000.00
Provincial part of the HST you would be considered to have collected – sale price × 100/109 × 9%	\$49,541.28

You would have to include the provincial part of the HST that you would be considered to have collected in your net tax calculation for the reporting period that includes November 30, 2013.

Grandparented sales of new housing

When the sale of new housing in P.E.I. would be grandparented, the builder would not be required to collect the provincial part of the HST on the sale of the new housing even though both ownership and possession are transferred to the purchaser after March 2013. The GST at the rate of 5% will apply to the sale. For further information on grandparented sales of housing, refer to GST/HST Info Sheet GI-144, *Harmonized Sales Tax: Purchasers of New Housing in Prince Edward Island*.

Resale of grandparented housing

Persons who purchase grandparented housing may themselves be considered a builder of that housing for GST/HST purposes because of the circumstances or their intentions at the time they purchased the new housing.

When a purchaser (i.e., the reseller) of grandparented housing is considered to be a “builder” of the new housing for GST/HST purposes, the resale of the new housing by the reseller is taxable. If the resale is made under a written agreement of purchase and sale entered into after November 8, 2012 and the tax on the sale becomes payable after March 2013, the provincial part of the HST would apply.

A reseller of new housing that was acquired on a grandparented basis, would be required to satisfy the same disclosure requirements mentioned above when they enter into a written agreement of purchase and

sale with a purchaser for the taxable resale of the new housing (i.e., the reseller would have to disclose whether the provincial part of the HST would apply to the resale, and whether the stated price includes the PST transitional new housing rebate, if applicable).

Where the reseller does not meet the disclosure requirements in the written agreement of purchase and sale between the reseller and the purchaser, the sale price (i.e., the consideration, as established in the agreement, before the GST or HST or any new housing rebates are taken into account) would be considered to **include** the provincial part of the HST.

The purchaser would not be required to pay the provincial part of the HST in addition to the price stated in the agreement.

The reseller would be considered to have collected the provincial part of the HST equal to 9% of 100/109 multiplied by the sale price.

This amount would have to be included in the reseller’s net tax for the reporting period that includes the earlier of the day ownership or possession of the housing transfers, under the agreement, to the purchaser.

Where the HST applies to the resale of housing by a reseller that qualifies as a “first reseller” of the housing, the first reseller would be entitled to claim an input tax credit or a rebate equal to a portion of the consideration paid by the first reseller on their grandparented purchase of the housing. For more information, refer to GST/HST Info Sheet GI-146, *Harmonized Sales Tax: Information for Builders of New Housing in Prince Edward Island*.

This info sheet does not replace the law found in *the Excise Tax Act* (the Act) and its regulations. It is provided for your reference. As it may not completely address your particular operation, you may wish to refer to the Act or appropriate regulation, or contact any CRA GST/HST rulings office for additional information. A ruling should be requested for certainty in respect of any particular GST/HST matter. Pamphlet RC4405, *GST/HST Rulings – Experts in GST/HST Legislation* explains how to obtain a ruling and lists the GST/HST rulings offices. If you wish to make a technical enquiry on the GST/HST by telephone, please call 1-800-959-8287.

If you are located in Quebec and wish to make a technical enquiry or request a ruling related to the GST/HST, please contact Revenu Québec at 1-800-567-4692. You may also visit the Revenu Québec Web site to obtain general information.

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