

Ministry of Finance

Tax Information Notice



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www.fin.gov.bc.ca/rev.htm

Residential Housing New Housing Rebates and Transitional Rules for British Columbia HST

On July 23, 2009, B.C. announced its plans to implement a Harmonized Sales Tax for B.C. (the HST) which, subject to legislative approval, would come into effect on July 1, 2010.

This Notice provides measures to assist British Columbians who are buying new homes or constructing their own homes as well as builders who are constructing new homes make a smooth transition from the current PST to the proposed HST.

All references to the harmonized sales tax or the HST in this Notice should be read as referring to the proposed HST in British Columbia.

Unless otherwise stated or the circumstances otherwise require, the definitions and concepts in the *Excise Tax Act (ETA)* would apply to the rules described in this Notice.

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ENHANCED NEW HOUSING REBATES

B.C. is proposing to provide an enhancement to the new housing rebate that was announced on July 23, 2009.¹ The new housing rebate would be enhanced so that new homes purchased as a primary residence would receive a rebate of 71.43 per cent of the provincial component of the HST paid, up to a maximum of \$26,250. This enhanced rebate represents a 30 per cent increase in the maximum rebate available.

While sales of new homes in B.C. are not directly subject to the PST, building materials used in the construction of homes are subject to the seven per cent PST. The amount of PST, on average, embedded in the selling price of a new home is estimated to be equal to two per cent. As a result

¹ The Ministry of Finance announced that a partial rebate of the provincial component of the HST paid, up to a maximum of \$20,000 would be provided for new homes.

of the decision to enhance this proposed rebate, purchasers of homes priced up to \$525,000 would pay no more tax, on average, than under the current PST.

New housing rebates would be available for the provincial component of the HST paid for all types of housing eligible for GST new housing rebates. Qualifying housing² would generally include the following types of newly constructed and substantially renovated homes used as a primary place of residence by an individual or qualifying relation of the individual:

- purchase of new houses together with land;
- purchase of new houses together with leased land;
- purchase of new mobile homes and floating homes;
- houses acquired through the purchase of qualifying shares in a housing co-op; and
- houses constructed or substantially renovated by the owner who is an individual (i.e., owner-built homes).

The new housing rebates would be subject to the same eligibility conditions as new housing rebates under the GST. However, as previously announced, the rebate rates (or factors) and maximum rebate amounts for the B.C. new housing rebates would be different to address the particular circumstances of the housing industry in B.C.

The new housing rebates would be federally administered in a manner similar to the GST rebates for new housing. Individuals would be able to file an application for the rebate directly with the Canada Revenue Agency (CRA). However, in the case of homes sold by the builder, similar to the GST new housing rebates, the builder would have the option of paying or crediting the new housing rebate to the purchaser at the time of purchase.

New housing rebate – for purchases of new houses together with land

A new housing rebate would be provided for purchases of new single-unit houses or duplexes together with land from a builder where the home is purchased by an individual for use as a primary place of residence of the individual or a relation of the individual.³

The new housing rebate would be 71.43 per cent of the provincial component of the HST paid for qualifying housing, up to a maximum amount of \$26,250. There would be no phase out of this rebate, such that homes priced above \$525,000 would qualify for the maximum rebate amount of \$26,250.

² For B.C. new housing rebates, qualifying housing would include single-unit homes, residential condominium units and duplexes. A single-unit home refers to a detached home, semi-detached home and attached home.

³ As defined in the *ETA* for the purposes of the new housing rebates.

New housing rebate – for purchases of new houses together with leased land

A new housing rebate would be provided for purchases of new single-unit houses or duplexes together with leased land from a builder where the home is purchased by an individual for use as a primary place of residence of the individual or a relation of the individual.

In these circumstances, it is the builder who would be required to self-assess and pay the HST under the self-supply rules. As a result, the HST generally would be embedded in the price paid by the purchaser for the new house together with the leased land.

The new housing rebate available to the purchaser would be 4.47 per cent of the price attributable to the building, up to a maximum rebate of \$26,250. There would be no phase out of this rebate, such that homes priced above \$588,000 would qualify for the maximum rebate amount of \$26,250.

New housing rebate – for purchases of new mobile homes and floating homes

A new housing rebate would be provided for purchases of new mobile homes and floating homes where the home is purchased by an individual for use as a primary place of residence of the individual or a relation of the individual. For purposes of the GST and the HST, a mobile home includes certain modular homes.⁴

The new housing rebate would be 71.43 per cent of the provincial component of the HST paid for qualifying mobile and floating homes, up to a maximum rebate amount of \$26,250. There would be no phase out of this rebate, such that mobile and floating homes priced above \$525,000 would qualify for the maximum rebate amount of \$26,250.

Where a mobile home is purchased and placed on a site in a residential trailer park, or a floating home is purchased and docked at a moorage facility, this rebate would only apply to the provincial component of the HST paid on the purchase of the mobile home or floating home, as the case may be, not the HST that may be paid on the site or the moorage.

Where the mobile home and the land on which the mobile home is placed are purchased together, the new housing rebate would be based on the provincial component of the HST paid on the

⁴ Modular homes are considered mobile homes for GST/HST purposes provided they meet certain criteria including that the manufacture or assembly of the modular home is substantially completed prior to being moved to a site. For more detailed information refer to GST/HST Policy Statement P-223 – *Meaning of manufacture or assembly of which is completed or substantially completed in the definition of mobile home* at www.cra-arc.gc.ca.

purchase of the mobile home together with the land – see the “New housing rebate – for purchases of new houses together with land” section above.

Where the mobile home is purchased together with leased land (other than a site in a residential trailer park), the new housing rebate for the purchase of houses on leased land would apply – see the “New housing rebate – for purchases of new houses together with leased land” section above.

Where the mobile home is purchased and placed on land purchased from a separate supplier, the individual purchaser would have the choice of claiming the new housing rebate for owner-built homes – see the “New housing rebate – for owner-built housing” section below.

New housing rebate – for houses acquired through the purchase of qualifying shares in a housing co-op

A new housing rebate would be provided for purchases of qualifying shares in a cooperative housing corporation (housing co-op) if the shares are purchased by an individual for the purpose of using a residential unit in a new cooperative housing complex as a primary place of residence of the individual or a relation of the individual.

The housing co-op would be required to pay the HST on the purchase of the new housing complex, or would be required to self-assess and pay the HST under the self-supply rules where the housing complex is constructed or substantially renovated by the housing co-op. As a result, the HST would generally be embedded in the price paid by the purchaser for the qualifying shares in the housing co-op.

The new housing rebate available to the purchaser would be 4.47 per cent of the price paid for qualifying shares in the housing co-op, up to a maximum rebate amount of \$26,250. There would be no phase out of this rebate, such that shares priced above \$588,000 would qualify for the maximum rebate amount of \$26,250.

New housing rebate – for owner-built homes

A new housing rebate would be provided for owner-built homes where an individual constructs or substantially renovates his or her primary place of residence or that of a relation of the individual or who hires another person to do such new construction or substantial renovation. The maximum rebate for owner-built homes would depend on whether the individual paid the provincial component of the HST on the land.

Provincial component of HST paid on land

Where the provincial component of the HST was paid on the land, an individual would be entitled to a new housing rebate of 71.43 per cent of the provincial component of the HST paid on qualifying construction expenses (including land), up to a maximum rebate amount of \$26,250. There would be no phase out of this rebate, such that owner-built homes with qualifying construction expenses over \$525,000 would qualify for the maximum rebate amount of \$26,250.

No provincial component of HST paid on land

Where the provincial component of the HST was not paid on the land, an individual would be entitled to a new housing rebate of 71.43 per cent of the provincial component of the HST paid on qualifying construction expenses (not including land), up to a maximum rebate amount of \$17,588 (i.e., 67 per cent of \$26,250).

ENHANCED NEW RENTAL HOUSING REBATES

To support affordable rental housing in the province, B.C. is proposing to provide an enhanced new rental housing rebate of 71.43 per cent of the provincial component of the HST paid, up to a maximum rebate of \$26,250. Similar to the B.C. enhanced new housing rebate, the enhancement of this rebate would ensure that new rental housing up to \$525,000 would not be subject to any more tax, on average, than is currently embedded in the price of new rental housing.

This enhanced new rental housing rebate would be provided to landlords who construct or substantially renovate their own rental housing and, as a result, would be required to self-assess and pay HST under the self-supply rules.

The enhanced rebate would also be provided to landlords who purchase newly constructed or substantially renovated rental housing in B.C. and pay the HST on the purchase.

B.C.'s new rental housing rebate would be available for the provincial component of the HST paid for all types of new or substantially renovated rental housing, and would be subject to the same eligibility conditions, as the GST rebate for new residential rental properties.

This would include the following types of rental housing where it reasonably can be expected that the first use of the housing would be for occupancy or use by an individual under a rental arrangement or for occupancy by the builder as a primary place of residence for a period of at least one year:

- single-unit housing, residential condominium units and duplexes;

- mobile homes and floating homes;
- units in multiple unit housing (e.g., residential units in traditional apartment buildings or long-term care residential facilities);
- the land component of single-unit or multiple unit housing where the land is leased together with the sale of the building component of the housing; and
- single-unit housing or units in multiple unit housing in a housing co-op.

However, the rebate rates (or factors) and maximum rebate amounts for the proposed B.C. new rental housing rebates would be different to address the particular circumstances of the housing industry in B.C.

The enhanced rebate would apply regardless of the price or fair market value of the new rental homes or units, as applicable, and, with the exception of land only rented for residential use, this rebate would be 71.43 per cent of the provincial component of the HST paid, up to a maximum rebate of \$26,250.

For multiple unit rental housing (i.e., housing with more than two residential units) the maximum rebate amount of \$26,250 applies for each eligible residential unit.

In addition, the new rental housing rebate would be provided for persons who make an exempt rental of land for residential use (i.e., rent out a residential lot, a site in a residential trailer park or a site in an addition to a residential trailer park) and, as a result, would be required to self-assess and pay HST under the self-supply or change-in-use rules.

The enhanced rebate for such land rentals would be 71.43 per cent of the provincial component of the HST paid, up to a maximum of \$8,663 (i.e., 33 per cent of \$26,250). For multiple residential lots or sites in a residential trailer park or addition, the maximum rebate amount of \$8,663 would apply to each lot or site.

The rebate for new rental housing would be federally administered in a manner similar to the GST rebate for new residential rental properties. Landlords would be able to apply for the rebate by filing a rebate application with the CRA.

GENERAL APPLICATION OF TAX

Sales of New Homes

Generally, sales of newly constructed or substantially renovated homes would be subject to the proposed HST, where both ownership and possession of the homes are transferred after June

2010.⁵ Grandparenting would be provided for certain contracts—see the “Grandparenting” section below.

The HST would not apply to sales of newly constructed or substantially renovated homes (including residential units in residential condominium buildings) that are taxable under the GST where, under a written agreement of purchase and sale, ownership or possession of the home is transferred before July 2010.

Rentals of New Homes – Builder-landlords

Builders of newly constructed or substantially renovated single-unit homes or residential condominiums who rent out the new homes or condominiums—or, in the case of new traditional apartment buildings or additions to existing apartment buildings, the first unit in the building or addition—and are required to pay GST under the self-supply rules if the rental occurred before July 2010, would also be required to self-assess and pay the HST under the self supply rules where the self-supply occurs after June 2010.

However, builders of newly constructed or substantially renovated single-unit homes or residential condominiums who rent out the new homes or condominiums—or, in the case of new traditional apartment buildings or additions to existing apartment buildings, the first unit in the building or addition—and are required to self-assess and pay GST under the self-supply rules before July 2010 would not be required to pay the provincial component of the HST.

Rentals of New Homes – Purchaser-landlords

The provincial component of the HST would generally apply to sales of newly constructed or substantially renovated rental homes—including single-unit homes, residential condominiums and traditional apartment buildings—where both ownership and possession of the home are transferred after June 2010. In these cases, purchaser-landlords would generally be required to pay the provincial component of the HST. Grandparenting would be provided for certain contracts—see the Grandparenting section below.

However, the provincial component of the HST would not apply to sales of newly constructed or substantially renovated rental homes—including single-unit homes, residential condominiums and traditional apartment buildings—where, under a written agreement of purchase and sale,

⁵ After June 2010, the HST would generally be payable on the earlier of the day on which ownership or possession of the property is transferred to the purchaser. However, where the property is a residential unit in a residential condominium building and possession of the unit is transferred after June 2010 and before the condominium has been registered under the *Strata Property Act [S.B.C 1998]*, the HST would become payable when ownership of the unit is transferred, or 60 days following the date of registration of the condominium, whichever is earlier.

ownership or possession of the home is transferred before July 2010. In these cases, purchaser-landlords would not be required to pay the provincial component of the HST.

TRANSITIONAL RULES FOR RESIDENTIAL REAL PROPERTY

To help homebuyers and builders transition to the HST, transitional rules would be provided for new housing transactions that straddle July 1, 2010. The proposed transitional rules would be similar to the transitional rules that applied when the GST was introduced. These rules, including builder reporting and disclosure requirements, would be administered by the CRA.

Grandparenting

Written Agreements before November 18, 2009

Generally, sales of newly constructed or substantially renovated homes would be grandparented where the written agreements of purchase and sale are entered into on or before November 18, 2009⁶ and both ownership and possession of the homes are transferred under the agreement after June 2010. These sales would be subject to the federal component of the HST but would not be subject to the provincial component of the HST.

Grandparenting generally would apply to sales of newly constructed or substantially renovated single-unit homes⁷ to individuals. Also, grandparenting generally would apply to sales of residential condominiums to all persons including individuals.

Sales of these grandparented homes would not be eligible for the B.C. new housing rebate or new rental housing rebate.

Grandparenting would not apply to traditional apartment buildings, duplexes, mobile homes, floating homes and homes built by owners for their personal use where construction straddles July 1, 2010, as the general transitional rules⁸ would apply differently to these homes. However, these homes may qualify for one or more of the following proposed rebates: the PST transitional new housing rebate, B.C. new housing rebate, B.C. new rental housing rebate in addition to the GST new housing rebate and the GST new residential rental property rebate that may be available.

⁶ Date of announcement for transitional rules for residential real property.

⁷ For grandparenting purposes, single-unit homes include single homes with accessory suites.

⁸ B.C. announced its general transitional rules on October 14, 2009. Refer to Tax Information Notice - HST Notice #1 provided on the B.C. Ministry of Finance website at www.gov.bc.ca/hst.

Traditional apartment buildings, duplexes, mobile homes and floating homes would be subject to the general application of tax (see above) such that the proposed HST would apply to the sale of these housing types if both ownership and possession are transferred to a purchaser on or after July 1, 2010. However, if under a written agreement of purchase and sale, either possession or ownership is transferred prior to July 1, 2010, then the provincial component of the HST would not apply.

Builders who are registrants for GST/HST purposes would be able to recover the provincial component of the HST paid on most purchases through input tax credits (ITCs), as under the GST, with limited exceptions.⁹ However, builders of grandparented homes generally would be required to pay an amount—a transitional tax adjustment—based on the extent of the home construction or substantial renovation completed as of July 1, 2010. The transitional tax adjustment for grandparented homes is intended to approximate the amount of PST, approximately two per cent, which would have been embedded in the price of the home, on average, under the current PST regime. Builders would also be required to meet certain reporting and disclosure requirements for grandparented homes.

The calculation of the transitional tax adjustment is described below.

Transitional Tax Adjustment – Single-Unit Homes

For grandparented sales of newly constructed or substantially renovated single-unit homes, including detached, semi-detached and attached homes, the builder generally would be required to pay a transitional tax adjustment where the home is completed in full or in part after June 2010.

The transitional tax adjustment for these homes would be calculated on the total consideration of the home, as established for GST purposes, based on the degree of construction or substantial renovation completed as of July 1, 2010, as follows:

Degree of completion of construction or substantial renovation on July 1, 2010	Transitional tax adjustment rate
< 10 per cent	2.0 per cent
10 per cent ≤ and < 25 per cent	1.5 per cent
25 per cent ≤ and < 50 per cent	1.0 per cent
50 per cent ≤ and < 75 per cent	0.5 per cent
75 per cent ≤ and < 90 per cent	0.2 per cent
≥ 90 per cent	0.0 per cent

⁹ On a temporary basis, large businesses (those with annual taxable – including zero-rated – sales in excess of \$10 million) and financial institutions would not be able to claim ITCs in respect of the B.C. component of the HST on certain inputs used in their taxable activities. After the first five years of the HST implementation, ITCs for these inputs would be phased in over a three-year period. Items for which ITCs would be restricted are listed at www.gov.bc.ca/hst.

Transitional Tax Adjustment – Residential Condominiums

For grandparented sales of newly constructed or substantially renovated homes that are residential condominium units or residential condominium buildings, the builder would be required to pay a transitional tax adjustment and also may be eligible for a PST transitional new housing rebate.

In the case of residential condominiums, the transitional tax adjustment would be calculated at two per cent of the value of consideration for the condominium unit or building as established for GST purposes.

Taken together, the transitional tax adjustment and the PST transitional housing rebate would be equal to the PST that would have otherwise been embedded in the condominium unit or building, on average, under the current PST regime had the construction or substantial renovation of the residential condominium been substantially completed prior to July 2010. For the PST transitional new housing rebate calculation—see the “PST Transitional New Housing Rebate” section.

In all cases (whether single-unit homes or residential condominiums), the transitional tax adjustment is calculated based on the total consideration payable (excluding GST and any applicable new housing rebate) for the grandparented sale of the single-unit home or condominium. In cases where the value of consideration for the sale of the grandparented home¹⁰ is less than what the fair market value of the home would have been if the home had been substantially completed on July 1, 2010, the consideration for purposes of calculating the transitional tax adjustment will be deemed to be equal to the fair market value of the home as if the construction or substantial renovation of the home was substantially completed on July 1, 2010. Builders who are required to pay the transitional tax adjustment are required to include the transitional tax adjustment in the GST/HST return for the reporting period that includes the day when possession of the grandparented home is transferred to the purchaser.

PST Transitional New Housing Rebate

Newly constructed or substantially renovated homes completed in full or in part prior to July 2010 would have PST embedded in the price of the homes since building materials used in the construction of homes are subject to PST. For new homes that would be subject to the provincial component of the HST after June 2010, a PST transitional new housing rebate would be available to provide relief in respect of the PST embedded in the price of the home.

¹⁰ Grandparented home refers to a newly constructed or substantially renovated home where the agreement of purchase and sale between the builder and purchaser was entered into on or before November 18, 2009 and both ownership and possession of the home are transferred after June 2010.

This rebate would be available for non-grandparented single-unit homes, residential condominiums and traditional apartment buildings, as well as grandparented residential condominiums for which the transitional tax adjustment would be payable.

PST Transitional New Housing Rebate – Single-Unit Homes

For newly constructed or substantially renovated single-unit homes, including detached homes, semi-detached homes, attached homes, and duplexes, the PST transitional new housing rebate would be available to individuals purchasing the home or to builders who first rent the home, as the case may be, after June 2010. For these new homes, the rebate would only be available where the proposed HST would apply. It would not be available for grandparented homes.

Individuals purchasing these new homes would have the option of obtaining the PST transitional new housing rebate through the builder or by filing an application directly with the CRA. Where the individual files an application for the rebate directly with the CRA, the individual would be required to obtain from the builder of the home a certification of the percentage of completion of the newly constructed or substantially renovated home as of July 1, 2010.

PST Transitional New Housing Rebate – Residential Condominiums and Apartments

For newly constructed or substantially renovated homes that are residential condominiums, traditional apartment buildings, or new additions to traditional apartment buildings, the PST transitional new housing rebate would be available to the builder rather than the purchaser.

For new homes that are residential condominiums, the rebate would be available where the transitional tax adjustment or the HST would apply, as applicable.

PST Transitional New Housing Rebate Calculation

Generally, the PST transitional new housing rebate would be calculated as a proportion of the estimated embedded PST in the newly constructed or substantially renovated home, based on the degree of completion of the construction or substantial renovation of the building component of the home as of July 1, 2010.

Eligible applicants would be permitted to calculate the estimated embedded PST (“estimated PST content”) by choosing one of the following two methods:

- Estimated PST content calculated at a prescribed amount of \$60.00 per square metre of floor space in the home (“floor space method”); or

- Estimated PST content based on the selling price or fair market value of the home, calculated at two per cent of the total value of consideration or fair market value, as the case may be, established for GST purposes (“selling price method”).

The rebate would be calculated as follows:

Degree of completion of construction or substantial renovation on July 1, 2010	Transitional rebate (per cent of estimated PST content)
< 10 per cent	0 per cent
10 per cent ≤ and < 25 per cent	25 per cent
25 per cent ≤ and < 50 per cent	50 per cent
50 per cent ≤ and < 75 per cent	75 per cent
75 per cent ≤ and < 90 per cent	90 per cent
≥ 90 per cent	100 per cent

Eligibility for the PST transitional new housing rebate would not affect the purchaser’s or builder’s ability to claim the new housing rebate or new rental housing rebate, as applicable. Persons who are builders (i.e., who make taxable sales of newly constructed or substantially renovated residential housing) generally would not be eligible for the Transitional Inventory Rebate for Residential Real Property Contracts¹¹, since the inventory rebate applies only to contracts to repair or improve land and items permanently attached to land and not to contracts for the sale of new housing.

The PST transitional new housing rebate would be administered by the CRA. As a condition for obtaining the rebate, the builder would be required to obtain a clearance certificate from the province and attach it to the first PST transitional new housing rebate application submitted to the CRA.

Generally, a clearance certificate would be provided where the builder has no outstanding provincial tax debts.

Subsequent PST transitional new housing rebate applications submitted to the CRA by the builder would be processed based on the clearance certificate submitted with the first rebate application so long as that certificate remains valid.

Once issued by the province, a certificate generally would remain valid for one year. The builder and the CRA would be notified by the province of any subsequent revocation of a clearance certificate.

¹¹ Information on the Transitional Inventory Rebate for Residential Real Property Contracts is included in the Tax Information Notice - HST Notice #1 provided on the B.C. Ministry of Finance website at www.gov.bc.ca/hst.

PST Transitional New Housing Rebate Timeframes

Where the rebate calculation is based on the floor space method, the applicant would be eligible to file a rebate application anytime on or after July 1, 2010.

Where the rebate calculation is based on the selling price method, the applicant would be eligible to claim the rebate no earlier than the day the HST would be payable or the day the builder would be deemed to have collected the transitional tax adjustment, as the case may be.

Generally, the application for the rebate would need to be filed before July 1, 2014. Where the builder is unable to file their rebate application within this timeframe due to extenuating circumstances (such as a delay in completing the sale of a home), the builder would be able to make a request in writing for an extension of the timeframe to file the rebate, provided the request for extension is received by the CRA before July 1, 2014.

Other circumstances

Newly constructed or substantially renovated homes built by owners for their personal use as well as mobile homes and floating homes would not be eligible for the PST transitional new housing rebate as the general transitional rules would apply differently to these homes – see the “Grandparenting – Written Agreements before Announcement of Transitional Rules” section above. However, such homes may qualify for the proposed new housing rebate or the new rental housing rebate, as applicable.

Resupplies of Grandparented Homes

Generally, builders’ sales of newly constructed or substantially renovated homes would be subject to the general application of tax (see above) where both ownership and possession of the home are transferred after June 2010.

As noted in the “Transitional Rules for Residential Real Property – Grandparenting” section above, generally, a sale of a newly constructed or substantially renovated home would be grandparented (referred to as “grandparented home”) where the agreement of purchase and sale of the home between the builder and the purchaser (referred to as a “grandparented sales agreement”) was entered into on or before November 18, 2009 and both ownership and possession of the home are transferred after June 2010.

Grandparenting would generally apply to sales of newly constructed or substantially renovated single-unit homes and residential condominiums but not to traditional apartment buildings, duplexes, mobile homes and floating homes.

The transitional rules for grandparented sales agreements that are assigned and for resupplies of grandparented homes – including relief in respect of the transitional tax adjustment, PST or the provincial component of the HST, as applicable – are described below.

Assignment of Agreements Entered into Before November 18, 2009

Where a purchaser enters into an agreement of purchase and sale of a home with a builder (referred to as “original builder”) on or before November 18, 2009, the purchaser may be able to assign the agreement to another person (referred to as “assignee purchaser”). Also, an assignee purchaser may be able to assign the agreement to another assignee purchaser. If an assignee purchaser receives ownership and possession of the home under the agreement from the original builder after June 2010, the sale of the home from the original builder to that assignee purchaser would be grandparented where the following conditions are met:

- there is no novation of the agreement;
- the purchaser and the original builder are persons who are dealing at arm’s length¹² and who are not “associated persons” as defined in the ETA; and
- the original builder or any specified related party¹³ does not acquire or reacquire by way of sale any legal or beneficial interest, or part thereof, in the home, including a sale by way of reversion or the exercise of an option or a right of first refusal.

Resale of Grandparented Home

Sale made by First Reseller

A taxable resale of a grandparented home made by the first reseller¹⁴ would be relieved from the provincial component of the HST where the following conditions are met:

¹² Aunts and uncles would be deemed to be related to their nieces or nephews in applying the arm’s length test in all cases referred to in this Notice.

¹³ For the purposes of this Notice, a specified related party is any person who is not dealing at arm’s length with, or who is a person associated with, the original builder.

¹⁴ First reseller means the first purchaser to have entered into the grandparented sales agreement with the original builder to purchase a grandparented home for the primary purpose of reselling the home and to obtain possession of the grandparented home from the original builder under the grandparented sales agreement.

- the first reseller obtained possession of the grandparented home after the construction or substantial renovation is substantially completed;
- the grandparented sales agreement is between persons who are dealing at arm's length and who are not "associated persons" as defined in the ETA;
- the first reseller
 - is a builder of the home only because of paragraph (d) of the definition of "builder" in the ETA, or
 - is a builder of the home only because of paragraphs (b) and (d) of the definition of "builder" in the ETA and the construction or substantial renovation completed by the first reseller is not greater than 10 per cent of the total construction or substantial renovation of the home that was completed when the home was resold by the first reseller; and
- The original builder or a specified related party does not acquire or reacquire by way of sale any legal or beneficial interest, or part thereof, in the home, including a sale by way of reversion or the exercise of an option or a right of first refusal.

However, where the conditions above are not met and the resale of the grandparented home would be subject to the provincial component of the HST, relief in respect of the transitional tax adjustment and/or the embedded PST would be provided. In this case, the first reseller would be able to recover, by way of an input tax credit (ITC) or rebate, two per cent of the consideration established for GST purposes for the sale of the grandparented home from the original builder. The amount of the ITC or rebate would represent the estimated PST and/or the transitional tax adjustment embedded in the price of the home.

Sale made by Subsequent Reseller

A taxable resale of a grandparented home made by any purchaser who acquired the home for the primary purpose of reselling the home, other than the first reseller (referred to as a "subsequent reseller"), would be relieved from the provincial component of the HST where the following conditions are met:

- the purchase of the home by the subsequent reseller was not subject to the provincial component of the HST;
- the subsequent reseller
 - is a builder of the home only because of paragraph (d) of the definition of "builder" in the ETA, or

- is a builder of the home only because of paragraphs (b) and (d) of the definition of “builder” in the ETA and the construction or substantial renovation completed by the first reseller is not greater than 10 per cent of the total construction or substantial renovation of the home that was completed when the home was resold by the first reseller; and
- the original builder or a specified related party does not acquire or reacquire by way of sale any legal or beneficial interest, or part thereof, in the home, including a sale by way of reversion or the exercise of an option or a right of first refusal.

Original Builder’s Duty to Self-Assess on Acquiring an Interest from Subsequent Reseller

Where the original builder or a specified related party acquires from any person by way of sale a legal or beneficial interest, or part thereof, in a previously grandparented home of the original builder and that sale is taxable for GST purposes, the original builder or the specified related party, as the case may be, would be required to self assess and pay the provincial component of the HST that applies to the sale of that interest.

In this case, the original builder or the specified related party generally would be able to recover, by way of an ITC or rebate, two per cent of the consideration established for GST purposes for the sale of the grandparented home from the original builder. The amount of the ITC or rebate would represent the estimated PST and/or the transitional tax adjustment embedded in the price of the home.

Reseller’s Disclosure Requirements

As a condition for obtaining relief under the reseller’s rules outlined above, where a reseller¹⁵ enters into a written agreement of purchase and sale with a purchaser, the reseller would be required to make the following disclosures in the written agreement of purchase and sale:

- the name of the original builder(s) (i.e. builder(s) who constructed the home);
- whether the home was purchased on a grandparented basis or was relieved from the provincial component of the HST under the resellers rule; and
- whether the provincial component of the HST would apply to the sale and, if so, whether the stated price in the agreement includes the applicable provincial component of the HST, net of any B.C. new housing rebate, if applicable.

¹⁵ Includes an assignee purchaser who becomes a reseller.

If the transaction would be subject to the provincial component of the HST and the reseller did not make the disclosures outlined above, the stated price in the written agreement would be deemed under the transitional rules to include the provincial component of the HST. In such a case, the purchaser would not be required to pay the provincial component of the HST in addition to the stated price in the agreement.

This proposed transitional measure would help to provide certainty to both resellers and purchasers with respect to the application of the proposed HST under the grandparenting and resellers rules.

LONG-TERM CARE FACILITIES

Long-term care facilities such as nursing homes or personal care homes would be treated the same as other residential homes under the HST.

For example, if a newly constructed or substantially renovated long-term care facility is similar to a traditional apartment building, the PST transitional new housing rebate and the new rental housing rebate rules for apartment buildings would apply. If the facility is a condominium, the PST transitional new housing rebate and the new rental housing rebate rules for residential condominiums would apply.

If a new or substantially renovated long-term care facility is similar to a traditional apartment building, the sale of the facility to a purchaser-operator after June 2010 would not be grandparented even where the agreement of purchase and sale is entered into on or before November 18, 2009. As a result, where both ownership and possession of the facility are transferred after June 2010, the purchaser-operator would be required to pay the HST.

Where a builder-operator constructs a long-term care facility and gives possession or use of the first unit in the facility under a rental arrangement after June 2010, the builder would be required to self-assess and pay the HST under the self-supply rules. In this case, the builder may be entitled to claim the proposed PST transitional new housing rebate.

In either case, the builder-operator or purchaser-operator may be entitled to claim the proposed B.C. new rental housing rebate. For more information on these rebates, refer to the relevant sections of the bulletin.

PUBLIC SERVICE BODIES

Charities, non-profit organizations and other public service bodies that are builders or purchasers of new or substantially renovated residential housing would be subject to the same rules that apply to persons who construct or purchase such residential housing on a for-profit basis.

Where a public service body, that would be entitled to claim a proposed B.C. public service body rebate in respect of rental housing, builds or purchases such housing, the public service body would generally be entitled to claim either the proposed B.C. new rental housing rebate or the proposed B.C. public service body rebate, whichever has the higher rebate rate.

BUILDER DISCLOSURE REQUIREMENTS FOR TRANSITIONAL PERIOD

If a written agreement of purchase and sale for a newly constructed or substantially renovated home is entered into after November 18, 2009 and before July 1, 2010, the builder would be required to disclose in the written agreement whether the provincial component of the HST would apply to the sale and, if so, whether the stated price in the agreement includes the applicable provincial component of the HST, net of the B.C. new housing rebate and the PST transitional new housing rebate, if applicable.

If the transaction would be subject to the provincial component of the HST and the builder did not make a disclosure as outlined above, the stated price in the written agreement would be deemed under the transitional rules to include the provincial component of the HST. In such a case, the purchaser would not be required to pay the provincial component of the HST in addition to the stated price in the agreement.

This proposed transitional measure would help provide certainty to both builders and purchasers with respect to the application of the proposed HST under written agreements of purchase and sale for new or substantially renovated homes entered into during the transitional period.

Further Information

If you have any questions, please call the Ministry of Finance at 604 660-4524 in Vancouver, or toll-free at 1 877 388-4440, or e-mail your questions to CTBTaxQuestions@gov.bc.ca.

If you have questions regarding eligibility requirements for new housing rebates or new rental housing rebates please call the Canada Revenue Agency at 1-800-959-8287 (English) and 1-800-959-8296 (French) or see www.cra-arc.gc.ca for more information.