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## New housing rebates and transitional rules on residential housing for B.C. HST

**December 8, 2009**

On November 18, 2009, British Columbia announced the following critical issues related to the application of the provincial portion of the British Columbia harmonized sales tax (B.C. HST) to the new residential housing sector:

- An enhancement to the previously announced rebate to lift the ceiling from \$400,000 to \$525,000 for purchases of new homes that will be subject to the B.C. HST, effective July 1, 2010, and to confirm that similar rebates will be available on owner-built homes and other alternative housing (including mobile homes and floating homes);
- A rebate for new residential rental properties (including single unit housing, mobile homes, and floating homes);
- Transitional rules for residential housing, including “grandparenting” of written contracts for the purchase of residential properties that were entered into on or prior to November 18, 2009;
- A transitional tax adjustment payable by builders on construction of grandparented residential properties completed in full or in part after June 30, 2010;
- A PST Transitional New Housing Rebate on construction costs incurred by builders of residential properties pre-July 1, 2010 where the sale will be B.C. HST-taxable on or after July 1, 2010;
- Clarifications are added for long-term care facilities and public service bodies.

The eligibility conditions that apply to the current GST housing rebate will also be applicable to the B.C. new housing rebate. The application process for the B.C. rebate for new housing will also be administered federally and, as a result, will be filed directly with the Canada Revenue Agency (CRA). As is the case with the GST new housing rebate, the builder would have the alternative of crediting or paying the B.C. new housing rebate to the purchaser at the time of purchase.

## General application of tax

The following rules will generally apply, with exception for the grandparenting rule noted below.

Types of transaction	General application rule
Sales of newly constructed or substantially renovated homes	Subject to B.C. HST where both ownership and possession of the homes are transferred after June 30, 2010
Rentals of newly constructed or substantially renovated homes (e.g., single-unit homes, residential condominiums, traditional apartment buildings) which are rented out by the builder-landlord	Builder-landlords are required to self-assess B.C. HST under the self-supply rules where the self-supply occurs after June 30, 2010
Rentals of newly constructed or substantially renovated homes (e.g., single-unit homes, residential condominiums, traditional apartment buildings) which are rented out by the purchaser-landlord	Purchaser-landlords are required to pay B.C. HST where both ownership and possession of the homes are transferred after June 30, 2010

## Rebate threshold increased to \$525,000

All newly constructed or substantially renovated homes purchased as primary residences will now qualify for a rebate of 71.43% of the provincial component of the HST, up to a maximum of **\$26,250**. It should be noted that this rebate is in addition to the current GST (federal component of HST) new housing rebates. The government's stated intent is that new housing up to \$525,000 will not be subject to any greater tax burden than under the current regime. It is estimated that PST of 2% is currently embedded into the cost of new homes.

The new housing rebates are generally available to the following qualifying types of housing, with different rebate rates (or factors) and maximum rebate amounts:

Types of housing	Rebate rates and factors	Maximum rebate	Maximum price available for full rebate
Purchase of new houses together with land	71.43% of the provincial component of HST	\$26,250	\$525,000
Purchase of new houses together with leased land	4.47% of the price attributable to the building	\$26,250	\$588,000
Purchase of new mobile home or floating home	71.43% of the provincial component of HST	\$26,250	\$525,000
House acquired through the purchase of qualifying shares in a housing co-op	4.47% of the price paid for qualifying shares in the housing co-op	\$26,250	\$588,000
Owner-built homes			
<ul style="list-style-type: none"> <li>provincial component of HST paid on land</li> </ul>	71.43% of the provincial component of HST	\$26,250	\$525,000
<ul style="list-style-type: none"> <li>provincial component of HST not paid on land</li> </ul>	71.43% of the provincial component of the HST paid on qualifying construction expenses	\$17,588	\$351,750

## Enhancement to the new rental housing rebate

An enhanced rebate of 71.43% of the provincial component of the HST, up to a maximum rebate of \$26,250, has also been proposed for new rental housing. This rebate will be available to landlords that purchase, construct or substantially renovate their rental properties.

B.C.'s new rental housing rebate would be available for the following types of new or substantially renovated rental housing, where the first use of the housing is intended to be for at least one year:

Types of housing	Rebate rates and factors	Maximum rebate
<ul style="list-style-type: none"> <li>Single-unit housing, residential condominium units and duplexes</li> <li>Mobile homes and floating homes</li> <li>Single-unit housing or units in multiple-unit housing in a housing co-op</li> </ul>	71.43% of the provincial component of HST	\$26,250
<ul style="list-style-type: none"> <li>Units in multiple-unit housing (e.g., residential units in traditional apartment buildings or long-term care residential facilities)</li> </ul>	71.43% of the provincial component of HST	\$26,250 for each eligible residential unit
<ul style="list-style-type: none"> <li>Rental of residential lot or site in trailer park</li> </ul>	71.43% of the provincial component of HST	\$8,663

## Transitional rules

For new housing transactions that straddle July 1, 2010, the proposed transitional rules are as follows:

### Grandparenting

If a written agreement of purchase and sale was entered into before November 18, 2009 and possession and ownership is transferred after June 30, 2010, then GST at 5% would apply to the supply of residential real property (i.e., these properties will be grandparented); otherwise, B.C. HST at 12% would apply to the supply of residential real property.

Grandparenting generally would apply to the following (grandparented homes will not be eligible for the B.C. new housing rebate):

- Sales of newly constructed or substantially renovated single-unit homes to individuals;
- Sales of residential condominiums to all persons including individuals.

Grandparenting would generally not apply to the following (non-grandparented homes will be eligible for the B.C. new housing rebate):

- Traditional apartment buildings;
- Duplexes;
- Mobile homes;
- Floating homes;
- Homes built by owners for their personal use.

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.

### Transitional tax adjustment (TTA) for grandparented sales (payable by the builder)

Currently, PST applies to a wide range of construction expenses, such as materials and legal services. Since this tax cannot be recovered by the builder, it can be embedded in the builder's costs and reflected in the purchase price of the home.

Conversely, where the construction of a new or substantially renovated home straddles the B.C. HST implementation date, the provincial portion of the HST paid by the builder after June 30, 2010 would generally be recoverable as an input tax credit (ITC). This reduces tax revenues for B.C., particularly in the case of sales that would be grandparented and for which the provincial component of the B.C. HST would not apply on the sale.

As a transitional compensatory measure, builders will be required to pay a TTA intended to approximate the amount of non-recoverable PST that would have been payable on expenses incurred after June 30, 2010, if not for the implementation of the B.C. HST, based on the extent of the home construction or substantial renovation completed as of July 1, 2010.

#### **Single-unit homes (that are grandparented and not subject to HST)**

The TTA payable by the builder of a new or substantially renovated home (detached, semi-detached, or attached) is calculated based on the percentage of completion as at July 1, 2010, as applied to the total purchase price as established for GST (including upgrades, fixtures, and certain appliances). Homes that are substantially completed (i.e., 90% or more) will not attract the TTA. Please see the summary table below.

<b>Degree of completion of construction or substantial renovation on July 1, 2010</b>	<b>Transitional tax adjustment rate</b>
Less than 10 per cent	2.0%
10 per cent to less than 25 per cent	1.5%
25 per cent to less than 50 per cent	1.0%
50 per cent to less than 75 per cent	0.5%
75 per cent to less than 90 per cent	0.2%
90 per cent or more	0.0%

#### **Residential condominiums (that are grandparented and not subject to HST)**

When the sale of units in a condominium project will be grandparented, the builder of a new or substantially renovated residential condominium will have to pay TTA equal to a flat 2% of the total purchase price of the condominium (as opposed to the sliding scale outlined above). The builder may, however, qualify for an offsetting transitional new housing rebate.

#### **PST transitional new housing rebate**

As a result of the non-recoverable nature of PST, a certain amount of PST will be embedded in the purchase price of new homes where construction straddles July 1, 2010 and the sale is not grandparented and, therefore, is subject to HST. To avoid or reduce the potential for double taxation, British Columbia will give purchasers and/or builders a transitional new housing rebate that is intended to approximate the PST already embedded in the purchase price of non-grandparented new homes.

The rebate would generally apply to the following types of housing:

- Single-unit homes (including those that are newly constructed or substantially renovated), detached homes, semi-detached homes, attached homes, and duplexes;
- Residential condominiums (including those that are newly constructed or substantially renovated), traditional apartment buildings, or new additions to traditional apartment buildings.

#### **Calculating the PST transitional new housing rebate**

This rebate would be calculated as a proportion of the estimated embedded PST in the newly constructed or substantially renovated home, to the extent that the construction or substantial renovation is completed as of July 1, 2010.

Claimants may choose one of the following two methods in calculating the estimated embedded PST (estimated PST content):

Methods	Calculation of estimated PST content
Floor space method	Calculated at a prescribed amount of \$60.00 per square metre of floor space in the home
Selling price method	Based on the selling price or fair market value of the home, calculated at 2% of the total value of consideration or fair market value

The rebate is then calculated as follows:

Degree of completion of construction or substantial renovation on July 1, 2010	Transitional rebate (percent of estimated PST content)
Less than 10 percent	0 %
10 percent to less than 25 percent	25%
25 percent to less than 50 percent	50%
50 percent to less than 75 percent	75%
75 percent to less than 90 percent	90%
90 percent or more	100%

In order to apply for the rebate, the builder is 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. A certificate generally would remain valid for one year once issued.

The following is the timeline for filing a PST transitional new housing rebate application:

Type of rebates	Timeline
Rebate calculated based on the floor space method	Anytime on or after July 1, 2010
Rebate calculated based on the selling price method	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
In general	Before July 1, 2014, 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 considerations

- **Long-term care facilities:** Under HST, long-term care facilities will receive the same treatment as other residential homes. The builder-operator or purchaser-operator may be entitled to claim the proposed B.C. new rental housing rebate.
- **Public service bodies (PSBs):** Under the HST regime, the same rules that apply to persons that construct or substantially renovate residential housing would apply to PSBs who construct or purchase such housing. These PSBs would generally be entitled to claim either the B.C. new rental housing rebate or the B.C. PSB rebate.

### Builders take note: disclosure requirements for transitional period

New home vendors must pay close attention to a new disclosure requirement applicable to homes that will be sold in the transition period after November 18, 2009 and before July 1, 2010. Failure to comply could be costly. In these purchase agreements, the builder/vendor must disclose whether the provincial component of the B.C. HST will apply to the sale, whether the stated sale price includes the provincial component, and whether it is net of the new housing rebate.

If the builder/vendor does not make this disclosure in the purchase agreement and the B.C. HST does apply, the sale price is deemed to be inclusive of the provincial component of the tax, the purchaser is not required to pay any further tax, and the builder will have to report and remit the provincial component. This could be an unexpected additional cost to the builder.

## Quick reference table

Sales of new or substantially renovated residential properties:

New housing rebate							
	Date of purchase agreement	Date ownership/possession transferred	Rate of tax payable	Rebate on provincial portion	Rebate on federal portion	Transitional Tax Adjustment	Transitional New Housing Rebate
Detached Homes	November 18, 2009 or before (grandparented)	Ownership and possession transferred after June 30, 2010	5%	No	Yes	Yes	No
	Post-November 18, 2009	Ownership or possession transferred before July 1, 2010	5%	No	Yes	n/a	n/a
	Post-November 18, 2009	Ownership and possession transferred after June 30, 2010	12%	Yes	Yes	No	Yes
Condominiums	November 18, 2009 or before (grandparented)	Ownership and possession transferred after June 30, 2010	5%	No	Yes	Yes	Yes (claimed by the builder)
	Post-November 18, 2009	Ownership or possession transferred before July 1, 2010	5%	No	Yes	n/a	n/a
	Post-November 18, 2009	Ownership and possession transferred after June 30, 2010	12%	Yes	Yes	No	Yes (claimed by the builder)

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