

## Harmonized Sales Tax: Purchasers of New Housing in Ontario

The Government of Ontario is introducing a harmonized sales tax (HST) that will come into effect on July 1, 2010.

The HST rate in Ontario will be 13% of which 5% will represent the federal part and 8% the provincial part.

This info sheet reflects proposed tax changes announced in:

- the 2009 Ontario Budget, in Information Notice No. 2, *Helping Homebuyers and the Housing Industry with an Enhanced New Housing Rebate, A New Rental Housing Rebate and Transitional Rules* released by the Government of Ontario on June 18, 2009; and
- Information Notice No. 4, *Additional Information for Homebuyers and the Housing Industry under Ontario HST* released by the Government of Ontario on November 19, 2009.

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 provides information for purchasers of newly constructed or substantially renovated housing in Ontario including single unit housing that is not a condominium (e.g., detached houses, semi-detached houses, units in a rowhouse), residential condominium units, mobile homes, floating homes, duplexes and other multi-unit residences such as traditional apartment buildings, co-operative rental buildings and long-term residential care facilities.

Definitions for GST purposes, e.g., builder, residential complex, residential condominium unit, single unit residential complex and substantial renovation, will generally apply under the HST, as will the CRA's current policies on the application of the GST to housing. GST/HST Memorandum 19.2, *Residential Real Property*, explores 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 Technical Information Bulletin B-092, *Substantial Renovations and the GST/HST New Housing Rebate*.

### Application of the HST to sales of new housing – General rule

Purchasers will generally be required to pay the HST when they purchase new housing if, under a written agreement of purchase and sale for the housing, **both** ownership and possession of the housing are transferred to the purchaser after June 2010.

If either ownership or possession is transferred under the written agreement to the purchaser before July 2010, the GST will apply and the HST will not apply.

This general rule applies to purchases of all housing types, including single unit housing, residential condominium units, traditional apartment buildings, as well as mobile homes and floating homes. For more information on mobile homes, refer to GST/HST Info Sheet GI-082, *Harmonized Sales Tax: Information for Owner-built Homes and Mobile Homes in Ontario*, which will be published shortly.

An exception exists for certain types of housing if, among other conditions, the written agreement of purchase and sale was entered into on or before June 18, 2009 (see the section below on grandparented purchases of housing).

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

The GST or HST is generally 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 possession is transferred before the condominium has been registered under Ontario's *Condominium Act*, the HST will become payable when ownership of the unit is transferred, or 60 days following the date of registration of the condominium, whichever is earlier.

#### Example 1 – HST does not apply

You enter into a written agreement of purchase and sale in March 2010 to purchase a newly constructed residential condominium unit. Under the agreement, ownership and possession will transfer to you in June 2010. Since ownership and possession transfer before July 2010, only the GST at 5% applies to the purchase of the condominium unit.

#### Example 2 – HST does not apply

You enter into a written agreement of purchase and sale in April 2009 to purchase a newly constructed detached house. Under the agreement, possession transfers to you on June 30, 2010. Ownership transfers on July 3, 2010. Since possession transfers before July 2010, only the GST at 5% applies to the purchase of the house.

#### Example 3 – HST applies

You enter into a written agreement of purchase and sale in December 2009 to purchase a newly constructed detached house. Under the agreement, ownership and possession of the house transfer to you in July 2010. Since the written agreement was entered into after June 18, 2009, and both ownership and possession of the house transfer to you after June 2010, the HST at 13% applies to the purchase of the house.

#### Example 4 – HST applies

You enter into a written agreement of purchase and sale in August 2009 to purchase a newly constructed detached house. Under the agreement, ownership and possession of the house will

transfer to you in June 2010. As a result of a delay in the construction of the house, ownership and possession will transfer on July 15, 2010. Since the written agreement was entered into after June 18, 2009, and both ownership and possession of the house transfer to you after June 2010, the HST at 13% applies to the purchase of the house. Refer to the section on "Builder disclosure requirements for housing" later in this info sheet for information with respect to builder disclosure requirements.

Refer to Appendix A for a summary chart of the application of the general rule in examples 1 to 4.

#### Grandparented purchases of housing

In the case of a written agreement of purchase and sale entered into **on or before June 18, 2009**, to purchase newly constructed or substantially renovated "single unit housing", a residential condominium unit or condominium complex, where **both** ownership and possession of the housing are transferred under the agreement after June 2010, the purchase of the housing may be grandparented.

For purposes of this info sheet, "single unit housing" means a detached house, semi-detached house or rowhouse unit, that is not a condominium. This type of housing may include an accessory suite.

For single unit housing, the grandparenting rule only applies if the purchaser is an individual. There are no conditions with respect to how the individual will use the housing. For example, the purchase may be grandparented whether the individual (purchaser) rents the housing to a third party on a short or long-term basis or occupies the housing either as a principal residence or otherwise.

If the purchase of the housing is grandparented, the purchaser is not required to pay the provincial part of the HST on the purchase of the housing. The GST at 5% applies to the grandparented purchase of the housing.

#### Example 5 – Grandparented house

Jaroslav enters into a written agreement of purchase and sale for a newly constructed detached house in May 2009. Under the agreement, Jaroslav will take ownership and possession of the house in August 2010.

The purchase of the house is grandparented since the written agreement was entered into on or before June 18, 2009, the purchaser is an individual, and both ownership and possession of

the house transfer under the agreement after June 2010. GST at 5% applies to the purchase of the house.

If the purchaser in this example were a partnership or corporation, the purchase of the house would not be grandparented. The purchase of the house would be subject to the HST at 13% as the purchaser must be an individual for the grandparenting rule to apply to single unit housing such as a new detached house.

#### **Example 6 – Grandparented condo unit**

You enter into a written agreement of purchase and sale to purchase a new residential condominium unit in March 2009. Under the agreement, ownership and possession of the condo unit transfer to you in 2011.

The purchase of the condo unit is grandparented since the written agreement was entered into on or before June 18, 2009, and both ownership and possession of the condo unit transfer to the purchaser under the agreement after June 2010. GST at 5% applies to the purchase of the condo unit.

For a residential condominium unit or condominium complex, the grandparenting rule applies whether or not the purchaser is an individual.

Refer to Appendix A for a summary chart of the application of the grandparenting rule in examples 5 and 6.

#### **Example 7 – House not grandparented**

A corporation enters into a written agreement of purchase and sale to purchase a new detached house in March 2009. Under the agreement, ownership and possession of the house transfer to the corporation in August 2010.

Although the written agreement was entered into on or before June 18, 2009, the purchase is not grandparented since the house is being purchased by a person other than an individual. As a result, the general rule applies. Since both ownership and possession transfer under the agreement after June 2010, the HST at 13% applies to the purchase of the house.

#### **Exceptions to grandparenting rule**

The grandparenting rule does not apply to the purchase of new floating homes, mobile homes, including modular homes that qualify as mobile homes, or multi-unit residences (e.g., duplexes, co-operative rental buildings, apartment buildings and multiple unit residential care facilities that are not condominiums).

#### **Example 8 – Apartment building not grandparented**

You enter into a written agreement of purchase and sale for a newly constructed apartment building in February 2009. Under the agreement, ownership and possession of the building transfer to you in September 2010.

Although the written agreement of purchase and sale was entered into on or before June 18, 2009, the general rule applies to the purchase because a traditional apartment building does not qualify for grandparenting. Since both ownership and possession of the apartment building transfer under the agreement after June 2010, the HST at 13% applies to the purchase of the apartment building.

Refer to Appendix B for a summary chart of the application of the grandparenting rule.

#### **Upgrades**

A request by a purchaser for upgrades to housing, such as a detached house or 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 will be the same as the tax rate that applies to the purchase of the housing.

#### **Example 9**

On June 18, 2009, Joy enters into a written agreement of purchase and sale with a builder to purchase a newly constructed detached house. On June 27, 2009, Joy requests some flooring and lighting fixture upgrades. The agreement of purchase and sale is amended to reflect these upgrades and their additional cost. Under the agreement, ownership and possession of the house transfer to Joy in July 2010.

As the written agreement was entered into on or before June 18, 2009, the purchaser is an individual and both ownership and possession of the house transfer under the agreement after June 2010, the purchase of the house is grandparented. GST at 5% applies to the total amount payable for the house (including the upgrades).

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 (i.e., novation has occurred), the application of the grandparenting rule will be based on the date that the new agreement is entered into. Refer to GST/HST Policy Statement P-249, *Agreements and Novation* for information on when novation occurs.

If a purchaser and a builder renegotiate the terms of a written agreement of purchase and sale for new housing that was entered into on or before June 18, 2009, and enter into a new agreement, whether or not the grandparenting rule would apply would depend on the date that the builder and purchaser entered into the new agreement.

#### Example 10

On June 1, 2009, Dan enters into a written agreement of purchase and sale with a builder to purchase Unit #5, a newly constructed residential condominium unit. Under the agreement, ownership and possession of the condo unit transfer to Dan after June 2010. On June 25, 2009, the written agreement is amended so that Dan will now purchase Unit #15 and not Unit #5. There is no additional cost to Dan to make this change.

Given that the individual is purchasing a different condo unit, the builder and the individual are considered to have entered into a new agreement on June 25, 2009. Since this agreement was entered into after June 18, 2009, the purchase of the condo unit (Unit #15) is not grandparented and the HST at 13% applies.

#### Assignment of purchase and sale agreement for grandparented housing

Where a purchaser (original purchaser) enters into a written agreement of purchase and sale for housing with a builder, in some cases, the original purchaser may assign their rights and obligations under the agreement to another person (assignee purchaser).

If the purchase of the housing by the original purchaser was grandparented, the purchase by the assignee purchaser may retain its grandparented status if certain conditions are met. For an explanation of the proposed tax treatment for these assignments, refer to GST/HST Info Sheet GI-097, *Harmonized Sales Tax: Assignment of Purchase and Sale Agreements for Grandparented Housing in Ontario and British Columbia*, which will be published shortly.

#### Transitional tax adjustment

If the construction or substantial renovation of grandparented single unit housing is less than substantially complete as of July 1, 2010, the builder of the housing will be considered to have paid and collected a transitional tax adjustment (even though it is not actually collected from anyone), and may be required to include that amount in its net tax calculation. For a grandparented residential condominium unit or condominium complex, the

transitional tax adjustment is not based on the degree of completion of the unit or complex.

The transitional tax adjustment is considered to be collected by the builder and is not payable by the purchaser. It approximates the cost of the retail sales tax that the builder would have been required to pay on construction costs incurred after June 2010 and that is imbedded in the purchase price of the housing

For additional information on the transitional tax adjustment, refer to GST/HST Info Sheet GI-095, *Harmonized Sales Tax: Information on the Transitional Tax Adjustment for Builders of Housing in Ontario and British Columbia*, which will be published shortly.

#### Ontario new housing rebate

Where certain conditions are met, the purchaser of a newly constructed or substantially renovated single unit residential complex or residential condominium unit may be entitled to claim a GST/HST new housing rebate. If a purchaser pays the HST on the purchase of such housing in Ontario, the purchaser may also be entitled to claim an Ontario new housing rebate in respect of the provincial part of the HST paid on the housing. For details, refer to GST/HST Info Sheet GI-079, *Harmonized Sales Tax: Ontario New Housing Rebates*, which will be published shortly.

#### RST transitional new housing rebate

A purchaser of new housing may be entitled to claim a retail sales tax (RST) transitional new housing rebate if the following conditions are met:

- the housing is single unit housing or a duplex and the housing is not a condominium;
- the HST at 13% is payable on the purchase of the housing;
- the construction of the housing is at least 10% complete as of July 1, 2010; and
- the purchaser is not the original builder or a specified related party.

For details, refer to GST/HST Info Sheet GI-096, *Harmonized Sales Tax: Provincial Transitional New*

*Housing Rebates for Housing in Ontario and British Columbia*, which will be published shortly.

#### Builder disclosure requirements for housing

If an agreement of purchase and sale for new housing is entered into after June 18, 2009 and before July 1, 2010, a builder is required to disclose in the agreement whether the provincial part of the HST applies to the purchase of the housing and whether the price stated in the agreement includes the provincial part of the HST, net of any Ontario new housing rebate that the purchaser may be entitled to claim.

If the HST applies to the purchase and the builder does not meet the disclosure requirement, the stated price in the written agreement would be deemed to include the provincial part of the HST.

For details on the disclosure requirements, refer to GI-090, *Harmonized Sales Tax: Builder Disclosure Requirements in Ontario and British Columbia*, which will be published shortly.

#### Appendix C – Summary tables

Appendix C provides summary tables that indicate the tax rate that applies to new housing in Ontario that is purchased by an individual and whether a rebate is available to the purchaser in respect of the tax payable for the new housing.

To use the tables, choose the table that applies to you based on the date that the purchase and sale agreement was entered into for your new housing purchase. Once you have chosen the appropriate table, determine which row applies to you based on the dates that ownership and possession are transferred to you.

The tables take into account the GST tax rates, including those that applied previously, the HST rate, the GST/HST new housing rebate in respect of the GST or federal part of the HST, the Ontario new housing rebate in respect of the provincial part of the HST, the Ontario RST transitional new housing rebate that a purchaser may be entitled to claim and the 2006 and 2008 transitional rate reduction rebates that may be available. For details on the transitional rate reduction rebates, refer to GST/HST Info Sheet GI-043, *The 2008 GST/HST Rate Reduction and Purchases of New Housing*.

The tables do not address purchases of new housing made by persons who are not individuals, the Ontario RST transitional new housing rebate that a builder may be entitled to claim and the transitional tax adjustment that a builder may be considered to have collected.

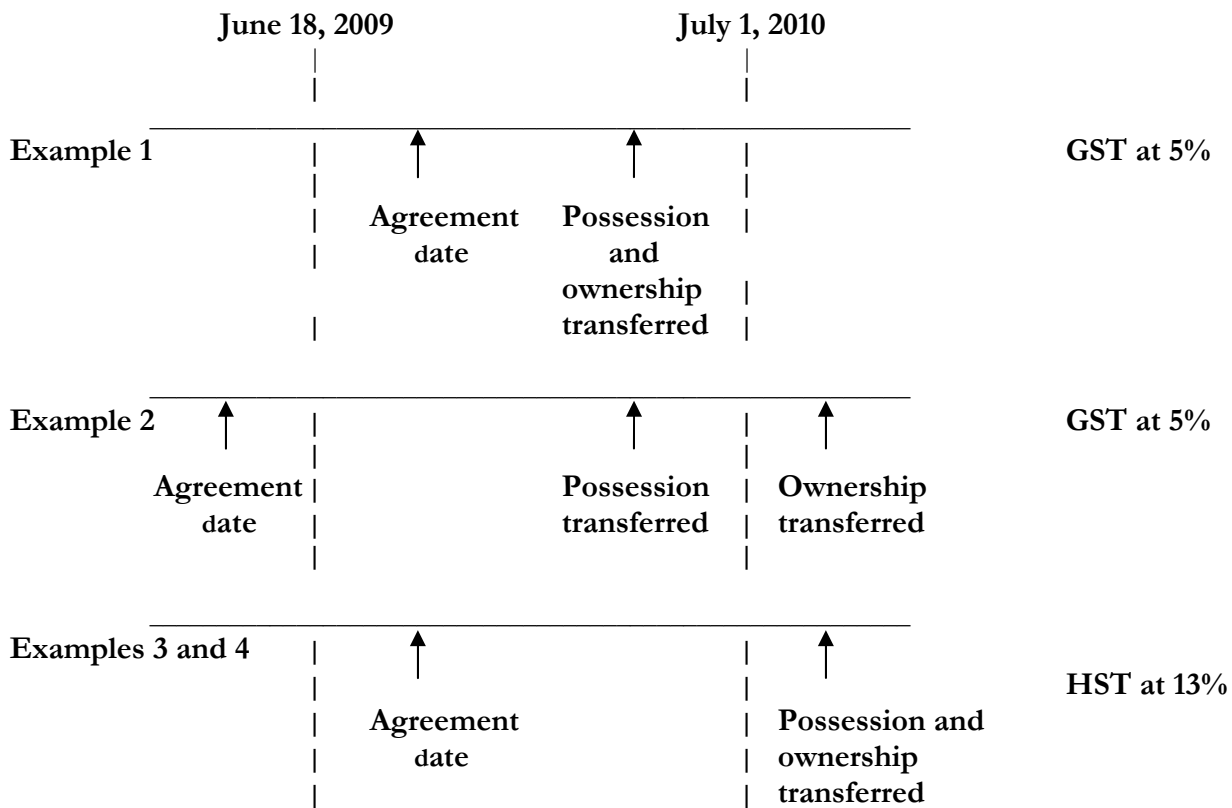
This info sheet does not replace the law found in *the Excise Tax Act* (the Act) and its regulations. It is provided for your reference. As it may not completely address your particular operation, you may wish to refer to the Act or appropriate regulation, or contact any CRA GST/HST Rulings Centre for 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 Centres. 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 by calling 1-800-567-4692. You may also visit their Web site at [www.revenu.gouv.qc.ca](http://www.revenu.gouv.qc.ca) to obtain general information.

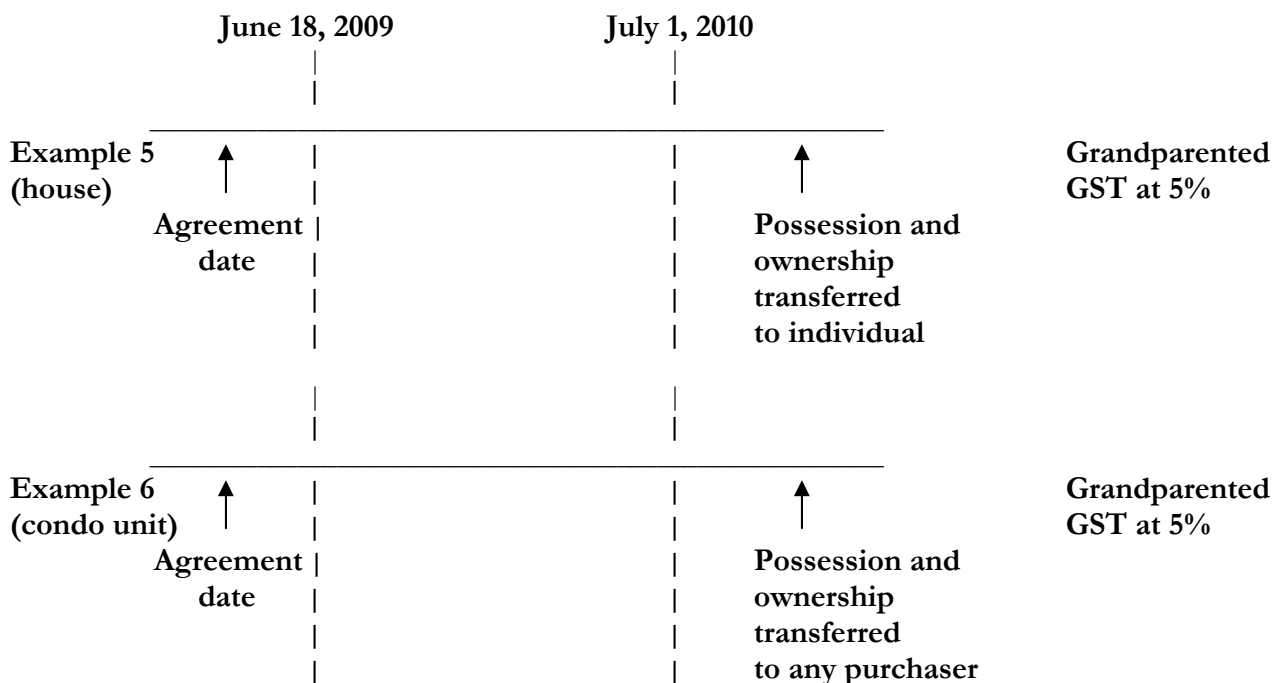
All technical publications related to GST/HST are available on the CRA Web site at [www.cra.gc.ca/gsthstech](http://www.cra.gc.ca/gsthstech).

Appendix A – Summary chart – Purchases of newly constructed or substantially renovated housing

APPLICATION OF HST – GENERAL RULE



GRANPARENTING RULE



Appendix B – Summary chart

APPLICATION OF HST – GRANPARENTING RULE

Purchases of newly constructed or substantially renovated housing

HOUSING TYPE	DOES THE GRANPARENTING RULE APPLY?
Residential condominium unit	<p>Yes, if the written agreement of purchase and sale was entered into on or before June 18, 2009, and <b>both</b> ownership and possession of the unit transfer under the agreement to the purchaser after June 2010, regardless of who purchases the unit. GST applies at 5%.</p> <p>No, if, under the agreement, <b>either</b> ownership <b>or</b> possession of the unit transfers to the purchaser before July 2010, regardless of when the builder and purchaser enter into the agreement. GST applies at 5%.</p>
Residential condominium complex	<p>Yes, if the written agreement of purchase and sale was entered into on or before June 18, 2009, and <b>both</b> ownership <b>and</b> possession of the complex transfer under the agreement to the purchaser after June 2010, regardless of who purchases the complex. GST applies at 5%</p> <p>No, if, under the agreement, <b>either</b> ownership <b>or</b> possession of the complex transfers to the purchaser before July 2010, regardless of when the builder and purchaser enter into the agreement. GST applies at 5%.</p>
Single unit housing (detached house, semi-detached house, rowhouse unit that is not a condominium)	<p>Yes, if the purchaser is an individual and the written agreement of purchase and sale was entered into on or before June 18, 2009, and <b>both</b> ownership and possession of the single-unit housing transfer under the agreement to the individual after June 2010. GST applies at 5%.</p> <p>No, if under the agreement <b>either</b> ownership <b>or</b> possession of the single unit housing transfers to the individual before July 2010, regardless of when the builder and the individual enter into the agreement.</p> <p>No, if the purchaser is not an individual.</p> <p>GST applies at 5% if, under the agreement, ownership or possession (or both) transfers before July 1, 2010.</p>
Duplex	No
Apartment	No
Mobile home and floating home	No

Where the grandparenting rule does not apply, HST at 13% applies if, under the agreement, both ownership and possession transfer to the purchaser after June 2010.

## Appendix C – Summary tables

The following tables illustrate the transitional rules for purchases of newly constructed or substantially renovated residential complexes from a builder, taking into consideration the previous two rate reductions in the GST. Choose the table that applies to your situation, i.e., based on when you and the builder entered into your written agreement of purchase and sale.

Purchase and sale agreement entered into after June 18, 2009

Ownership transferred	Possession transferred	Rate of tax	2006 transitional rebate	2008 transitional rebate	GST new housing rebate <sup>1</sup>	Ontario new housing rebate	RST transitional rebate
Before July 1, 2010	Before July 1, 2010	5%	No	No	Yes	No	No
Before July 1, 2010	After July 1, 2010	5%	No	No	Yes	No	No
After July 1, 2010	Before July 1, 2010	5%	No	No	Yes	No	No
After July 1, 2010	After July 1, 2010	13%	No	No	Yes	Yes <sup>2</sup>	Yes <sup>3</sup>

Purchase and sale agreement entered into after October 30, 2007 and before June 19, 2009

Ownership transferred	Possession transferred	Rate of tax	2006 transitional rebate	2008 transitional rebate	GST new housing rebate <sup>4</sup>	Ontario new housing rebate	RST transitional rebate
After December 31, 2007 and before July 1, 2010	After December 31, 2007 and before July 1, 2010	5%	No	No	Yes	No	No
After December 31, 2007 and before July 1, 2010	After July 1, 2010	5%	No	No	Yes	No	No
After July 1, 2010	After December 31, 2007 and before July 1, 2010	5%	No	No	Yes	No	No
After July 1, 2010	After July 1, 2010	5%	No	No	Yes	No	No

<sup>1</sup> The GST new housing rebate is available if all of the conditions for claiming the rebate are met, for example, the total consideration payable for the housing is less than \$450,000.

<sup>2</sup> The Ontario new housing rebate is available if all of the conditions for claiming the rebate are met, for example, the housing is for use by the purchaser or a relation of the purchaser as their primary place of residence.

<sup>3</sup> The RST transitional new housing rebate is available if the housing is a single unit residential complex or a duplex, the construction is at least 10% complete as of July 1, 2010 and the individual purchasing the housing is not the original builder or a specified related party.

<sup>4</sup> See footnote no. 1.



Purchase and sale agreement entered into after May 2, 2006 and before October 31, 2007

Ownership transferred	Possession transferred	Rate of tax	2006 transitional rebate	2008 transitional rebate	GST new housing rebate <sup>5</sup>	Ontario new housing rebate	RST transitional rebate
After December 31, 2007 and before July 1, 2010	After December 31, 2007 and before July 1, 2010	6%	No	Yes	Yes	No	No
After December 31, 2007 and before July 1, 2010	After July 1, 2010	6%	No	Yes	Yes	No	No
After July 1, 2010	After December 31, 2007 and before July 1, 2010	6%	No	Yes	Yes	No	No
After July 1, 2010	After July 1, 2010	6%	No	Yes	Yes	No	No

Purchase and sale agreement entered into before May 3, 2006

Ownership transferred	Possession transferred	Rate of tax	2006 transitional rebate	2008 transitional rebate	GST new housing rebate <sup>6</sup>	Ontario new housing rebate	RST transitional rebate
After December 31, 2007 and before July 1, 2010	After December 31, 2007 and before July 1, 2010	7%	Yes	Yes	Yes	No	No
After December 31, 2007 and before July 1, 2010	After July 1, 2010	7%	Yes	Yes	Yes	No	No
After July 1, 2010	After December 31, 2007 and before July 1, 2010	7%	Yes	Yes	Yes	No	No
After July 1, 2010	After July 1, 2010	7%	Yes	Yes	Yes	No	No

<sup>5</sup> See footnote no. 1.

<sup>6</sup> See footnote no. 1.