



Harmonized Sales Tax: Information for Landlords of New Rental Housing

The Government of Ontario and the Government of British Columbia are 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.

The HST rate British Columbia (B.C.) will be 12% of which 5% will represent the federal part and 7% the provincial part.

This info sheet reflects tax changes included in the *New Harmonized Value-added Tax System Regulations, No. 2*.

This info sheet explains how the rules will apply to landlords who purchase or build new residential rental housing in Ontario or B.C., including detached houses, semi-detached houses, rowhouse units, residential condominium units, mobile homes, floating homes, duplexes, traditional apartment buildings, co-operative rental buildings, or long-term residential care facilities and rent them to individuals as their place of residence. It also explains how the rules will apply to landlords who rent land for residential purposes.

Definitions for GST purposes, e.g., builder, floating home, mobile home, residential complex, residential unit, residential condominium unit, residential trailer park and substantial renovation, will generally apply under the HST, as will 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 Memorandum 19.2, *Residential Real Property*, explore many of these important terms and concepts.

Long-term care facilities such as nursing homes or personal care homes will be treated the same as other residential housing under the HST. If a newly constructed or substantially renovated long-term

care facility is similar to a traditional apartment building, the rules for apartment buildings will apply.

Supplies of rental housing

Rentals of residential properties that are currently exempt under the GST rules will also be exempt under the HST. Landlords are not required to collect the GST/HST on long-term residential rents. In addition, landlords are not entitled to claim input tax credits (ITCs) for any GST/HST paid or payable on taxable goods and services acquired to provide exempt long-term residential rentals.

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

Builders will generally be required to charge the HST when they sell new housing if, under a written agreement of purchase and sale for the housing, **both** ownership and possession of the housing are transferred under the written agreement after June 2010. If either ownership or possession is transferred to the purchaser under the written

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agreement before July 2010, the GST will apply and the HST will not apply. This general rule applies to sales of all housing types, including detached houses, residential condominium units, traditional apartment buildings, as well as mobile homes and floating homes.

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, where the housing is situated in Ontario, and
- November 18, 2009, where the housing is situated in B.C.

Refer to GST/HST Info Sheet GI-083, *Harmonized Sales Tax: Information for Builders of New Housing in Ontario*, and GST/HST Info sheet GI-084, *Harmonized Sales Tax: Information for Builders of New Housing in British Columbia*, for full details as to when the HST will apply to a sale of new housing.

For purposes of this info sheet, a person who purchases new housing for long-term rental purposes is referred to as a purchaser-landlord.

Where the provincial part of the HST applies to the sale of new housing, a purchaser-landlord will be required to either pay the tax to the vendor or account for the tax directly with the CRA under the same rules that now apply for the GST. Refer to Guide RC4052, *GST/HST Information for the Home Construction Industry*, for information on whether the purchaser or the vendor is required to remit the tax on a taxable sale of real property.

Application of the HST to a builder's supply of new housing

For purposes of this info sheet, a builder-landlord is a builder who constructs or substantially renovates housing for the purpose of renting the housing.

Builder-landlords are generally considered to have made a taxable self-supply (sale and repurchase) if they build new housing and give possession or use of the housing, or a unit in the housing, under a lease, licence or similar arrangement for its use as a place of residence by an individual. This rule also generally applies to builder-landlords who construct

a new addition (e.g., floor or wing) to multiple-unit rental housing.

In addition, builder-landlords are generally considered to have made a taxable self-supply if they lease new housing to a person who in turn will lease that housing to an individual as a place of residence.

A self-supply generally occurs at the later of the time construction or substantial renovation of the rental 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 the housing as a place of residence. In the case of multiple-unit rental housing (e.g., an apartment building, a nursing home, etc.) or an addition to such housing, the self-supply occurs at the later of the time construction or substantial renovation of the housing (or addition) is substantially complete and the time possession or use of a unit in the housing (or addition) is given to an individual who is the first to occupy a unit in the housing (or addition) as a place of residence.

The self-supply rules only apply to a building or that part of a building that is a residential complex. For purposes of this info sheet, all references to buildings or housing such as nursing homes are references to that part of the building or housing that is a residential complex.

If the self-supply takes place before July 2010, the builder-landlord is considered to have paid and collected the GST at 5% on the self-supply. The GST is calculated on the fair market value of the house, condominium unit, apartment building or addition, as the case may be, including the building (or addition) and the land reasonably necessary for the use of that housing as a place of residence for individuals.

Where the self-supply occurs after June 2010, the builder-landlord is considered to have paid and collected the HST (at 13% in Ontario or 12% in B.C.) on 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 building (or addition) as a place of residence.

A builder-landlord who is considered to have collected GST or HST on a self-supply is required to report that amount on their GST/HST return for

the reporting period during which the self-supply occurred. This is the case for both registrant and non-registrant builder-landlords.

Example 1 – Self-supply on or after July 1, 2010

You hire a contractor to substantially renovate a detached house that you own and that you intend to rent out to an individual who will occupy it as a place of residence. The substantial renovation is substantially complete in November 2010, and on December 1, 2010, you give possession of the house under a lease to an individual who is the first to occupy it as a place of residence following the substantial renovation.

You meet the definition of “builder” for GST/HST purposes. You will be considered to have made a taxable self-supply (sold and repurchased) the house on December 1, 2010, which is the later of the time the substantial renovation of the house is substantially complete and the time that you first give possession of the house to the individual. Since the self-supply occurs on or after July 1, 2010, the HST applies and you will be considered to have paid and collected the HST on the fair market value of the house (i.e., building and land) on December 1, 2010.

Example 2 – Self-supply on or after July 1, 2010

You build a traditional apartment building on land that you own. Construction of the apartment building is substantially complete in June 2010. On July 1, 2010, you give possession of a unit in the apartment building to an individual under a lease. The individual is the first to occupy a unit in the building as a place of residence.

You will be considered to have made a taxable self-supply of the apartment building on July 1, 2010, which is the later of the time construction of the apartment building is substantially complete and the time you first give possession of a unit in the apartment building to an individual as a place of residence. Since the self-supply occurs on or after July 1, 2010, the HST applies and you will be considered to have paid and collected the HST on the fair market value of the apartment building (i.e., building and land) on July 1, 2010.

Example 3 – Self-supply before July 1, 2010

You are the builder of a newly constructed duplex (i.e., the two units within the building are not residential condominium units). On June 1, 2010, you give possession of one of the units in the duplex under a lease agreement to an individual who is the first to occupy a unit in the duplex as a place of residence. Construction of the duplex is substantially complete on June 15, 2010. On August 1, 2010, you give possession of the other unit in the duplex under a lease to an individual who occupies it as a place of residence.

You will be considered to have made a taxable self-supply of the duplex on June 15, 2010, which is the later of the time construction of the duplex is substantially complete and the time possession of a unit in the duplex is first given to an individual for use as a place of residence. Since the self-supply occurs before July 1, 2010, the GST at 5% applies and you will be considered to have paid and

collected the GST on the fair market value of the duplex (i.e., building and land) on June 15, 2010.

Example 4 – Self-supply before July 1, 2010

Company A builds a nursing home on land that it owns, the construction of which is substantially complete on May 15, 2010. The units in the facility are not condominium units. On June 15, 2010, Company A gives possession of the nursing home to Company B under a 5-year lease agreement. As the operator of the nursing home, Company B will provide residents with nursing/personal care services that include the provision of a residential unit. On July 11, 2010, Company B gives use of a residential unit in the nursing home to a resident under a lease, licence or similar arrangement. The resident is the first individual to occupy a unit in the nursing home as a place of residence.

Company A is considered to have given use of the residential unit in the nursing home under a lease, licence or similar arrangement for the purpose of its occupancy by an individual as a place of residence on June 15, 2010 when it gave possession of the nursing home to Company B. As a result, Company A is considered to have made a taxable self-supply of the nursing home on that date. Since the self-supply occurs before July 1, 2010, the GST applies and Company A is considered to have paid and collected the GST on the fair market value of the nursing home (building and land) on June 15, 2010.

For more information on the self-supply of rental housing, refer to Guide RC4052, *GST/HST Information for the Home Construction Industry*.

Application of the HST to land leased for residential purposes

A person may be required to account for the GST/HST, under either the change-in-use rules or the self-supply rules, when land begins to be used for residential purposes.

Change-in-use rules

A person may be required to account for the GST/HST under the change-in-use rules if, for example, the person is a GST/HST registrant who held land as capital property for use exclusively (90% or more) in commercial activities and who, at a particular time, begins to use the land exclusively for other purposes (such as exempt residential activity or other exempt activities). In this case, the tax payable under the change-in-use rules is generally equal to the “basic tax content” of the property at that time (refer to GST/HST Memorandum 19.4.2, *Commercial Real Property – Deemed Supplies* for more details).

Self-supply rules

If the change-in-use rules do not apply (e.g., where land was not previously used in commercial activities), a person may be required to account for the GST/HST under the self-supply rules when they first rent land on an exempt basis for use as a place of residence.

For example, when a site in a residential trailer park is first rented on an exempt basis for a period of at least one month the landlord is generally considered to have made a taxable self-supply (sale and repurchase) of the entire residential trailer park. In addition, where a person increases the size of an existing residential trailer park and first rents a site in the additional area on an exempt basis for a period of at least one month the person is generally considered to have made a taxable self-supply of the additional land used in the residential trailer park. In either case, the self-supply occurs at the time the person first gives possession or occupancy of the site under the rental arrangement.

The self-supply rules may also apply to land other than a residential trailer park where a person first rents the land on an exempt basis to the owner, lessee or occupant of a residential unit that is or will be affixed to the land for use as a place of residence. Generally, the person will be considered to have made a taxable self-supply (sale and repurchase) of the land at the time the person first gives possession or occupancy of the land to a lessee under the rental arrangement.

There are exceptions to these general self-supply rules. Refer to GST/HST Memorandum 19.2.3, *Residential Real Property – Deemed Supplies* for more details.

If the self-supply takes place before July 2010, the person is considered to have paid and collected GST at 5% on the self-supply, calculated on the fair market value of the entire residential trailer park, the land added to the residential trailer park or the land used for other residential purposes, as applicable. If the self-supply takes place after June 2010, the person is considered to have paid and collected the HST (at 13% in Ontario or 12% in B.C.) on the self-supply.

Example 5 – Self-supply after July 1, 2010

You buy a vacant lot and in November 2010 you lease the lot for a 10-year term to an individual. The individual will immediately begin to build a house on the lot for use as the individual's place of residence. The lease of the lot is an exempt supply for GST/HST purposes.

You will be considered to have made a taxable self-supply (sale and repurchase) of the lot when you first give possession of the lot to the individual under the lease arrangement. Since the self-supply occurs on or after July 1, 2010, the HST applies and you will be considered to have paid and collected the HST on the fair market value of the land at the time that possession of the lot is given to the individual.

A landlord who is considered to have collected GST or HST under the change-in-use or self-supply rules is required to include that amount in their net tax calculation for the reporting period during which the change-in-use or self-supply occurred.

Provincial new residential rental property rebates

Ontario and B.C. will provide a provincial new residential rental property rebate for some of the provincial part of the HST paid by:

- a purchaser-landlord to acquire new residential rental housing,
- a builder-landlord on a self-supply of new residential rental housing, or
- a person in respect of land leased for residential purposes,

where the housing or land are qualifying residential rental properties. For more information, refer to GST/HST Info Sheet GI-093, *Harmonized Sales Tax: Ontario New Residential Rental Property Rebate*, and GST/HST Info Sheet GI-094, *Harmonized Sales Tax: British Columbia New Residential Rental Property Rebate*.

Provincial transitional new housing rebates

Where the construction or substantial renovation of new housing in Ontario or B.C. is at least 10% complete as of July 1, 2010, a provincial transitional new housing rebate may be available to recover some of the Ontario retail sales tax or the B.C. provincial sales tax embedded in the cost of the housing.

Where a purchaser-landlord is an individual who acquires rental housing in Ontario or B.C. and is required to pay the HST as a result of acquiring ownership and possession of the housing after June 2010, the purchaser-landlord may be entitled to claim the provincial transitional new housing rebate if the housing is a single detached house, semi-detached house, rowhouse unit or duplex, provided such housing is not a condominium.

Where a builder-landlord is required to account for the provincial part of the HST on a self-supply of new residential rental housing in Ontario or B.C., the builder-landlord may be entitled to claim the provincial transitional new housing rebate. For more 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 soon.

Builder-landlords and ITCs

Where a builder-landlord is a GST/HST registrant and is considered to have made a taxable self-supply of housing, the builder-landlord will be entitled to claim ITCs for the provincial part of the HST paid or payable on property and services acquired to construct or substantially renovate the housing, in the same way and under the same rules that apply to the recovery of the GST. The GST rules for various types of expenses are explained in *Guide RC4052, GST/HST Information for the Home Construction Industry*.

A builder-landlord (or purchaser-landlord) cannot claim ITCs for the HST paid or payable on expenses incurred in the course of making exempt supplies such as long-term residential rents. Also, ITCs cannot be claimed for any retail sales tax or provincial sales tax paid or owing.

Example 6 – Self-supply and ITCs

You are a GST/HST registrant who builds a new apartment complex. Construction of the complex is substantially completed on July 20, 2010, and you first give possession of the a unit in the complex under a lease to an individual for use as the individual's place of residence on August 1, 2010.

Under the self-supply rules, you will be considered to have made a taxable self-supply of the apartment complex on August 1, 2010. As such, you are entitled to claim ITCs for any GST or HST paid or payable on property and services you acquired to construct the complex up to the point the self-supply occurs. You cannot claim ITCs for any retail sales tax or provincial sales tax you paid or owe. However, because long-term residential rentals are exempt for GST/HST purposes, you will not collect GST/HST on the rents; nor will you be entitled to claim ITCs for the GST/HST you are considered to have paid and collected on the self-supply or for any GST/HST paid or payable on expenses that you incur after you are considered to have made the self-supply.

In some cases, builder-landlords may be required to recapture the provincial part of the HST claimed as an ITC. For more details, refer to GST/HST Info Sheet GI-100, *Harmonized Sales Tax: Builders and Recaptured Input Tax Credits*, which will be published soon.

Mandatory electronic filing

Most GST/HST registrants will be required to electronically file their GST/HST returns for reporting periods ending on or after July 1, 2010. For more information on the electronic filing requirements for builders, including builder-landlords, refer to GST/HST Info Sheet GI-099, *Builders and Electronic Filing*, which will be published soon.

Non-registrant builder-landlords

If the builder-landlord is not a GST/HST registrant, the builder-landlord cannot claim ITCs to recover the GST/HST paid or payable on land, construction materials and other property and services acquired to construct or substantially renovate housing. However, the builder-landlord may be entitled to claim a rebate for some, or all, of these amounts if certain conditions are met. For more information, refer to GST/HST Info Sheet GI-101, *Information for Non-registrant Builders of Housing in Ontario, British Columbia and Nova Scotia*, which will be published soon.

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 to obtain general information.

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