

Ministry of Finance

Tax Information Notice



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Enhanced New Housing Rebates and Transitional Rules for the Re-implementation of the British Columbia Provincial Sales Tax

During the summer of 2011, British Columbians had the opportunity to participate in a province-wide referendum on the harmonized sales tax (HST). On August 26, 2011, Elections BC announced that British Columbians had voted in favour of eliminating the HST and returning to the provincial sales tax (PST) plus federal goods and services tax (GST) system.

Following the referendum results, government committed to make the transition back to the PST/GST system. Subject to the approval of the Legislature of British Columbia, the PST will be re-implemented effective April 1, 2013.

This Notice is intended to provide certainty about the application of tax during the transition for British Columbians who are buying new homes or constructing their own homes and for builders who are constructing new homes. The temporary transition measures for new housing will help to ensure that purchasers are treated equitably and will smooth the transition from the HST to the PST/GST.

Unless otherwise stated or the circumstances otherwise require, the definitions and concepts in the federal *Excise Tax Act* (ETA) apply to the rules described in this Notice. Measures announced in this Notice other than the general PST transitional rules, will be administered by the Canada Revenue Agency (CRA) on behalf of B.C. The PST and the PST transitional rules referred to in the section "General PST Transitional Rules" will be administered by B.C.

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ENHANCED NEW HOUSING REBATES

B.C. intends to enhance the existing B.C. new housing rebates.¹ The enhanced rebates will be available with respect to newly constructed or substantially renovated homes purchased or constructed as a place of primary residence where the HST becomes payable **on or after April 1, 2012 and before April 1, 2013.**²

As a result of this enhancement, eligible purchasers of new homes³ with a purchase price of up to \$850,000 will be entitled to receive a rebate of 71.43 per cent of the provincial component of the HST paid up to a maximum of \$42,500. For a new home with a purchase price of \$850,000 and above, the purchaser will be entitled to the maximum rebate of \$42,500. This enhanced rebate represents a 60 per cent increase in the maximum rebate currently available.

The enhanced B.C. new housing rebates will be available for the provincial component of the HST paid for all types of housing that are currently eligible for the existing B.C. new housing rebates. Qualifying housing will generally include the following types of newly constructed or substantially renovated homes used as a primary place of residence by an individual or relation of the individual:⁴

- new homes (e.g., single-unit homes,⁵ residential condominium units and duplexes) purchased together with land;
- new homes purchased together with leased land;
- new mobile homes and floating homes;
- new homes acquired through the purchase of qualifying shares in a housing co-op; and
- homes newly constructed or substantially renovated by the owner who is an individual (i.e., owner-built housing).

¹ Currently, B.C. provides a partial rebate of 71.43 per cent of the provincial component of the HST up to a maximum of \$26,250 for new homes.

² For sales of real property (e.g., new housing), the GST/HST generally becomes payable on the earlier of the day on which ownership is transferred to the recipient and the day on which possession of the property is transferred to the recipient. However, where the property supplied is a residential condominium unit in a condominium complex which has not, at the time possession is transferred, been registered as a condominium, tax is not payable until ownership of the unit is transferred or, if earlier, 60 days following the day the condominium complex is registered as a condominium.

³ For purposes of this Notice, "new homes" or "new housing" refers to housing that is newly constructed or substantially renovated.

⁴ The relation of the individual for the purposes of the new housing rebates is defined in the ETA.

⁵ For purposes of this Notice, a single-unit home refers to a detached home, a semi-detached home and an attached home that may also contain an accessory suite (such as an in-law suite). A duplex refers to a single titled property that contains two separate single-unit homes.

The enhanced B.C. new housing rebates will be subject to the same eligibility conditions as the existing B.C. new housing rebates and will be administered by the CRA. Similar to the current B.C. new housing rebates, the purchaser will be entitled to receive the enhanced rebate either by filing a rebate application directly with the CRA or by the builder paying or crediting the enhanced rebate amount at the time of purchase (in which case the builder files the rebate application). However, only one rebate application can be sent to the CRA in respect of a home by the purchaser or the builder, as the case may be. For further details, see the “Mechanism for claiming the Enhanced New Housing Rebates” section.

New housing rebate – purchases of new homes together with land

An enhanced B.C. new housing rebate will be provided for purchases of new homes, including single-unit houses, residential condominium units and duplexes together with 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 and the HST becomes payable in respect of the purchase on or after April 1, 2012 and before April 1, 2013.

The enhanced B.C. new housing rebate will be 71.43 per cent of the provincial component of the HST paid for the home, up to a maximum rebate of \$42,500. There will be no phase-out of this rebate, such that homes priced above \$850,000 will qualify for the maximum rebate of \$42,500.

***Example 1:**⁶ On December 15, 2012, an individual enters into a written agreement of purchase and sale for a newly constructed single-detached house for consideration of \$900,000. Possession and ownership of the home will be transferred to the purchaser on March 15, 2013.*

The purchaser is required to pay the HST. If the individual satisfies the eligibility conditions for the B.C. new housing rebate, the purchaser will be entitled to receive an enhanced rebate of 71.43 per cent of the provincial component of the HST up to a maximum of \$42,500. The individual can obtain the enhanced rebate amount (in this case the maximum of \$42,500) either through the builder or by filing a rebate application directly with the CRA.

⁶ In this and all the examples that follow for the purposes of the B.C. new housing rebates, the purchaser is assumed to be an individual.

New housing rebate – purchases of new houses together with leased land

An enhanced B.C. new housing rebate will be provided for purchases of new single-unit houses or duplexes together with leased land from a builder where the house or duplex is purchased by an individual for use as a primary place of residence of the individual or a relation of the individual.

In these circumstances, a builder may be considered to have made a sale and re-purchase of the housing (i.e., self supply) and will be required to self-assess and pay the HST on the self-supply.⁷ As a result, the HST generally will be embedded in the price paid by the purchaser for the new home together with the leased land. Where the builder is required to pay HST on a self-supply on or after April 1, 2012 and before April 1, 2013, the purchaser will be entitled to claim the enhanced new housing rebate.

The enhanced B.C. new housing rebate available to the purchaser will be 4.47 per cent of the price attributable to the building, up to a maximum rebate of \$42,500. There will be no phase-out of this rebate such that homes priced above \$952,000 (i.e., \$850,000 plus 12 per cent embedded HST) will qualify for the maximum rebate of \$42,500.

***Example 2:** On April 15, 2011, an individual entered into a written agreement for the purchase and sale of a newly constructed detached house together with a lease of land under a single agreement with a builder. Substantial completion of the construction of the house occurs by January 2013. Possession and ownership of the house (building portion) and possession of the land portion are transferred to the individual on March 15, 2013.*

On March 15, 2013, the builder is considered to have made a self-supply and is required to account for the HST on the fair market value of the property (including the building and land portion) on the builder's GST/HST return for the applicable reporting period. If the individual satisfies the eligibility conditions for the B.C. new housing rebate, the individual will be entitled to receive an enhanced rebate of 4.47 per cent of the consideration attributable to the house (i.e., the building portion of the property) up to a maximum of \$42,500. Assuming the individual meets the conditions for claiming the enhanced new housing rebate, the individual can obtain the rebate amount either through the builder or by filing a rebate application directly with the CRA.

⁷ The housing becomes taxable under the self-supply rules at the later of the time of substantial completion of the construction or substantial renovation and the time of transfer of possession under the agreement.

New housing rebate – purchases of new mobile homes and floating homes

An enhanced B.C. new housing rebate will 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 and the HST becomes payable in respect of the purchase on or after April 1, 2012 and before April 1, 2013. For purposes of the GST and the HST, a mobile home includes certain modular homes.⁸

The enhanced B.C. new housing rebate will be 71.43 per cent of the provincial component of the HST paid for the qualifying mobile or floating home, up to a maximum rebate of \$42,500. There will be no phase-out of this rebate, such that mobile and floating homes priced above \$850,000 will qualify for the maximum rebate of \$42,500.

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 will 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 paid, if any, on the site or moorage.

Where the mobile home and the land on which the mobile home is placed are purchased together, the B.C. new housing rebate will be based on the purchase price of the mobile home together with the land - see the "New housing rebate - purchases of new houses together with land" section above.

Where the mobile home is purchased together with leased land (other than a site in a residential trailer park) the B.C. new housing rebate for the purchase of houses on leased land will apply – see the "New housing rebate – for purchases of new homes together with leased land" section above.

Where only the mobile home is purchased (e.g. to attach the mobile home to land owned by the individual), the individual purchaser will have the choice of claiming the new housing rebate for purchases of new houses together with land (see the "New housing rebate- purchases of new houses together with land section

⁸ Modular homes are considered mobile homes for GST/HST purposes provided they meet certain criteria. For more detailed information refer to GST/HST Policy Statement P-223 – *The Meaning of Manufacture and Assembly of Which is Completed or Substantially Completed in the definition of Mobile home* at www.cra-arc.gc.ca.

above) or claiming the new housing rebate for owner-built housing (see the “New housing rebate - for owner-built housing” section below).

New housing rebate – houses acquired through the purchase of qualifying shares in a housing co-op

An enhanced B.C. new housing rebate will be provided for the purchase of a qualifying share in a cooperative housing corporation (housing co-op) if the share is 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 will be required to pay the HST on purchasing the new housing complex or will be required to self-assess and pay the HST under the self-supply rules where the housing complex is constructed or substantially renovated by the housing co-op. As a result, the HST will generally be embedded in the price paid by the purchaser for the qualifying share in the housing co-op.

Where the housing co-op is required to pay HST on the purchase of the housing complex on or after April 1, 2012 or is required to self-assess and pay HST under the self-supply rules on or after April 1, 2012, the purchaser of the share will be entitled to claim the enhanced rebate amount.

The enhanced B.C. new housing rebate will be 4.47 per cent of the price paid for the qualifying share in the housing co-op, up to a maximum rebate amount of \$42,500. There will be no phase-out of this rebate such that qualifying shares priced above \$952,000 (i.e., \$850,000 plus the 12 per cent embedded HST) will be eligible for the maximum rebate amount of \$42,500.

New housing rebate – owner-built homes

An enhanced B.C. new housing rebate will be provided for owner-built homes where an individual constructs or substantially renovates a house for use as a primary place of residence of the individual or a relation of the individual or an individual hires another person to do such new construction or substantial renovation.

The enhanced new housing rebate for owner-built homes will be available **if on or after April 1, 2012:**

- the new construction or substantial renovation of the home becomes substantially completed; and
- the rebate application is filed with the CRA.

The maximum rebate for owner-built homes will depend on whether the individual owner paid the HST on the land.

HST paid on land

For owner-built homes where the HST was paid on the land, the owner will be entitled to an enhanced B.C. new housing rebate of 71.43 per cent of the provincial component of the HST paid on qualifying construction expenses (including land), up to a maximum rebate of \$42,500. There will be no phase-out of this rebate, such that owner-built homes with qualifying construction expenses over \$850,000 will qualify for the maximum rebate of \$42,500.

No HST paid on land

Where the HST was not paid on the land, the owner will be entitled to a B.C. new housing rebate of 71.43 per cent of the provincial component of the HST paid on qualifying construction expenses (which would not include land), up to a maximum rebate amount of \$28,475 (i.e., 67 per cent of \$42,500).

***Example 3:** An individual purchases land to construct a home for use as the individual's primary place of residence. The individual will take ownership of the land on March 15, 2012 and is required to pay HST on the land. The individual substantially completes the construction of the home on February 1, 2013.*

If the individual satisfies the eligibility conditions for the new housing rebate, the individual will be entitled to claim an enhanced B.C. new housing rebate of 71.43 per cent of the provincial component of the HST paid on construction costs, up to a maximum rebate of \$42,500. The individual can obtain the enhanced rebate amount if the individual files the rebate application with the CRA on or after April 1, 2012 and on or before January 31, 2015 (see the following section on the time period for claiming new housing rebates).

Time period for claiming B.C. New Housing Rebates

The time-limits for claiming the existing B.C. new housing rebates will continue to apply for the enhanced B.C. new housing rebates.⁹ However, for certain housing types (i.e., houses acquired through the purchase of qualifying shares in a housing co-op and owner-built housing), the existing or enhanced B.C. new housing rebate will be available only where the application is filed with the CRA before **April 1, 2017**.

***Example 4:** In January 2011, an individual begins construction of a home. The individual pays the HST on the land and all construction costs that are invoiced before April 1, 2013. The individual will substantially complete the construction of the home and occupy the home as a place of residence on January 1, 2016.*

If the individual satisfies the eligibility conditions for the new housing rebate, the individual will be entitled to claim an enhanced new housing rebate of 71.43 per cent of the provincial component of the HST, up to a maximum rebate of \$42,500. The individual can obtain the enhanced rebate amount if the individual files a rebate application with the CRA before April 1, 2017.

Mechanism for claiming the Enhanced B.C. New Housing Rebates

Where an individual purchaser satisfies the eligibility conditions for claiming the B.C. new housing rebate for a qualifying home, the purchaser can obtain the rebate either through the builder at the time of purchase or by filing an application directly with the CRA. Where the rebate is obtained through the builder, the builder will pay or credit the rebate to the purchaser and claim a deduction from the builder's net tax for the rebate amount that was paid or credited to the purchaser.

In the case of a qualifying home, where the builder has agreed to pay or credit the existing B.C. new housing rebate (i.e., up to a maximum rebate of \$26,250) to the purchaser at the time of purchase, the builder may also pay or credit to the purchaser any "enhanced portion" (i.e., the additional rebate amount resulting from the rebate enhancement).

⁹ In most cases, new housing rebates must be claimed within two years of a specific event, although the specific event that triggers the start of the two years depends on the circumstances of the sale. For details on these rules see the CRA bulletin at <http://www.cra-arc.gc.ca/E/pub/gp/rc4028/rc4028-11e.pdf>.

Where builders have agreed to pay or credit the existing B.C. new housing rebate, they are encouraged to pay or credit the enhanced portion as well so that the purchaser receives the total amount of the enhanced rebate at the time of purchase rather than having to receive the enhanced portion from the CRA at a later time. If the builder pays or credits to the purchaser the total of the enhanced rebate amount, the builder would be eligible to deduct that enhanced rebate amount from the net tax that the builder must remit in respect of the sale.

If the builder pays or credits only the existing B.C. new housing rebate and the purchaser is also entitled to the enhanced portion, the purchaser could still receive the enhanced portion by contacting the CRA directly. In this case, the builder will only be able to deduct the existing rebate amount from the tax that must be remitted, and not the enhanced portion.

If the builder does not agree to pay or credit the existing new housing rebate or the enhanced portion, the purchaser can file an application for the rebate directly with the CRA for the total of the enhanced rebate amount. Whether the rebate application is submitted by the builder or the purchaser, in all cases only one rebate application can be filed with the CRA in respect of a single housing purchase.

***Example 5:** On January 20, 2012, a builder entered into a written agreement of purchase and sale for a newly constructed single-detached house (together with land) for consideration of \$600,000. At the time the agreement was entered into, the purchaser qualified for the existing B.C. new housing rebate of \$26,250 and the builder agreed to pay or credit this rebate to the purchaser at the time of closing. Ownership and possession of the home transfer under the agreement, and the HST becomes payable, on October 31, 2012. In addition to the \$26,250 existing rebate amount, the builder agrees to pay or credit the purchaser the enhanced portion of \$3,750 at the time of closing.*

The purchaser can obtain the total enhanced rebate amount of \$30,000 (\$26,250 plus \$3,750) through the builder under a single rebate application. The builder will be entitled to claim a \$30,000 deduction (in determining the builder's net tax) for the reporting period in which the total enhanced rebate is paid to the purchaser.

ENHANCED NEW RENTAL HOUSING REBATES

B.C. intends to enhance the existing new rental housing rebate of 71.43 per cent of the provincial component of the HST paid, up to a maximum rebate of \$42,500. Similar to the B.C. enhanced new housing rebate, new rental housing with a value of \$850,000 and above will be entitled to the maximum rebate of \$42,500.

The enhanced new rental housing rebates will be provided to landlords that newly construct or substantially renovate their own rental housing and, as a result, are required to pay HST on a self-supply that occurs on or after April 1, 2012 and before April 1, 2013.

The enhanced rebates will also be provided to landlords that purchase newly constructed or substantially renovated rental housing in B.C. where the HST becomes payable on or after April 1, 2012 and before April 1, 2013.

A landlord may also qualify for the enhanced new rental housing rebate for the land lease portion of new housing where the landlord leases the land and sells the building portion of the housing under a single agreement.

New rental housing rebate – house rentals

B.C.'s enhanced new rental housing rebate will be available for the provincial component of the HST paid for all types of qualifying new or substantially renovated rental housing, and will be subject to the same eligibility conditions as the existing B.C. new housing rebate for new residential rental properties.

This will include the following types of rental housing where it can reasonably be expected that the first use of the housing will be for occupancy or use by an individual under a rental arrangement, or for occupancy by the builder, as a primary place of residence for a period of at least one year:

- single-unit housing, residential condominium units and duplexes;
- mobile homes and floating homes;
- units in multiple unit housing (e.g., residential units in traditional apartment buildings or long-term residential care facilities); and
- single-unit housing or units in multiple unit housing in a housing co-op.

The enhanced B.C. new rental housing rebate will be 71.43 per cent of the provincial component of the HST paid for qualifying rental properties up to a maximum rebate of \$42,500 (except for land rentals – see below). There will be no phase-out of this rebate, such that qualifying rental properties with a price or fair market value above \$850,000 will qualify for the maximum rebate of \$42,500.

For qualifying multiple unit rental housing (i.e., housing with more than two residential units), the maximum rebate amount of \$42,500 will apply for each qualifying residential unit.

New rental housing rebate – land rentals

In addition, the enhanced B.C. new rental housing rebate would be provided to persons that 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, will be required to self-assess on or after April 1, 2012 and before April 1, 2013 and pay HST under the self-supply rules or the change-in-use rules for capital property.

The enhanced rebate for such qualifying land rentals will be 71.43 per cent of the provincial component of the HST paid, up to a maximum rebate of \$14,025 (i.e., 33 per cent of \$42,500). For qualifying multiple residential lots or sites in a residential trailer park or an addition to a multiple residential lot or a residential trailer park, the maximum rebate of \$14,025 will apply to each lot or site.

The enhanced rebate for qualifying new residential rental property will be federally administered in a manner similar to the existing B.C. new housing rebate. Landlords will be able to apply for the rebate by filing a rebate application with the CRA by the applicable due date and, in all cases, before April 1, 2017.

TRANSITIONAL RULES FOR NEW HOUSING

As described in the federal Backgrounder released February 17, 2012 and found by accessing the website <http://www.fin.gc.ca/n12/12-017-eng.asp>, the HST will generally cease to apply to sales of real property (including residential real property) if ownership and possession of the property transfer on or after April 1, 2013. This will be the case for sales of new housing, irrespective of whether the agreement of purchase and sale was entered into before April 1, 2013 or whether construction of the new housing began before April 1, 2013.

The PST will not apply to sales of real property. However, the PST will apply to certain types of housing which, at the time of purchase are tangible personal property (e.g., a mobile home purchased without land) and where possession transfers on or after April 1, 2013. The PST will also apply to construction inputs that are used to improve real property on or after April 1, 2013.

General Application of the B.C. Transition Tax

B.C. intends to impose a 2 per cent transition tax on certain sales of newly constructed or substantially renovated housing that will not be subject to the HST (but which will be subject to the GST).¹⁰ The transition tax will apply to sales of newly constructed or substantially renovated housing where:

- the HST does not apply to the sale (GST applies);
- the construction or substantial renovation of the new housing is 10 per cent or more completed as of April 1, 2013; and
- ownership or possession of the new housing transfers, or a deemed sale of the new housing (i.e., self-supply) occurs, before April 1, 2015.¹¹

Sales of new housing

The transition tax of 2 per cent, calculated on the total consideration for the sale of the new housing,¹² will generally be payable by the purchaser and will become

¹⁰ The B.C. transition tax will not apply to sales of used housing.

¹¹ The exception to this general rule is the situation in which possession of a residential condominium unit in a residential condominium complex is given before the condominium has been registered. In this case, the B.C. transition tax will only apply if ownership of the condominium transfers before April 1, 2015 or if the date that is 60 days following the registration of the condominium occurs before April 1, 2015.

¹² For the purposes of this Notice, "total consideration" refers to the consideration as established for GST purposes.

payable on the date the GST becomes payable. The transition tax will be collected by the builder and will be required to be remitted to the CRA.¹³

Example 6: *On September 1, 2012, a builder enters into a written agreement to sell a newly constructed single-unit home together with land to an individual for \$600,000. Ownership and possession of the home transfer under the agreement on April 15, 2013 and, as a result, the HST does not apply to the sale of the home (only GST applies). The construction of the home was 90 per cent completed as of April 1, 2013.*

The individual will be required to pay the B.C. transition tax of \$12,000 (\$600,000 x 2 per cent). The builder will be required to collect the transition tax from the purchaser, to report the transition tax on the specified form and to file the form by the due date for filing the builder's GST/HST return in which the GST for the sale of the home is required to be reported.

Note that in cases where the construction of the home is not substantially completed (i.e., less than 90 per cent completed) as of April 1, 2013, the builder may be entitled to claim the B.C. transition rebate. Refer to the "General Application of the B.C. Transition Rebate" section for more information.

Self-supplies of new housing

For GST/HST purposes, in some cases, a builder is considered to have made a self-supply of new housing and is required to pay GST/HST on the self-supply. These are generally cases where the builder claims input tax credits for costs incurred during construction and the builder is also the final owner of the new or substantially renovated housing. For example, a builder that constructs a traditional apartment building and operates it as a landlord or a public service body that constructs and operates a social housing complex, is required to pay GST/HST on the self-supply.

In cases where the builder is required to pay GST on a self-supply made on or after April 1, 2013 and the construction or substantial renovation of the housing is more than 10 per cent completed as of April 1, 2013, the builder will be required to pay the B.C. transition tax of 2 per cent calculated on the fair market value of the

¹³ For sales of new housing where the B.C. transition tax applies, all purchasers that are persons for GST/HST purposes (e.g., individuals, corporations, trusts) will be required to pay the B.C. transition tax and all builders will be required to collect and remit the B.C. transition tax, even in cases where the purchaser is required to self-assess and remit the GST directly to the CRA (e.g., the purchaser is a corporation that is registered for GST/HST purposes).

housing.¹⁴ The transition tax will become payable on the day that the self-supply occurs.

Example 7: *On April 2, 2013, a builder of a new fully constructed traditional apartment building rents out the first unit to a tenant under a long term lease. On that day, the fair market value of the property (including the land and building portions) is \$2,000,000. The builder is deemed to have made a sale under the GST self-supply rules. The HST does not apply to the self-supply (GST only applies) but the builder is required to pay a transition tax of \$40,000 ($\$2,000,000 \times 2$ per cent) and to report it on the specified form and file the form by the due date for filing the builder's GST/HST return in which the GST on the self-supply of the property is required to be reported.*

Mobile Homes, Floating Homes and Owner-Built Homes

The B.C. transition tax will generally not apply to sales of mobile homes, floating homes and homes built by owners for their personal use (i.e., owner-built homes). If possession of a mobile home (without land) transfers on or after April 1, 2013 and the HST was not payable, PST will apply to the mobile home even if the contract to purchase was entered into before April 1, 2013. Mobile homes purchased on or after April 1, 2013 will also be subject to PST.

Example 8: *On March 27, 2013, an individual enters into a written agreement to purchase a new mobile home from a dealer in B.C. (not purchased together with land). Ownership and possession of the mobile home transfer to the purchaser on April 15, 2013. The sale of the mobile home is not subject to the provincial component of the HST (only GST and PST apply). Neither the transition tax nor the transition rebate will apply with respect to the sale of the mobile home.*

The B.C. transition tax will apply to sales of mobile homes purchased together with land, where the mobile home is purchased and affixed to the land by a builder before April 1, 2013 and ownership and possession of the land and mobile home transfer on or after April 1, 2013 (i.e., GST applies but not the HST or the PST). Refer to the "General Application of the B.C. Transition Tax – Sales of new housing" section.

In the case of owner-built homes, construction inputs generally will be subject to PST when purchased on or after April 1, 2013.

¹⁴ For the purposes of this Notice, "fair market value" refers to fair market value as established for GST purposes.

General Application of the B.C. Transition Rebate

For sales of newly constructed or substantially renovated housing that will be subject to the B.C. transition tax, B.C. intends to provide a transition rebate to the builder. A transition rebate will only be available if the transition tax has become payable in respect of the new housing for which it is claimed.

For builders who make sales of newly constructed or substantially renovated housing that is subject to the transition tax, the transition rebate for new housing will be calculated on the total consideration for the housing and on the degree of completion of the housing as of April 1, 2013.

For builders who are required to self-assess and pay the B.C. transition tax on a self-supply of new housing on or after April 1, 2013, the B.C. transition rebate will be calculated on the fair market value under the self-supply rules and on the degree of completion of the housing as of April 1, 2013.

Transition rebates will not be available for sales of mobile homes, floating homes and homes built by owners for their personal use (i.e., owner-built homes).

Special transitional rules apply to certain housing sales that straddle the introduction of the HST on July 1, 2010 and the ending of the HST on March 31, 2013. For more information on these transactions, refer to the Double-Straddling Transactions section below.

Refer to Table 1 of Appendix 1 for the transition rebate rates that apply based on the degree of completion for new housing other than double-straddling new housing transactions discussed below.

Builder Certification Requirements

To claim the B.C. transition rebate, the builder will be required to certify that the builder paid PST on substantially all of the building materials that were incorporated on or after April 1, 2013 into the newly constructed or substantially renovated housing. The builder will also be required to keep receipts for audit purposes.

Example 9: On December 1, 2012, a builder enters into a written agreement for the sale of a single-unit house together with land for total consideration of \$650,000. Construction of the home is 40 per cent completed as of April 1, 2013 and both ownership and possession of the home are transferred to the purchaser on June 15, 2013. The builder purchases the construction materials used to construct the remaining 60 per cent of the house after March 31, 2013 and pays PST on those materials. The builder certifies that the builder paid PST on the construction materials.

The HST will not apply to the sale (only GST will apply). However, the B.C. transition tax of \$13,000 ($\$650,000 \times 2$ per cent) will be payable by the purchaser and collectible by the builder. Because completion is between and 25 per cent and 50 per cent completed on April 1, 2013, the applicable transition rebate per cent is 1 per cent. (See Table 1 of Appendix 1). As a result, the builder will be entitled to claim a transition rebate of \$6,500 ($\$650,000 \times 1$ per cent). The builder will be required to report the transition tax on the specified form and file the form by the due date for filing the builder's GST/HST return in which the GST for the sale of the home is required to be reported. The builder will be permitted to offset the B.C. transition rebate against the transition tax by filing the specified form by the above mentioned due date and remitting the net amount of \$6,500.

Example 10: On September 1, 2012, a builder enters into a written agreement for the sale of a long-term care facility to an operator to be used as a personal care home for a total consideration of \$2,500,000. Construction of the facility is 25 per cent completed as of April 1, 2013 and both ownership and possession of the facility are transferred to the purchaser on May 30, 2014.

The HST will not apply to the sale (only GST will apply). However, the transition tax of \$50,000 ($\$2,500,000 \times 2$ per cent) will be payable by the purchaser-operator and collectible by the builder. The builder of the facility will be entitled to claim the transition rebate of \$25,000 ($\$2,500,000 \times 1$ per cent). (See Table 1 of Appendix 1). The builder will be required to report the transition tax on the specified form and file the form by the due date for filing the builder's GST/HST return in which the GST for the sale of the facility is required to be reported. The builder will be permitted to offset the B.C. transition rebate against the transition tax by filing the specified form by the above mentioned due date and remitting the net amount of \$25,000.

Double-Straddling Transactions

Special transitional rules will apply to sales of new housing where a written agreement of purchase and sale was entered into on or before November 18, 2009,

or the housing construction began before July 1, 2010 (the HST start date in B.C.) and for which ownership and possession transfer after March 31, 2013 (the HST end date in B.C.).

Grandparented sales of new housing where the written agreement was entered into on or before November 18, 2009

Under the federal transitional rules for implementing the HST in B.C., sales of single-unit homes (including residential condominiums) are “grandparented” (i.e., not subject to HST) where the written agreement of purchase and sale was entered into on or before November 18, 2009 and both ownership and possession of the home transfer under the agreement on or after July 1, 2010.¹⁵

Grandparenting does not apply to traditional apartment buildings, duplexes, mobile homes, floating homes, and homes built by owners for their personal use.

Specific transitional measures applied to grandparented new housing when the HST was introduced. These measures ensured that, on average, grandparented new housing was subject to the same amount of tax under the HST as it was under the former PST. Builders of grandparented new housing were subject to a “transitional tax adjustment” and builders of residential condominiums were also eligible for a “PST transitional new housing rebate”.

The “PST transitional new housing rebate” was calculated using either a “floor space” method or the “selling price” method (a rebate based on the total consideration or fair market value of the qualifying housing).¹⁶ Under either method the amount of the rebate was also based on the degree of completion of the new construction or substantial renovation of the building portion of the housing as of July 1, 2010.

However, as described in the federal Backgrounder released February 17, 2012, the provincial portion of the HST, the “transitional tax adjustment” and the “PST transitional new housing rebate” will generally not apply where both ownership and possession of grandparented housing transfer on or after April 1, 2013.

¹⁵ For the purposes of this Notice, “grandparented” new housing includes any subsequent sale of “grandparented” new housing that is relieved from the provincial component of the HST under the federal resellers rules for implementing the HST. Grandparented new housing is described in the GST/HST info sheet at <http://www.cra-arc.gc.ca/E/pub/gi/gi-078/gi-078-e.pdf>. Note that resellers in this context are not sellers of previously occupied (used) housing. The B.C. transition tax will not apply to sales of used housing.

¹⁶ See the B.C. HST notice at http://www.sbr.gov.bc.ca/documents_library/notices/HST_Notice_003.pdf for details on the “PST transitional new housing rebate”.

B.C. intends to apply the 2 per cent transition tax on these double-straddling housing sales - where the agreement is entered into on or before November 18, 2009 and both ownership and possession transfer under the agreement on or after April 1, 2013. However, the contracted purchase price for these grandparented housing sales will be deemed to be *inclusive* of the 2 per cent transition tax (i.e., the transition tax will equal an amount that is 0.02/1.02 of the consideration established for GST purposes at the time the written agreement was made).

The builder will also be eligible for the B.C. transition rebate based on the extent to which the housing construction occurred both before and after the HST was in effect and on the “base consideration” for the grandparented housing (which is the consideration established for GST purposes at the time the written agreement was made divided by 1.02).

The transition rebate will be adjusted to exclude any “PST transitional new housing rebate” that has already been claimed in respect of the new housing. Refer to Table 2 of Appendix 1 for the transition rebate rates that will apply for grandparented housing sales that are double-straddling.

Example 11: *On September 1, 2009, a builder enters into a written agreement for the sale of a residential condominium unit with a purchaser for a contracted purchase price of \$750,000. Construction of the condominium complex in which the condo unit is located is 15 per cent completed as of July 1, 2010 and 85 per cent completed as of April 1, 2013. The builder does not claim the “PST transitional new housing rebate”. Under the agreement, possession of the condo unit is transferred to the purchaser on May 15, 2013 and ownership is transferred on June 30, 2013.*

The contracted purchase price of \$750,000 will be considered to include the B.C. transition tax of 2 per cent. Therefore, the transition tax will be \$14,006 (where \$14,006 is 2/102 of \$714,286, which is consideration established for GST purposes at the time the written agreement was entered into on September 1, 2009). The builder will be required to remit the transition tax of \$14,006.

The builder of the condominium complex will be entitled to claim a transition rebate of \$3,501 ($\$700,280 \times 0.5$ per cent, where the base consideration of \$700,280 would exclude the transition tax, i.e., $\$714,286 - \$14,006$). The transition rebate of 0.5 per cent is based on the difference in the levels of completion between the two straddling dates (i.e., 70 per cent equals 85 per cent – 15 per cent). (See Table 2 of Appendix 1). The builder will be required

to report the transition tax on the specified form and file the form by the due date for filing the builder's GST/HST return in which the GST for the sale of the condominium complex is required to be reported. The builder will be permitted to offset the B.C. transition rebate against the transition tax by filing the specified form by the above mentioned due date and remitting the net amount of \$10,505.

Non-grandparented sales of new housing where construction began before July 2010 and ownership and possession will transfer on or after April 1, 2013

Under the federal transitional rules for implementing the HST in B.C., sales of newly constructed or substantially renovated homes under a written agreement entered into after November 18, 2009 that were completed in full or in part before July, 2010 and that were subject to the provincial component of the HST (i.e., not grandparented), were also eligible for the "PST transitional new housing rebate".

However, as described in the federal Backgrounder released February 17, 2012, the HST will not be payable (only GST will be payable) and the "PST transitional new housing rebate" generally will not be available for sales of non-grandparented housing where both ownership and possession transfer on or after April 1, 2013.

B.C. intends to apply the 2 per cent transition tax to these non-grandparented double-straddling housing sales, where construction of the housing began before July 1, 2010 and where both ownership and possession of the housing transfer on or after April 1, 2013. However, the B.C. transition tax will not apply where the construction has been substantially completed before July 1, 2010 and the "PST transitional new housing rebate" has not been claimed as of February 17, 2012.

The transition tax will generally be payable by the purchaser. It will be calculated on the total consideration for the new housing.

The transition tax will also apply to the self-supply of double-straddling new housing where the self-supply occurs on or after April 1, 2013. In these cases, the transition tax will be payable by the builder on the fair market value of the property.

In addition, the builder will be eligible for the B.C. transition rebate based on the extent to which the housing construction occurred both before and after the HST was in effect. In cases where the builder has claimed the "PST transitional new housing rebate," this rebate will be deducted from any B.C. transition rebate.

Refer to Table 3 of Appendix 1 for the B.C. transition rebate rates that will apply for non-grandparented housing sales that are double-straddling.

Builder Disclosure Requirements for the Transition Period

Written agreements of purchase and sale of newly constructed or substantially renovated housing may be unclear about the taxes and rebates that are included in the sale price stated in the agreement, especially with the impending transition to the PST/GST.

For these reasons, builders will be required to make certain disclosures to purchasers and to the CRA. For detailed information on the proposed disclosure requirements for written agreements of purchase and sale entered into both on or before and after February 17, 2012, refer to Appendix 2.

Penalties

B.C. intends to impose the following penalties on builders for failing to comply with the disclosure requirements:

- If the builder fails to fully and accurately disclose the required information, a penalty of up to 1 per cent of the home price to a maximum of \$10,000 per home; and
- If the builder knowingly, or under circumstances amounting to gross negligence, makes or participates in making a false statement or fails to fully and accurately disclose the required information, a penalty of up to 4 per cent of the home price to a maximum of \$40,000 per home.

Penalties may be reduced or waived in certain circumstances.

Approval of Legislature of British Columbia

Re-implementation of the PST and implementation of the transitional measures for new housing are subject to the approval of the Legislature of British Columbia.

APPENDIX-1: B.C. Transition Rebate Rates

Table 1: B.C. Transition Rebate Amount (General Application)

Degree of completion of construction or substantial renovation as of April 1, 2013	Transition rebate as a percentage of consideration or fair market value
Less than 10 per cent	not applicable
10 per cent ≤ and < 25 per cent	1.5 per cent
25 per cent ≤ and < 50 per cent	1.0 per cent
50 per cent ≤ and < 75 per cent	0.5 per cent
75 per cent ≤ and < 90 per cent	0.2 per cent
90 per cent or greater	0.0 per cent

Table 2: B.C. Transition Rebate Amount for Grandparented New Housing

Degree of completion of construction or substantial renovation as of April 1, 2013 <u>minus</u> the degree of completion of construction or substantial renovation as of July 1, 2010 (i.e., per cent completed during the HST)	Gross transition rebate as a percentage of base consideration or fair market value, where the base consideration and the fair market value are NET of the transition tax ¹⁷
Less than 10 per cent	not applicable
10 per cent ≤ and < 25 per cent	1.5 per cent
25 per cent ≤ and < 50 per cent	1.0 per cent
50 per cent ≤ and < 75 per cent	0.5 per cent
75 per cent ≤ and < 90 per cent	0.2 per cent
90 per cent or greater	0.0 per cent

Table 3: B.C. Transition Rebate Amount for Non-Grandparented New Housing

Degree of completion of construction or substantial renovation as of April 1, 2013 <u>minus</u> the degree of completion of construction or substantial renovation on July 1, 2010 (i.e., per cent completed during the HST)	Gross transition rebate as a percentage of consideration or fair market value ²⁰
Less than 10 per cent	not applicable
10 per cent ≤ and < 25 per cent	1.5 per cent
25 per cent ≤ and < 50 per cent	1.0 per cent
50 per cent ≤ and < 75 per cent	0.5 per cent
75 per cent ≤ and < 90 per cent	0.2 per cent
90 per cent or greater	0.0 per cent

¹⁷ The final transition rebate would be calculated by subtracting amounts already claimed as “PST transitional new housing rebates” from the gross transition rebate.

APPENDIX-2: Builder Disclosure Requirements

Builder Disclosure Requirements

The following disclosure requirements are intended to provide transparency for purchasers and to allow for the determination of the appropriate base for the B.C. transition tax and transition rebate.

These requirements will help to ensure that purchasers are aware of how the transitional rules, taxes and rebates apply to their purchase of newly constructed or substantially renovated housing.

The CRA requires the builder to report the amounts, if applicable, of the HST (or the GST) and of the federal and British Columbia new housing rebates factored into the contracted price. The provincial disclosure requirements below provide additional information.

A. Written agreements of purchase and sale for newly constructed or substantially renovated housing entered into on or before February 17, 2012, where the transition tax applies.

At the time the written statement of adjustments is made, the builder must disclose on a specified form and in a prescribed manner, the following information to the CRA. The information must also be provided in writing to the purchaser.

- The consideration, as established for GST purposes.
- For grandparented new housing only,¹⁸ the “base consideration” for purposes of the transition tax and transition rebate.¹⁹
- The amount of B.C. transition tax charged.²⁰
- The degree of completion in the construction of the new home as of:
 - April 1, 2013; and

¹⁸ For the purposes of this Notice, “grandparented” new housing includes any subsequent sale of new “grandparented” housing that is relieved from the provincial component of the HST under the federal resellers rules for implementing the HST in B.C. Grandparented new housing is described in the GST/HST info sheet at <http://www.cra-arc.gc.ca/E/pub/gi/gi-078/gi-078-e.pdf>. Note that resellers in this context are not sellers of previously occupied (used) housing. The B.C. transition tax will not apply to sales of used housing.

¹⁹ The “base consideration” is the consideration, as would have been established for GST purposes at the time the contract was signed (including any subsequent modifications to the contract), divided by 1.02.

²⁰ The amount of transition tax will be 2 per cent of the consideration, or in the case of grandparented new housing, the transition tax will be 2 per cent of the base consideration.

- July 1, 2010 (if greater than zero).
- For new housing that was partially or fully constructed before July 1, 2010 only, the amount of “PST transitional new housing rebate” that was claimed in respect of the new housing.
- The amount of the B.C. transition rebate to which the builder is entitled in respect of the new housing.

B. Written agreements of purchase and sale for newly constructed or substantially renovated housing entered into after February 17, 2012 and before April 1, 2015.

On signing the agreement of purchase and sale

Under the transitional rules to be introduced for new housing, the contracted price in agreements signed after February 17, 2012 must not be *inclusive* of the B.C. transition tax. The builder must disclose in the agreement of purchase and sale that the contracted price is *exclusive* of any B.C. transition tax and the associated B.C. transition rebate that may apply.

The builder must also disclose whether the contracted price is inclusive or exclusive of the 7 per cent provincial component of the HST and the B.C. new housing rebate, if applicable.

The builder must also include the following statement in the agreement of purchase and sale (or in a similar document):

“If ownership and possession of a newly constructed or substantially renovated home transfer on or after April 1, 2013:

- the 7 per cent provincial component of the HST and the B.C. new housing rebate for primary residences will generally no longer apply;
- a B.C. transition tax of 2 per cent may become payable; and
- the builder may become eligible for an associated B.C. transition rebate.”

At the time the statement of adjustments is made

The CRA requires the builder to report the amounts of the HST (or the GST) and of the federal and British Columbia new housing rebates factored into in the contracted price.

In this case, the builder must disclose on a specified form and in a specified manner, the following information to the CRA. The information must also be provided in writing to the purchaser.

- The consideration, as established for GST purposes.
- The amount of B.C. transition tax charged.²¹
- The degree of completion in the construction of the new housing as of April 1, 2013.
- The amount of the B.C. transition rebate, if any, for which the builder is eligible in respect of the new housing.

Provincial disclosures at the time the statement of adjustments is made will be required only if the new housing was more than 10 percent completed on April 1, 2013.

²¹ The amount of transition tax will be 2 per cent of the consideration.

GENERAL PST TRANSITIONAL RULES

The general transitional rules for the PST will generally mirror the federal HST transitional rules.

Generally, PST will apply where tax becomes payable on or after April 1, 2013. Tax in respect of sales of taxable goods and services will generally become payable at the earlier of the time the consideration becomes due or the time the consideration is paid without becoming due. When consideration becomes due will be determined in a manner consistent with the federal rules regarding consideration.

Detailed PST transitional rules for specific types of transactions, including goods brought, sent or delivered into British Columbia and goods used in the improvement of real property, will be made available as soon as possible.

Detailed information for persons selling goods and services who will be required to collect and remit the PST will be made available as soon as possible.

The PST and the PST transitional rules will be administered by B.C.

FURTHER INFORMATION

If you have questions regarding eligibility requirements for the enhanced new housing rebates or new rental housing rebates or about the application of the B.C. transition tax or B.C. transition rebate, please call the Canada Revenue Agency at 1-800-959-8287 (English) and 1-800-959-8296 (French) or see www.cra-arc.gc.ca for more information.

For other questions, please call the Ministry of Finance toll-free at 1-877-388-4440, or e-mail your questions to CTBTaxQuestions@gov.bc.ca.