



New Brunswick and Newfoundland and Labrador HST Rate Increases – Sales and Rentals of New Housing

On February 2, 2016, and April 14, 2016, respectively, the Government of New Brunswick and the Government of Newfoundland and Labrador announced their intentions to increase the provincial part of the harmonized sales tax (HST) by two percentage points from 8% to 10%, effective July 1, 2016. This results in an increase in the HST rate from 13% to 15%.

On March 30, 2016, the Government of New Brunswick released transitional rules to determine the HST rate applicable to transactions that straddle the July 1, 2016, implementation date.

On May 3, 2016, the Government of Newfoundland and Labrador released transitional rules to determine the HST rate applicable to transactions that straddle the July 1, 2016, implementation date.

This info sheet provides information that reflects the application of those transitional rules, which have been enacted in the *Regulations Amending Various GST/HST Regulations, No. 8* (SOR/2016-119).

All supplies referred to in the examples are made in New Brunswick or Newfoundland and Labrador. If you are uncertain as to whether a supply is made in a participating province, refer to GST/HST Technical Information Bulletin B-103, *Harmonized Sales Tax – Place of Supply Rules for Determining Whether a Supply is Made in a Province*.

This info sheet explains the rules for the New Brunswick and Newfoundland and Labrador HST rate increases that apply to the taxable sale, “self-supply,” or rental of new housing in New Brunswick and Newfoundland and Labrador. New housing includes single family homes, semi-detached houses, rowhouse units, residential condominium units, mobile homes, floating homes, duplexes, and multiple unit residences such as traditional apartment buildings, co-operative rental buildings, and long-term residential care facilities.

Exempt sales and rentals of housing are not affected by the HST rate increases.

Definitions for GST/HST purposes (for example, builder, mobile home, floating home, residential complex, residential condominium unit, single unit residential complex, and substantial renovation) continue to apply, as do the Canada Revenue Agency’s current policies on the application of the GST/HST 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*, explore many of these important terms and concepts.

For purposes of this info sheet, “single unit house” means a detached house, semi-detached house, rowhouse unit, mobile home, or floating home, that is not a residential condominium unit.

Long-term care facilities, such as nursing homes or personal care homes, are treated the same as other residential housing. If a newly constructed or substantially renovated long-term care facility is similar to a traditional apartment building, the rules for apartment buildings apply.

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*.



Taxable sales of new housing

The sale of new housing by a builder is generally taxable even if the builder is a non-registrant. For more information, refer to Guide RC4052, *GST/HST Information for the Home Construction Industry*.

Application of the HST rate increases to sales of new housing

The HST at 13% applies to a taxable sale of new housing in New Brunswick or Newfoundland and Labrador if ownership **or** possession of the housing transfers to the purchaser **before** July 2016.

Generally, the HST at 15% applies to a taxable sale of new housing in New Brunswick or Newfoundland and Labrador if ownership **and** possession of the housing transfer to the purchaser **after** June 2016.

The transitional rules above apply to sales of all housing types, including single unit houses, duplexes residential condominium units, and multiple unit residences such as traditional apartment buildings.

An exception exists for certain types of new housing if the written agreement of purchase and sale was entered into **on or before** March 30, 2016 (for such housing in New Brunswick) or May 3, 2016 (for such housing in Newfoundland and Labrador). For more information, refer to the heading “Grandparented sales of housing.”

For the purposes of applying the transitional rules, if a builder and a purchaser sign a written agreement of purchase and sale on different dates, the agreement is considered to be entered into on the date which the last party to the written agreement (that is, the builder or purchaser) signed the agreement.

Generally, the HST is payable on the earlier of the day on which ownership or possession of the housing is transferred to the purchaser. However, where the housing is a residential condominium unit and if possession is transferred before the condominium has been registered under the *Condominium Property Act* (for residential condominium units in New Brunswick) or the *Condominium Act, 2009* (for residential condominium units in Newfoundland and Labrador), the HST becomes payable when ownership of the residential condominium unit is transferred, or 60 days following the date of registration of the condominium, whichever is earlier.

In the following examples, all of the builders are GST/HST registrants and all of the supplies of housing are subject to the HST.

Example 1

You are the builder of a newly constructed residential condominium unit in New Brunswick. On April 11, 2016, you enter into a written agreement of purchase and sale to sell the unit to a purchaser. Under the agreement, ownership and possession of the unit transfer to the purchaser in June 2016.

Since ownership or possession (in this case, both) of the unit transfers before July 2016, the HST at 13% applies to the sale.

If this example had been set in Newfoundland and Labrador, and all other facts remained the same, the HST at 13% would still have applied to the sale since ownership or possession (in this case, both) transfers to the purchaser before July 2016.

Example 2

You are the builder of a newly constructed house in Newfoundland and Labrador. In February 2016, you enter into a written agreement of purchase and sale to sell the house to a purchaser. Under the agreement, possession of the house transfers to the purchaser on June 30, 2016, and ownership of the house transfers to the purchaser on July 31, 2016.

Since possession of the house transfers before July 2016, the HST at 13% applies to the sale, regardless of when you and the purchaser enter into the agreement.

If this example had been set in New Brunswick, and all other facts remained the same, the HST at 13% would still have applied to the sale since possession transfers to the purchaser before July 2016.

Example 3

You are the builder of a newly constructed house in New Brunswick. On May 5, 2016, you enter into a written agreement of purchase and sale to sell the house to a purchaser. Under the agreement, ownership and possession of the house transfer to the purchaser in September 2016.

Since the agreement was entered into after March 30, 2016, and ownership and possession of the house transfer to the purchaser after June 2016, the HST at 15% applies to the sale.

If this example had been set in Newfoundland and Labrador, and all other facts remained the same, the HST at 15% would still have applied to the sale since the agreement was entered into after May 3, 2016, and ownership and possession transfer to the purchaser after June 2016.

Summary charts of the application of the transitional rule in examples 1 to 3 are included in Appendix A for New Brunswick and Newfoundland and Labrador, respectively.

Grandparented sales of housing

A builder's taxable sale of a new or substantially renovated single unit house, duplex, or residential condominium unit is grandparented where ownership **and** possession transfer **after** June 2016, under a written agreement of purchase and sale that was entered into **on or before** the date that transitional rules were released. The Government of New Brunswick released its transitional rules on March 30, 2016. The Government of Newfoundland and Labrador released its transitional rules on May 3, 2016. Grandparented sales of such housing are subject to the HST at 13%.

The grandparenting rule applies regardless of who the purchaser is (for example, whether the purchaser is an individual or a corporation) and how the purchaser plans to use the housing (for example, as rental property, principal residence, or vacation property).

The grandparenting rule does **not** apply to sales of traditional apartment buildings or condominium complexes.

Example 4

You are the builder of a new detached house in Newfoundland and Labrador. In December 2015, you enter into a written agreement of purchase and sale to sell the house to an individual. Under the agreement, the individual takes ownership and possession of the house in August 2016.

Although ownership and possession of the house transfer, under the agreement, to the individual after June 2016, the sale of the house is grandparented since the agreement was entered into on or before May 3, 2016. The sale of the house is subject to the HST at 13%.

If this example had been set in New Brunswick, and all other facts remained the same, the sale of the house would still have been grandparented and subject to the HST at 13% since the agreement was entered into on or before March 30, 2016, and ownership and possession transfer to the individual after June 2016.

Example 5

You are a mobile home dealer in New Brunswick. In February 2016, you enter into a written agreement of purchase and sale to sell a new mobile home to a corporation. Under the agreement, the corporation takes ownership and possession of the mobile home in July 2016.

The sale of the mobile home is grandparented since the agreement was entered into on or before March 30, 2016, and ownership and possession of the mobile home transfer, under the agreement, to the corporation after June 2016. The sale of the mobile home is subject to the HST at 13%.

If this example had been set in Newfoundland and Labrador, and all other facts remained the same, the sale of the mobile home would still have been grandparented and subject to HST at 13% since the agreement was entered into on or before May 3, 2016, and ownership and possession transfer to the corporation after June 2016.

Example 6

You are the builder of a new apartment building in Newfoundland and Labrador. In February 2016, you enter into a written agreement of purchase and sale to sell the building to a corporation. Under the agreement, the corporation takes ownership and possession of the building in October 2016. You do not rent any of the apartments in the building to tenants prior to the sale.

Although the agreement was entered into on or before May 3, 2016, the grandparenting rule does not apply to the sale since the sale of a traditional apartment building does not qualify for grandparenting. Since ownership and possession of the property transfer, under the agreement, to the corporation after June 2016, the sale of the apartment building is subject to the HST at 15%.

If this example had been set in New Brunswick, and all other facts remained the same, the sale of the apartment building would still have been subject to HST at 15% since the grandparenting rule does not apply to the sale of a traditional apartment building.

Summary charts of the application of the grandparenting rule in examples 4 to 6 are included in Appendix B for New Brunswick and Newfoundland and Labrador, respectively.

The grandparenting rule for certain “self-supplies” of rental housing is explained under the heading “Grandparented self-supplies.”

Upgrades

A request by a purchaser for upgrades to new housing such as a detached house or a residential condominium unit can generally be accommodated by an amendment to an existing written agreement of purchase and sale such that the upgrades form part of that agreement. In this case, the tax rate for the upgrades is the same as the tax rate that applies to the sale of the housing.

Example 7

You are the builder of a newly constructed house in New Brunswick. On February 4, 2016, you enter into a written agreement of purchase and sale to sell the house to an individual. On May 18, 2016, the individual requests some flooring and lighting fixture upgrades. The agreement is amended to reflect these upgrades and their additional cost. Under the agreement, ownership and possession of the house transfer to the individual in July 2016.

Since the agreement was entered into on or before March 30, 2016, and ownership and possession of the house transfer, under the agreement, to the individual after June 2016, the sale of the house is grandparented. The HST at 13% applies to the total

amount payable for the house (including the upgrades).

If this example had been set in Newfoundland and Labrador, and all other facts remained the same, the sale of the house would still have been grandparented and subject to HST at 13% (including the upgrades) since the agreement was entered into on or before May 3, 2016, and ownership and possession transfer to the individual after June 2016.

Where an existing agreement of purchase and sale is modified, varied, or otherwise materially altered to such an extent that it is considered to be a new agreement (for example, novation has occurred) the application of the grandparenting rule is based on the date that the new agreement is entered into.

If a builder and purchaser renegotiate the terms of a written agreement of purchase and sale for a new or substantially renovated single unit house, duplex or residential condominium unit that was entered into on or before March 30, 2016 (for such housing in New Brunswick) or May 3, 2016 (for such housing in Newfoundland and Labrador) and enter into a new agreement, the grandparenting rule applies based on the date that the builder and purchaser enter into the new agreement.

Example 8

You are the builder of a new residential condominium unit in Newfoundland and Labrador. On March 16, 2016, you enter into a written agreement of purchase and sale to sell a new residential condominium unit (that is, Unit 5) to an individual. Under the agreement, ownership and possession of the condominium unit transfer to the individual in November 2016. On May 7, 2016, the individual requests that the agreement be amended such that the individual will acquire Unit 17, and not Unit 5. The agreement is amended to reflect this change and there is no additional cost to the individual to make this change.

Given that the individual is purchasing a different condominium unit, the builder and the individual have entered into a new agreement on May 7, 2016. Since this agreement was entered into after May 3, 2016, the sale of the condominium unit (Unit 17) is not grandparented and the HST at 15% applies to the sale of the condominium unit.

If this example had been set in New Brunswick, and all other facts remained the same, the sale of the condominium unit (Unit 17) would not have been grandfathered and would have been subject to HST at 15% since the new agreement was entered into after March 30, 2016, and ownership and possession transfer to the individual after June 2016.

Builder disclosure requirements for new housing

If a builder enters into a written agreement of purchase and sale for a taxable sale of new housing after March 30, 2016 (for such housing in New Brunswick) or May 3, 2016 (for such housing in Newfoundland and Labrador) and before July 2016, the builder has to disclose in the agreement either:

- the total amount of the HST payable on the sale and whether that total takes into account the GST/HST new housing rebate paid or credited by the builder; or
- the rate at which the HST applies.

If the sale is subject to the HST at 15%, but the builder does not disclose the information as required, the builder is considered to have collected the HST at 15%. However, the tax payable by the purchaser is calculated at the HST rate of 13% and the purchaser is **not** required to pay any amount in addition to the total amount payable under the agreement of purchase and sale to account for the 2% increase in the HST rate.

Example 9

You are the builder of a new house in New Brunswick. In June 2016, you enter into a written agreement of purchase and sale to sell the house to a purchaser. Under the agreement, ownership and possession of the house transfer to the purchaser on August 10, 2016. The purchaser agrees to pay you \$350,000 on the sale, and this is identified in the agreement as the total price (total amount payable), including the HST. The agreement does not indicate whether the HST applies at 13% or 15% to the sale. You are unsure whether the purchaser will qualify for the GST/HST new housing rebate, so you instruct them to make their application directly to the CRA.

The sale of the new house is not grandfathered and the HST at 15% applies to the sale. However, because the written agreement of purchase and sale was entered into after March 30, 2016, and before July 2016, and the agreement does not meet the disclosure requirement, the HST payable by the purchaser is calculated at the rate of 13%:

$$\begin{aligned}\text{HST} &= \$350,000 \times 13/113 \\ &= \$40,265.49\end{aligned}$$

$$\begin{aligned}\text{Consideration} &= \$350,000 - \$40,265.49 \\ &= \$309,734.51\end{aligned}$$

However, the builder is considered to have collected the HST at 15%:

$$\begin{aligned}\text{HST} &= \$309,734.51 \times 15\% \\ &= \$46,460.18\end{aligned}$$

If this example had been set in Newfoundland and Labrador, and all other facts remained the same, the sale of the new house would still have been subject to HST at 15% and the builder would still have been considered to have collected HST at 15% (that is, \$46,460.18 HST) since the agreement does not meet the disclosure requirements. In addition, the HST payable by the purchaser would still have been calculated at the rate of 13%.

Self-supply of new housing

A builder who constructs or substantially renovates new housing for rental purposes is generally considered to have made a taxable “self-supply” (sale and repurchase) of the housing when the builder gives possession or use of the housing, or a unit in it, under a lease, licence, or similar arrangement to an individual who is the first to occupy the housing as a place of residence.

A self-supply may also occur where:

- a builder constructs an addition (for example, a new floor or wing) to a multiple unit residence and rents a unit in the addition to an individual who is the first to occupy it as a place of residence;

- a builder rents new housing to a person who, in turn, will rent it to an individual as a place of residence;
- a builder sells only the building part of the new house and leases the related land to the purchaser under the same agreement (other than the sale of a mobile home together with a site in a residential trailer park); or
- a builder is an individual and is the first to occupy the new housing as a place of residence.

A self-supply generally occurs at the later of the time construction or substantial renovation of the new housing is substantially complete and the time possession or use of the housing is given under a lease, licence, or similar arrangement to an individual who is the first to occupy it as a place of residence. In the case of a builder-occupied home, the self-supply occurs at the later of the time construction or substantial renovation of the new housing is substantially complete and the time the builder occupies the new housing as a place of residence.

In the case of a multiple unit residence (for example, a traditional apartment building) or an addition to that residence, the self-supply occurs at the later of the time construction or substantial renovation of the entire building (or addition) is substantially completed and the time possession or use of a unit in the building (or addition) is given to an individual who is the first to occupy a unit in the building (or addition) as a place of residence. Refer to Guide RC4052, *GST/HST Information for the Home Construction Industry*, for more information on the self-supply of new housing.

A builder who is considered to have collected the HST on a self-supply is required to report that amount on its GST/HST return for the reporting period during which the self-supply occurred. This is the case for GST/HST registrant and non-registrant builders alike.

Application of the HST rate increases to a self-supply

If a self-supply of new housing (for example, a single unit house, a residential condominium unit, or a multiple unit residence or an addition thereto) occurs before July 2016, the HST at 13% applies, calculated on the fair market value of both the building (or addition) and the land reasonably necessary for the use of that housing as a place of residence for individuals.

Generally, where a self-supply of new housing occurs after June 2016, the HST at 15% applies to the self-supply, calculated on the fair market value of both the building (or addition) and the land reasonably necessary for the use of that housing as a place of residence for individuals.

An exception exists for certain self-supplies of new housing where the builder makes a sale of the building together with leased land. This exception is explained under the heading “Grandparented self-supplies”.

Grandparented self-supplies

A self-supply of a newly constructed or substantially renovated single unit house or residential condominium unit is grandparented if:

- the builder sells the building part under a written agreement that was entered into on or before March 30, 2016 (for such housing in New Brunswick) or May 3, 2016 (for such housing in Newfoundland and Labrador) and leases the related land to the purchaser under that same agreement; and
- the builder’s self-supply occurs after June 2016.

Grandparented self-supplies of such housing are subject to the HST at 13%.

Where the written agreement was entered into after March 30, 2016 (for such housing in New Brunswick) or May 3, 2016 (for such housing in Newfoundland and Labrador) the transitional rule for self-supplies of new housing applies. Under the transitional rule, the HST at 15% applies where the self-supply occurs after June 2016, and at 13% where the self-supply occurs before July 2016.

Example 10

You are a builder in Newfoundland and Labrador who constructs a new house. On February 11, 2016, you enter into a written agreement with an individual for the sale of the house together with a 40-year lease of the related land. Construction of the house is substantially completed on June 24, 2016, and possession of the house transfers to the individual, under the agreement, on July 28, 2016.

You are considered to have self-supplied the house on July 28, 2016, which is the later of the time the construction of the house is substantially completed and the time that possession of the house is given to the individual. Although the self-supply occurs after June 2016, the self-supply is subject to the HST at 13% since the written agreement was entered into on or before May 3, 2016.

If this example had been set in New Brunswick, and all other facts remained the same, the self-supply would still have occurred on July 28, 2016, and the self-supply would still have been grandparented and subject to HST at 13% since the agreement was entered into on or before March 30, 2016.

Example 11

You are a builder in New Brunswick who constructs a new house. On May 14, 2016, you enter into a written agreement with an individual for the sale of the house together with a 40-year lease of the related land. Construction of the house is substantially completed on June 30, 2016, and possession of the house transfers to the individual, under the agreement, on July 8, 2016.

You are considered to have self-supplied the house on July 8, 2016, this being the later of the time construction of the house is substantially completed and the time possession of the house is given to the individual. Since the agreement was entered into after March 30, 2016, the transitional rule for the self-supply of new housing applies. In this case, the self-supply is subject to the HST at 15% since the self-supply occurs after June 2016.

If this example had been set in Newfoundland and Labrador, and all other facts remained the same, the self-supply would still have occurred on July 8, 2016, and would still have been subject to HST at 15% since the agreement was entered into after May 3, 2016.

Short-term rentals of new housing

Where a builder transfers possession of new housing to an individual for their use as a place of lodging (instead of as a place of residence), the self-supply rules do not apply.

If the period throughout which the individual is given continuous possession or use of the housing is less than one month, the supply to the individual is subject to the HST unless the charge for their stay is no more than \$20 per day. The builder is required to collect the HST on these rentals if the builder is a GST/HST registrant. Where the housing is not considered to be a “residential complex” for GST/HST purposes, the rental may be subject to the HST even if the period of continuous possession or use is one month or more. Refer to the explanation of the definition of “residential complex” in GST/HST Memorandum 19.2, *Residential Real Property*, for more information.

The factors to consider in determining whether the HST at 13% or 15% applies to a taxable supply of new housing made by way of lease, licence, or similar arrangement are the same as those used for the lease of non-residential real property. These factors are explained in GST/HST Info Sheet GI- 188, *New Brunswick and Newfoundland and Labrador HST Rate Increases: Sales and Rentals of Non-residential Real Property*.

Further information

All GST/HST technical publications are available on the CRA website at www.cra.gc.ca/gsthstech.

To make a GST/HST enquiry by telephone:

- for general GST/HST enquiries, call **Business Enquiries** at 1-800-959-5525
- for technical GST/HST enquiries, call **GST/HST Rulings** at 1-800-959-8287

If you are located in Quebec, call **Revenu Québec** at 1-800-567-4692 or visit their website at www.revenuquebec.ca.

If you are a **selected listed financial institution** (whether or not you are located in Quebec) and require information on the GST/HST or the QST, go to www.cra.gc.ca/sfi or

- for general GST/HST or QST enquiries, call **Business Enquiries** at 1-800-959-5525
- for technical GST/HST or QST enquiries, call **GST/HST Rulings SLFI** at 1-855-666-5166

Any legislative references in this publication are to the *Excise Tax Act* (the Act) unless otherwise specified. The information in this publication does not replace the law found in the Act and its regulations.

If this information does not completely address your particular situation, you may wish to refer to the Act or relevant regulation, or call GST/HST Rulings at 1-800-959-8287 for additional information. If you require certainty with respect to any particular GST/HST matter, you may request a ruling. GST/HST Memorandum 1.4, *Excise and GST/HST Rulings and Interpretations Service*, explains how to obtain a ruling or an interpretation and lists the GST/HST rulings centres.

Appendix A – Summary charts of the applicable HST rate on sales of newly constructed or substantially renovated housing

SUMMARY CHART 1 – New Brunswick

Examples	Date of agreement is	Possession is transferred	Ownership is transferred	HST applies at the rate of
Example 1	after March 30, 2016	before July 2016	before July 2016	13%
Example 2	before March 30, 2016	before July 2016	after June 2016	13%
Example 3	after March 30, 2016	after June 2016	after June 2016	15%

SUMMARY CHART 2 – Newfoundland and Labrador

Examples	Date of agreement is	Possession is transferred	Ownership is transferred	HST applies at the rate of
Example 1	before May 3, 2016	before July 2016	before July 2016	13%
Example 2	before May 3, 2016	before July 2016	after June 2016	13%
Example 3	after May 3, 2016	after June 2016	after June 2016	15%

Appendix B – Summary charts of the applicable HST rate on grandparented sales of newly constructed or substantially renovated housing

SUMMARY CHART 1 – New Brunswick

Examples	Type of housing	Date of agreement is	Possession and ownership are transferred	Grandparented (Yes/No)	HST applies at the rate of
Example 4	Single unit detached house	before March 30, 2016	after June 2016	Yes	13%
Example 5	Mobile home	before March 30, 2016	after June 2016	Yes	13%
Example 6	Apartment building	before March 30, 2016	after June 2016	No	15%

SUMMARY CHART 2 – Newfoundland and Labrador

Examples	Type of housing	Date of agreement is	Possession and ownership are transferred	Grandparented (Yes/No)	HST applies at the rate of
Example 4	Single unit detached house	before May 3, 2016	after June 2016	Yes	13%
Example 5	Mobile home	before May 3, 2016	after June 2016	Yes	13%
Example 6	Apartment building	before May 3, 2016	after June 2016	No	15%