

## Ontario Harmonized Sales Tax —Residential Builders

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### Overview of Ontario Harmonized Sales Tax (HST)

Starting July 1, 2010, Ontario will be an HST province and the GST rate of 5% will be replaced by the HST rate of 13%. There will no longer be any Ontario retail sales tax. The following information is based on legislation that has been passed. Generally, forms are not yet available.

This memo should be read in conjunction with our memo on the general operations of HST – “How Will HST Affect Your Business?”

### Transitional Rules for the Housing Industry

The CRA and Ontario Ministry of Revenue have released transitional rules related to the implementation of the HST. These rules are applicable for transactions that straddle the July 1, 2010 implementation date.

There are some key dates to be aware of when considering the transitional rules:

- July 1, 2010 - Implementation date
- June 18, 2009 - Sales contracts signed prior to this date will be grandparented; these homes will not be subject to HST no matter when they close.
- May 1, 2010 - HST will apply to amounts paid or payable on or after this date for goods or services that will be provided on or after July 1, 2010, even if they are fully paid before July 1, 2010.



### Grandparented Sales Rules

Since builders of grandparented homes (sales contracts signed before June 18, 2009 and no HST to be charged) will be eligible for input tax credits (ITCs) for inputs after July 1, 2010, they will be required to pay a transitional tax adjustment of a maximum of 2% based on the percentage of completion of the house on July 1, 2010 (see Table I). This is to account for the Retail Sales Tax (“RST”) that otherwise would have been embedded in the price of a new home under the current regime. This adjustment applies to homes that are less than 90% complete on July 1, 2010, and have a contract that was signed before June 18, 2009. Special rules also apply to resellers who do not occupy the home.

### Transitional Tax Rebate

Individuals and residential builders have specific transitional rules that apply when construction straddles July 1, 2010, since the cost of the home will have some RST embedded in it. Therefore, where HST is payable on the new home and the construction straddles July 1, 2010, an RST Transitional Housing Rebate will be available to the purchaser. It would not be available for grandparented homes.

To qualify for this rebate, construction must be at least 10% completed on July 1, 2010. The credit is claimed by the purchaser and can either be obtained through the builder or directly from the Canada Revenue Agency. The purchaser will have two methods available to calculate the estimated embedded RST:



1. Floor space method (\$45 per square metre of floor space); or
  2. Selling method (2% of the total selling price).
- Once the estimated RST content is established, a percentage ranging between 25% and 100% (varies based on percentage of completion) would be applied to the estimated RST content amount (see Table II).

## Ontario New Housing Rebate

If the conditions for claiming the GST new housing rebate are met, the home will also qualify for the Ontario new housing rebate. Home buyers will be eligible for the new Ontario housing rebate of 6% of the value of the house, up to a maximum of \$24,000. The home purchased has to be eligible for the principal residence exemption to qualify for this rebate. There is no reduction in the rebate if the value of the house is over \$400,000. Similar to the GST rebate, this rebate can be applied for and received by the builder.

## Transitional RST Inventory Rebate for Residential Real Property Contracts

An RST rebate will be available to provide relief with respect to the RST embedded in the construction materials used in residential real property contracts that are subject to the HST.



This rebate will be available to a real property contractor for the RST paid on construction materials that are purchased or produced for the contractor's own use, held in inventory at the end of the day on June 30, 2010, and used in a residential real property contract to which the HST would apply.

The rebate will not be available with respect to inventory for which the RST is otherwise recoverable by the contractor or any other party.

Qualifying residential real property contracts would include contracts to repair or improve land and items permanently attached to land, such as buildings and patios. Residential real property contracts for repair or improvements to rental housing, condominiums, and apartment buildings and long-term residential care facilities may qualify for this rebate.

The contractor should track inventory used for residential and commercial property separately. The rebate is only available for inventory used for residential real property contracts.

This rebate will be administered by Ontario. Contractors will be able to file an application for the rebate directly with the Ontario Ministry of Revenue. The application for the rebate must be filed on or before December 31, 2010.

For example, on May 2, 2010, a home renovation contractor purchases floor tiles and put them in inventory. The contractor paid RST on the purchase of the tiles. The contractor then uses the tiles in a home renovation contract in August 2010 and charges the customer HST for the renovation. The contractor would be eligible to apply for the transitional RST inventory rebate for the RST paid.

## Builder Disclosure Requirements

If a written agreement of purchase and sale for a newly-constructed residential complex is entered into after June 18, 2009, and before July 1, 2010, the builder is required to disclose in the agreement whether the provincial portion of the HST applies to the sale. If it does, the builder also needs to disclose whether it is included in the stated price and whether the new housing rebate will be assigned to the builder.



If the transaction is subject to HST and the disclosure above is not made, under the transitional rules, the stated price is deemed to include the provincial portion of the HST. The purchaser will not be required to pay the provincial portion of the HST in addition to the stated price.

## Winding Down of RST

- RST will cease to apply on June 30, 2010, and final returns and supplementary returns are required to be filed by July 23, 2010.
- Any transitional returns are to be filed by November 23, 2010 for self-assessed HST, and any claims for RST write-offs must be done by then.



## Planning Opportunities

The implementation of HST instead of GST and RST is considered to be a major change in the taxation of various goods and services. With any tax change, there is a scope for tax planning opportunities. Some general tax planning is as follows:

- Delay large purchases that are subject to RST at this time. From July 1, 2010 onwards, any HST paid on purchases will be eligible for an ITC for businesses, resulting in a saving of 8% of the cost of the purchase.
- Short-term lease options can be considered for purchases, so that they can be purchased after June 2010.
- Consider the effect of HST on the pricing of houses.

Should you require any additional information, please do not hesitate to contact us.

**April 2010**



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# Ontario Harmonized Sales Tax—Residential Builders

For more information, refer to our HST memo — “Ontario Harmonized Sales Tax—Residential Builders.”

<b>Table I</b> <b>Transition tax adjustment (applies to builders of homes with sales contracts signed before June 18, 2009)</b>	
<b>% Completed on July 1, 2010</b>	<b>Transitional Tax Adjustment</b>
<10%	100%
>=10% and <25%	75%
>=25% and <50%	50%
>=50% and <75%	25%
>=75% and <90%	10%
>=90%	0%
	} of 2% of the selling price

<b>Table II</b> <b>Transition tax rebate (applies to individual and residential builders)</b>	
<b>% Completed on July 1, 2010</b>	<b>Rebate of Estimated RST Content</b>
>=90%	100%
>=75% and <90%	90%
>=50% and <75%	75%
>=25% and <50%	50%
>=10% and <25%	25%
<10%	0%
	} of 2% of the selling price OR \$45 per square metre

## Ontario Harmonized Sales Tax—Residential Builders

<b>Table III</b>		
<b>Summary of Rules</b>		
<b>Rules</b>	<b>Details</b>	<b>HST Implications</b>
Important Dates	June 18, 2009  May 1, 2010	Any sales contracts signed before then are not subject to HST  HST applies to goods and services supplied after July 1, 2010, even if fully paid between May 1, 2010 and July 1, 2010
Grandparented Sales	Sales of new homes where the agreement is signed before June 18, 2009 but ownership transfers after July 1, 2010	8% provincial portion of HST does not apply  Builders must pay transitional tax adjustments (see Table I) of a maximum of 2%
RST Inventory Rebate	Contractors with inventory on June 30, 2010 that is used in residential construction	Rebate to be applied for  HST charged on all sales
RST Transitional Rebate	Purchasers of non-grandparented homes Builders of homes used as rentals Builders of condominiums	Rebate based on % of completion (see Table II)
Builders of new rentals or substantially renovated homes	GST being charged now for self-supply	Must assess HST on self-supply if completed after July 2010