

Ontario HST and the housing industry

December 7, 2009

The 2009 Ontario Budget proposed a single, value-added sales tax, which is intended to come into effect on July 1, 2010. One industry that will be significantly impacted by this new measure is the housing industry. This release discusses additional details provided in the information notice published by the Ontario government on November 19, 2009 (“Bulletin”).

Previous information on the impact of the HST on the housing industry was provided in our releases dated **June 22, 2009** ([“Proposed changes to enhance the Ontario new housing rebate”](#)) and **July 6, 2009** ([“Ontario HST transitional rules for the housing industry”](#)).

New housing and new rental housing rebate

All new homes purchased as primary residences will qualify for the provincial new housing rebate on the first \$400,000 of the purchase price, regardless of the final cost of the house. As a result, the maximum rebate will be \$24,000 (i.e., \$400,000 x 6%). A similar rebate will be available to landlords who buy or build new rental housing for use as primary places of residence.

The “Bulletin” provides the following additional details with respect to these rebates:¹

Purchase of a new home together with leased land: The purchaser will be able to claim a new housing rebate equal to 5.31% of the price of the building, to a maximum



¹ In all cases below, the new housing rebate is only available for housing obtained as the primary place of residence as defined in the Excise Tax Act.

of \$24,000. Therefore, a new building costing approximately \$452,000 will qualify for the maximum rebate.

Housing acquired through purchase of qualifying shares in a housing co-op:

The purchaser will be able to claim a new housing rebate equal to 5.31% of the price paid for the shares in the housing co-op, to a maximum rebate of \$24,000.

Owner-built homes: Where an individual constructs or substantially renovates his or her (or a relative's) primary place of residence, the amount of the new housing rebate will depend on whether the 8% provincial component of the HST was paid on the purchase of the land. If so, the rebate will be equal to 75% of the provincial component of the HST paid on qualifying construction expenses (including land), to a maximum rebate amount of \$24,000. If not, the rebate will be equal to 75% of the provincial component of the HST paid on qualifying construction expenses (excluding the land), to a maximum rebate amount of \$16,080.

Purchases of new mobile homes and new floating homes: The rebate will be equal to 75% of the provincial component of the HST paid, up to a maximum rebate of \$24,000.² Where the home is purchased and then placed on a site or docked, the rebate will not apply to the provincial portion of the HST paid for a site in a residential trailer park or the moorage facility. Where the mobile land is purchased together with leased land (other than a site in a residential trailer park), the rules above for the purchase of a new

home on leased land will apply. A purchaser would have the option of claiming the new housing rebate for owner-built homes where the mobile home and land were purchased from separate suppliers.

New rental housing rebate for land

only: This rebate will be available to landlords who rent land for exempt residential use (e.g., a site in a residential trailer park). The rebate will be equal to 75% of the provincial component of the HST paid, up to a maximum rebate of \$7,920. This maximum rebate amount will apply to each rental lot or site.

New rental housing rebate for public

service bodies: Public service bodies will be able to claim either the proposed new rental housing rebate or the proposed public service body rebate, whichever is higher.³

Transitional rules for residential real property

Grandparenting rules provide that sales of newly constructed or substantially renovated homes under written agreements of purchase and sale entered into on or before June 18, 2009 will not be subject to the 8% provincial portion of the HST where both ownership and possession of the homes are transferred after June 2010.

Builders of grandfathered homes will be required to pay a transitional tax adjustment to account for the tax that would otherwise have been embedded in the new homes under the current RST

² This same rule will apply where the land and mobile home are purchased together.

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

regime. The “Bulletin” clarifies that the transitional tax adjustment will be calculated as a percentage of the greater of the purchase price and the fair market value of the home on July 1, 2010.

It also comments on the relieving provisions around 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. Grandparented purchase and sale agreements that are assigned to third parties will generally retain their grandparented status where:

- there is no novation of the agreement;
- the purchaser and original builder deal at arm’s length and are not “associated persons;” and
- the original builder or any specified related party does not acquire or reacquire by way of sale any legal or beneficial interest in the home.

The “Bulletin” also sets out situations in which taxable resales of new homes may be grandparented. Special reseller disclosure requirements will apply to obtain relief under these rules.

RST transitional housing rebate

The RST transitional housing rebate for non-grandparented homes will provide relief for RST embedded in the cost of the home constructed in whole or in part prior to July 2010. The transitional rebate calculation is based on a percentage of the “estimated RST content,” which will vary according to the degree of completion of

the home on July 1, 2010. The “estimated RST content” can be calculated in one of two ways: (1) the “floor space method” – a prescribed amount per square metre of floor space; or (2) the “selling price method” – calculated at 2% of the total sales price of the home. The “Bulletin” notes that the prescribed amount for the purposes of the floor space method will be \$45 per square metre of floor space.

The RST transitional housing rebate will be administered by the CRA. Builders will be required to obtain a certificate—a letter of good standing—from the Ontario Ministry of Revenue and attach it to the first rebate application submitted to the CRA. Once issued, a certificate will generally remain valid for one year unless revoked by the province.

Unless extenuating circumstances apply, the application for the rebate will generally need to be filed before July 1, 2014. A valid request in writing before this date is required to extend the filing deadline.

Long-term residential care facilities

These facilities will be treated in the same manner as other residential homes under the HST—i.e., the transitional rules and Ontario new housing rebates for residential condominiums, or traditional apartment buildings, will apply.

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