

# Ontario HST transitional rules for the housing industry

July 6, 2009

**As of July 1, 2010, it is proposed that Ontario will introduce a Harmonized Sales Tax (HST) which will be collected by the Canada Revenue Agency (CRA). The construction industry, including homebuilders, will be greatly impacted by this new tax.**

On June 18, 2009, the Ontario Ministry of Revenue issued more detailed rules related to homebuilders. We previously issued a bulletin discussing the enriched new housing rebate and the rule stipulating that builders must clearly indicate whether the Ontario portion of the single sales tax applies to the sale.

Many homes will be partially constructed as of July 1, 2010. To assist in the transition, the following rules have been introduced:

- 1 Subject to #3 below, builders' sales of newly constructed or substantially renovated homes will be subject to the single sales tax where both ownership **and** possession of the home are transferred after June 30, 2010.
- 2 Where ownership or possession of the new home is transferred before July 1, 2010 under a written agreement, the 8% provincial portion does not apply.
- 3 Homes which were sold on or before June 18, 2009 under written agreements of purchase and sale will be grandparented. Effectively, such grandparented homes will not be subject to the provincial portion of the single sales tax where both ownership and possession of the grandparented home is transferred after June 30, 2010.
- 4 In order to ensure that such grandparented homes are taxed equitably, a transitional tax adjustment is payable by the builder. The transitional tax adjustment for grandparented homes will be calculated on the total purchase price of the home, as established for GST purposes. See Table I for the transitional tax adjustment schedule, which is based on the % of completion or substantial renovation as of July 1, 2010.
- 5 After June 30, 2010, builders will generally be able to recover the provincial portion of the HST as an input tax credit (similar to the GST), subject to certain limitations for builders whose annual revenue exceeds \$10 million.

**Example:**

- Ms. A has signed a contract for the purchase of new residence on May 1, 2009
- The purchase price is \$1,000,000
- Ms. A will take delivery of the house on November 1, 2010
- As of July 1, 2010, the house was 40% complete
- Ms. A will pay 5% GST but she will not pay the 8% provincial portion of the single sales tax
- The builder will have to pay \$10,000 ( $\$1,000,000 \times 2\% \times 50\%$  - see Table I). The \$10,000 approximates the RST that would normally have been paid to completion if there had been no harmonization.

**RST transitional housing rebate**

Newly constructed or substantially renovated homes completed in full or in part prior to July 1, 2010 will have RST embedded in the cost of the homes. In order to ensure that there is no double taxation, an RST transitional housing rebate will be available.

**Transitional rebate – single homes**

After June 30, 2010, a transitional rebate will be available for non-grandparented single homes purchased by individuals or for builders who first rent the home.

Individuals purchasing these new homes will have the option of obtaining the RST transitional rebate through the builder or by filing an application directly with the CRA. Individuals filing their own rebate will have to obtain the percentage of completion certificate from the builder.

**Transitional rebate – condominiums and apartments**

The transitional rebate will be available to the builder, rather than the purchaser, for newly constructed or substantially renovated homes that are residential condominiums or traditional apartment buildings. This rebate will also be available for qualifying new additions to traditional apartment buildings.

**Transitional rebate calculation**

The rebate will be calculated as a proportion of the estimated embedded RST in the newly constructed or substantially renovated home. The rebate will be based on the degree of completion of the home as of July 1, 2010.

It is proposed that the rebate for the estimated RST content will be computed by choosing one of the two following methods:

- **Floor space method**

Estimated RST content calculated at a prescribed amount per square metre of floor space in the home. The prescribed rates have not yet been released; or

- **Selling price method**

Estimated RST content based on the selling price of the home, calculated at 2% of the total price established for GST purposes.

See Table II for the % of completion factors necessary to compute the rebate.

**Example:**

- A house was sold on November 1, 2010 for \$500,000 (pursuant to a written agreement entered into on August 1, 2009)
- The builder started construction of the house on September 1, 2009
- The house was 30% complete as of July 1, 2010
- The builder and purchaser agreed that the builder would file the rebate claim and that the rebate would be paid to the purchaser once received
- The builder will collect \$25,000 of the 5% GST plus \$16,000 of the provincial portion of the single sales tax (8% of \$500,000 less a new housing rebate of \$24,000<sup>1</sup>)
- The transitional tax rebate will be equal to \$5,000 (2% x \$500,000 x 50% - see Table II) using the selling price method.

**Transitional rebate timeframes**

If the rebate calculation is based on the floor space method, the applicant will be eligible to file a refund claim on or after July 1, 2010.

If the selling method is utilized to compute the transitional tax rebate, then such claim can be made no earlier than the day that the single sales tax or the transitional tax adjustment would be payable.

In all cases, the transitional tax rebate will need to be filed before July 1, 2014.

Table III provides a brief summary of the various transitional rules.

**Other circumstances**

Newly constructed or substantially renovated homes built by owners for their personal use, as well as mobile homes and modular homes, will not be eligible for the RST transitional housing rebate as the transitional rules will apply differently to these types of homes or construction. Such homes, however, may qualify for the proposed new housing rebate or the new rental housing rebate, as applicable.

The Ontario Ministry of Revenue has indicated that further details on the housing sector will be provided in the coming months.

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<sup>1</sup> 6% of the first \$400,000 of the purchase price

## Table I

### Transitional tax adjustment

- 100% of the transitional tax adjustment rate of 2%, where the home is less than 10% completed on July 1, 2010;
- 75% of the transitional tax adjustment rate of 2%, where the home is 10% or more and less than 25% completed on July 1, 2010;
- 50% of the transitional tax adjustment rate of 2%, where the home is 25% or more and less than 50% completed on July 1, 2010;
- 25% of the transitional tax adjustment rate of 2%, where the home is 50% or more and less than 75% completed on July 1, 2010;
- 10% of the transitional tax adjustment rate of 2%, where the home is 75% or more and less than 90% completed on July 1, 2010; or
- 0% where the home is 90% or more completed on July 1, 2010.

## Table II

### Transitional tax rebate

- 100% of the estimated RST content, where the home is 90% or more completed on July 1, 2010;
- 90% of the estimated RST content, where the home is 75% or more and less than 90% completed on July 1, 2010;
- 75% of the estimated RST content, where the home is 50% or more and less than 75% completed on July 1, 2010.
- 50% of the estimated RST content, where the home is 25% or more and less than 50% completed on July 1, 2010;
- 25% of the estimated RST content, where the home is 10% or more and less than 25% completed on July 1, 2010; or
- 0% of the estimated RST content, where the home is less than 10% completed on July 1, 2010.

**Table III****Summary of Transitional Rules**

Real Property Rules	Transaction Details	HST Consequence
General rule – purchasers	<ul style="list-style-type: none"> <li>Both ownership and possession of real property are transferred after June 2010</li> <li>Ownership or possession is transferred before July 2010</li> </ul>	<ul style="list-style-type: none"> <li>13% HST applies (unless grandparented)</li> <li>8% provincial component of HST does not apply</li> </ul>
Grandparenting rule	<ul style="list-style-type: none"> <li>Sales of new homes or substantially renovated homes under written agreements entered into before June 19, 2009, where ownership and possession transferred after June 2010</li> </ul>	<ul style="list-style-type: none"> <li>8% provincial component of HST does not apply</li> <li>Builders must pay transitional tax adjustment (see below and Table 1)</li> </ul>
Builders of new rental or substantially renovated homes	<ul style="list-style-type: none"> <li>Builders required to pay GST on self-supply after June 2010</li> <li>Builders required to pay GST on self-supply before July 2010</li> </ul>	<ul style="list-style-type: none"> <li>Must assess provincial portion of HST on self-supply</li> <li>Not required to assess provincial portion of HST on self-supply</li> </ul>
Transitional tax adjustment	<ul style="list-style-type: none"> <li>Builders of grandparented single homes (includes semi-detached/attached)</li> <li>Builders of grandparented condominiums</li> </ul>	<ul style="list-style-type: none"> <li>Calculated as a percentage of 2% of the purchase price of the home (% based on degree of completion on July 1, 2010 - see Table 1)</li> <li>Calculated as 2% of the purchase price with the ability to claim an RST transitional housing rebate (see below)</li> </ul>
RST transitional housing rebate	<ul style="list-style-type: none"> <li>Available to purchasers of non-grandparented single homes or builders who first rent the home, and to builders of all condominiums and apartments that are partially completed on July 1, 2010</li> </ul>	<ul style="list-style-type: none"> <li>Transitional rebate based on “estimated RST content” (which will depend on the degree of completion on July 1, 2010 – see Table 2)</li> <li>“Floor space method” or “selling price method” can be used to calculate the “estimated RST content”</li> </ul>

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