

Additional Information for Homebuyers and the Housing Industry under Ontario HST

This Information Notice supplements 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 on June 18, 2009.

This Notice provides further information to help homebuyers and the housing industry prepare for the proposed Harmonized Sales Tax for Ontario (the HST) which, subject to legislative approval, would come into effect on July 1, 2010. The proposed HST is

central to Ontario’s comprehensive tax plan for job creation and economic growth.

The proposed housing measures for the HST would help Ontarians buying new homes and support a strong housing industry.

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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NEW HOUSING REBATE AND NEW RENTAL HOUSING REBATE

As announced in Information Notice No. 2, Ontario is proposing to provide a new housing rebate for the same types of new residential housing for which a rebate is available under the Goods and Services Tax (GST).

Ontario's new housing rebate would ensure that new homes priced up to \$400,000 would, on average, not be subject to an additional tax amount compared to the Retail Sales Tax (RST) currently embedded in the prices of new homes.

The new housing rebate would be 75 per cent of the provincial component of the HST paid for new housing purchased as primary residences, up to a maximum rebate of \$24,000. There would be no phase out of this rebate, such that new housing purchased above \$400,000 would qualify for the maximum rebate amount of \$24,000. A similar rebate would be available to support new rental housing.

Additional information is set out below.

NEW HOUSING REBATE FOR PURCHASES OF NEW HOUSES TOGETHER WITH LEASED LAND

A new housing rebate would be provided for the purchase of a new single-unit house or duplex 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.¹

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 5.31 per cent of the price attributable to the building, up to a maximum rebate of \$24,000. New homes purchased above \$452,000 would qualify for the maximum rebate amount of \$24,000.

¹ As defined in the ETA for purposes of the new housing rebates.

NEW HOUSING REBATE FOR HOUSING ACQUIRED THROUGH THE PURCHASE OF QUALIFYING SHARES IN A HOUSING CO-OP

A new housing rebate would be provided for the purchase 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 purchasing the new housing complex or self-assess and pay the HST under the self-supply rules where the housing complex is newly constructed or substantially renovated by the housing co-op. As a result, the HST generally would 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 5.31 per cent of the price paid for qualifying shares in the housing co-op, up to a maximum rebate amount of \$24,000. Purchases above \$452,000 would qualify for the maximum rebate amount of \$24,000.

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 amount of the new housing 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 75 per cent of the provincial component of the HST paid on qualifying construction expenses (including land), up to a maximum rebate amount of \$24,000. Owner-built homes with qualifying construction expenses over \$400,000 would qualify for the maximum rebate amount of \$24,000.

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 75 per cent of the provincial component of the HST paid on qualifying construction expenses (not including the land), up to a maximum rebate amount of \$16,080 (i.e., 67 per cent of the maximum housing rebate of \$24,000).

NEW HOUSING REBATE FOR PURCHASES OF NEW MOBILE HOMES AND NEW 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 GST/HST purposes, a mobile home includes certain modular homes.²

The new housing rebate would be 75 per cent of the provincial component of the HST paid for qualifying mobile and floating homes up to a maximum rebate amount of \$24,000. Mobile and floating homes purchased above \$400,000 would qualify for the maximum rebate amount of \$24,000.

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 purchase of the mobile home together with the land.

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 section

² 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. Refer to GST/HST Policy Statement P-223 available at www.cra-arc.gc.ca.

above: *New housing rebate for purchases of new houses together with leased land.*

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 section above: *New housing rebate for owner-built homes.*

NEW RENTAL HOUSING REBATE FOR LAND ONLY

A new rental housing rebate would be available to landlords 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 for GST/HST purposes on the value of land.

The rebate would be calculated as 75 per cent of the provincial component of the HST paid up to a maximum rebate of \$7,920 (i.e., 33 per cent of the maximum housing rebate of \$24,000). For multiple residential lots or sites in a residential trailer park or addition, the maximum rebate amount of \$7,920 would apply to each lot or site.

NEW RENTAL HOUSING REBATE FOR PUBLIC SERVICE BODIES

Where a public service body, that would be entitled to claim a proposed Ontario public service body rebate in respect of rental housing, builds or purchases such housing, the public service body generally would be entitled to claim either the proposed Ontario new rental housing rebate or the proposed Ontario public service body rebate, whichever has the higher rebate rate.³

TRANSITIONAL RULES FOR RESIDENTIAL REAL PROPERTY

As indicated in Information Notice No. 2, generally, a sale of a newly constructed or substantially renovated home would be grandparented where the agreement of purchase and sale of the home (referred to as a "grandparented sales agreement") was entered into

³ The rates for the Ontario public service body rebates are higher than the rate for the Ontario new rental housing rebate.

between a builder and a purchaser on or before June 18, 2009 and both ownership and possession of the home are transferred after June 2010.

Grandparenting generally would apply to sales of newly constructed or substantially renovated single unit homes to individuals. Also, grandparenting generally would apply to a sale of a residential condominium to a person. However, grandparenting would not apply to sales of traditional apartment buildings, duplexes, mobile homes and floating homes.

Additional information is described below.

TRANSITIONAL TAX ADJUSTMENT

Information Notice No. 2 describes the transitional rules, including the calculation for the transitional tax adjustment that builders of grandparented homes generally would be required to pay to account for tax that, on average, would have otherwise been embedded in the new homes under the current RST regime.

In cases where the value of consideration for the sale of a grandparented home (whether single-unit home⁴ or residential condominium) is less than what the fair market value (FMV) 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 would be deemed to be equal to the FMV of the home as if the construction or substantial renovation of the home was substantially completed on July 1, 2010.

ASSIGNMENTS AND REALES OF GRANDPARENTED HOMES

Information Notice No. 2 sets out that transitional rules would be proposed to provide relief in respect of the transitional tax adjustment or the provincial component of the HST, as applicable, where a grandparented home passes through a chain of resellers before it is occupied by an individual for residential use.

⁴ For grandparenting purposes, single homes (or single-unit homes) include single homes with accessory suites.

Assignments of agreements entered into on or before June 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 June 18, 2009, the purchaser may assign the agreement to another person (referred to as “assignee purchaser”). Similarly, an assignee purchaser may 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 the 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 length⁵ and who are not “associated persons” as defined in the ETA; and
- the original builder or a specified related party⁶ 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.

Resales of grandparented homes

Sale made by first reseller

A taxable resale of a grandparented home made by the first reseller⁷ would be relieved from the provincial component of the HST where the following conditions are met:

- the first reseller obtained possession of the grandparented home after the construction or substantial renovation is substantially completed;
- the original 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:

⁵ Aunts and uncles would be deemed to be related to their nieces and nephews in applying the arm’s length test in all cases referred to in this Notice.

⁶ 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.

⁷ The first reseller is the first purchaser to have entered into the grandparented sales agreement with the original builder to purchase a grandparented home and to have obtained possession of the grandparented home from the original builder under the grandparented sales agreement.

- 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 RST would be provided. In this case, the first reseller would be able to recover, by way of an input tax credit (ITC) or rebate, 2 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 RST 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.

Self-assessment requirements

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, 2 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 RST and/or the transitional tax adjustment embedded in the price of the home.

Reseller disclosure requirements

As a condition for obtaining relief under the resellers rules outlined above, where a reseller⁸ 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., the 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

⁸ Includes an assignee purchaser who becomes a reseller.

in the agreement includes the applicable provincial component of the HST, net of any Ontario new housing rebate, if applicable.

If the transaction would be subject to the provincial component of the HST and the reseller did not make the disclosures 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 to provide certainty to both resellers and purchasers with respect to the application of the proposed HST under the grandparenting and resellers rules.

TRANSITIONAL RULES FOR OWNER-BUILT HOMES

The transitional rules for services and tangible personal property generally would apply to contracts entered into for the purposes of constructing owner-built homes where the house construction straddles July 1, 2010.

Ontario announced its general transitional rules on October 14, 2009. Refer to Information Notice No. 3 – *General Transitional Rules for Ontario HST*.

TRANSITIONAL RULES FOR NEW MOBILE HOMES AND NEW FLOATING HOMES

New mobile homes and new floating homes would be subject to the general transitional rule for real property 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 either possession or ownership is transferred prior to July 1, 2010 under a written agreement of purchase and sale, then the provincial component of the HST would not apply.

RST TRANSITIONAL HOUSING REBATE

As announced in Information Notice No. 2, an RST transitional housing rebate would be available to provide relief in respect of the RST embedded in the price of a new home.

Information Notice No. 2 describes the rebate, including that eligible applicants would be permitted to calculate the estimated embedded RST by choosing one of two prescribed methods: the floor space method, or the selling price method.

Additional information is provided below.

PRESCRIBED AMOUNT FOR FLOOR SPACE METHOD

The prescribed amount for the purposes of the floor space method would be \$45.00 per square metre of floor space in the home.

PROVINCIAL CERTIFICATE

The RST transitional housing rebate would be administered by the CRA. As a condition for obtaining the rebate, the builder would be required to obtain a certificate – a letter of good standing – from the Ontario Ministry of Revenue and attach it to the first RST transitional housing rebate application submitted to the CRA. Generally, a certificate would be provided where the builder has no outstanding provincial debts.

Subsequent RST transitional housing rebate applications submitted to CRA by the builder would be processed based on the 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 certificate.

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 the rebate application within this timeframe due

to extenuating circumstances (such as a delay in completing the sale of the home), the builder would be able to make a request in writing for an extension of time to file the rebate application, provided the request for extension is received by the CRA before July 1, 2014.

LONG-TERM RESIDENTIAL CARE FACILITIES

Long-term residential care facilities such as nursing homes or personal care homes would be treated in the same manner as other residential homes under the HST. The transitional rules and Ontario new housing rebates for residential condominiums or traditional apartment buildings would apply, as the case may be.

For more information about the transitional rules for, and rebates applicable to, residential condominiums and apartment buildings, refer to the rebate sections above and Information Notice No. 2.

ADDITIONAL INFORMATION

Information updates on the proposed HST are available at www.ontario.ca/taxchange and at www.cra-arc.gc.ca.

For more information, please call the Ontario Budget hotline:

Toll-free English & French inquiries: 1 800 337-7222
Teletypewriter (TTY): 1 800 263-7776

Or call the CRA information line:

English: 1 800 959-8287
French: 1 800 959-8296

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