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## Canadian Indirect Tax News

May 31, 2012 (12-4)

### Transitional rules for residential properties: Return to BC PST

**If you are a residential property builder or building your own home, do you know what the rules are for transitioning from HST to GST and BC PST?**

On February 20, 2012, Deloitte published an **outline of the transitional rules** for residential properties in BC. In this publication, we will focus on the impact of these transitional rules on various stakeholders, including:

- Builders (including self-supply)
- Owner-built homes
- Home buyers (including primary residences and recreational)

In the absence of transitional measures or incentives, it would have been beneficial for home buyers to defer purchases of new homes to April 1, 2013 and only pay 5% Goods and Services Tax (GST). This was expected to have a negative effect on the construction industry and the economy in general. To combat this effect, the provincial government announced a series of transitional measures and incentives to level the playing field and encourage buyers to purchase new homes during this transition period. The incentives include the Enhanced BC New Housing Rebate, a First Time Home Buyers' Bonus, and the New Recreational Housing Grant. The incentives will remain in place for new homes purchased between April 1, 2012 and March 31, 2013. On or after April 1, 2013, only 5% GST will apply. For properties under construction at April 1, 2013, specific transitional rules will apply.

#### Builders

Currently, builders pay 12% Harmonized Sales Tax (HST) on the purchase of land, materials, equipment, and subcontractor services, which is all recoverable through the input tax credit (ITC) mechanism. There is no net tax cost to the business.

For builders constructing residential property to either sell or lease, the return of Provincial Sales Tax (PST) will increase the cost of doing business. For example, PST will apply to most building materials, equipment, vehicles, and legal fees, all of which is non-recoverable to the business.

**Planning tip:** where possible and practical, builders may wish to consider making larger capital purchases prior to April 1, 2013 or front-end load the lease contracts for equipment to reduce their PST costs.

In general, builders currently charge 12% HST on the sale of new residential homes. As of April 1, 2013, builders will charge only 5% GST. If the home the builder is selling is under construction at April 1, 2013, and it is more than 10% completed at that time, the builder would also need to charge a 2% BC Transition Tax, provided that the ownership or possession transfers before April 1, 2015. Refer to the comprehensive summary table at the end of this section.

#### **How to determine the percentage of completion**

There are no details released yet on how the percentage of completion should be determined. When HST was introduced in 2010, the federal government released rules on how the percentage of completion should be determined, and potentially, we can rely on the same set of rules for the return to PST. The following are six methods accepted by the federal government as fair and reasonable:

<b>Capital and operating cost</b>	Calculate the percentage of completion based on the capital and operating cost incurred up to April 1, 2013 as a proportion of the total expected capital and operating cost to be incurred to complete the construction of the residential complex.
<b>Interior floor space</b>	Determine the percentage of the interior floor space completed as of April 1, 2013 as a proportion of the total floor space, as stated on the plans/designs for the residential complex.
<b>Total floor space</b>	Calculate the percentage of completion based on the total floor space of the residential complex that has been completed as of April 1, 2013 as a proportion of the total floor space of the complex, as stated on the plans
<b>Fair market value</b>	Calculate the percentage of completion based on the certified appraised fair market value (FMV) of the building, not including land, that was constructed as of April 1, 2013 as a proportion of the appraised FMV of the building, as if it had been 90% or more completed as of April 1, 2013.
<b>Progress billings</b>	The percentage of completion can be based on the progress billings made in respect of the construction of the residential complex as of April 1, 2013 as a percentage of the expected total consideration payable to construct the complex as of April 1, 2013.
<b>Certified report</b>	Obtain a report from an engineer or other certified valuator to value the extent of work completed as of April 1, 2013

#### **BC Transition Tax**

Builders will need to collect the 2% BC Transition Tax from purchasers and remit the tax to Canada Revenue Agency (CRA) where:

- HST does not apply to the sale
- The construction is 10% or more completed at April 1, 2013, and
- Ownership or possession transfers before April 1, 2015

#### **BC Transition Rebate**

The BC Transition Rebate is available to builders in order to reduce some of the PST embedded in the construction cost. If the construction is not substantially completed (i.e., less than 90% completed) as of April 1, 2013 and the builder charged the BC Transition Tax, the builder is entitled to claim the BC Transition Rebate. The amount of Transition Rebate available to the builder is dependent on the percentage of completion at April 1, 2013. The higher the percentage

of completion at April 1, 2013, the less of a rebate is available to the builder, because more of the costs would have been incurred under the HST regime. The rebate percentage is summarized in the following table:

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% ≤ and < 25%	1.5%
25% ≤ and < 50%	1.0%
50% ≤ and < 75%	0.5%
75% ≤ and < 90%	0.2%
90% or greater	0.0%

### Builder disclosure requirements

The following disclosure requirements are mandatory for written agreements of purchase and sale of newly-constructed housing entered into after February 17, 2012 and before April 1, 2015:

#### On signing the agreement of purchase and sale:

- The contract must not be inclusive of the BC Transition Tax
- The builder must disclose in the agreement of purchase and sale that the contracted price does not include the BC Transition Tax and BC Transition Rebate
- It has to be disclosed whether the 7% provincial portion of HST and the BC New Housing Rebate are included or not in the contracted price
- The builder should also include the following statement in the agreement of purchase and sale:

*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 BC New Housing Rebate for primary residences will generally no longer apply;*

*A BC transition tax of 2 per cent may become payable; and*

*The builder may become eligible for an associated BC transition rebate.*

#### At the time the statement of adjustment is made:

The following information has to be disclosed by the builder to CRA and to the purchaser, if the new housing was more than 10% completed on April 1, 2013:

- The total consideration (as established for GST purposes)
- The amount of BC Transition Tax charged
- The degree of completion in the construction of the new housing, as of April 1, 2013
- The amount of BC Transition Rebate, if any, that the builder is eligible for

### Self-supply of new housing

Builders who construct a residential complex and operate the complex as a landlord, by renting out the units to individuals as their primary place of residence, are deemed to have changed the use of the property and are considered to have made a self-supply<sup>1</sup> of new housing and, as such,

<sup>1</sup> Self-supplies are deemed to be made at the later of substantial completion and when possession of the unit is given to the lessee.

must generally self-assess GST/HST on the FMV of the entire complex (both land and building). The same logic applies to many public service bodies building retirement homes or social housing complexes. In these cases, the builders often claim ITCs for all the costs incurred during construction and are required to self-assess GST/HST on the FMV of the residential complex.

For such self-supply made on or after April 1, 2013 where only GST is applicable and the construction is more than 10% completed as of April 1, 2013, the builder will be required to pay the 2% BC Transition Tax calculated on the FMV of the housing. The builder will also be entitled to the BC Transition Rebate, if the construction is not substantially completed (i.e., less than 90% completed) as of April 1, 2013.

<b>Summary for builders – for resale</b>				
Date of ownership and possession transfer	Before April 1, 2012	On or after April 1, 2012, but before April 1, 2013	On or after April 1, 2013 and before April 1, 2015, with <b>less than</b> 10% completed at April 1, 2013	On or after April 1, 2013 and before April 1, 2015, with <b>more than</b> 10% completed at April 1, 2013
Charge HST of 12%	√	√		
Charge GST of 5%			√	√
Charge BC Transition Tax of 2%				√
Apply for BC Transition Tax Rebate				√

<b>Summary for builders – for rental</b>				
Later of date of substantial completion or date when lessee is given possession	Before April 1, 2012	On or after April 1, 2012, but before April 1, 2013	On or after April 1, 2013 and before April 1, 2015, with <b>less than</b> 10% completed at April 1, 2013	On or after April 1, 2013 and before April 1, 2015, with <b>more than</b> 10% completed at April 1, 2013
Self-assess HST of 12%	√	√		
Self-assess GST of 5%			√	√
Self-assess BC Transition Tax of 2%				√
Apply for BC Transition Tax Rebate				√
Claim federal New Residential Rental Property Rebate	√	√	√	√
Claim BC New Rental Housing Rebate	√			
Claim Enhanced BC New Rental Housing Rebate		√		

## Owner-built homes

People who are building their own home are entitled to the same rebates above on the costs incurred in building their home. There are a few exceptions to note:

- If they paid HST on the land they purchased, they will be entitled to the Enhanced BC New Housing Rebate to a maximum of \$42,500.
- If they did not pay HST on the land they purchased, the Enhanced BC New Housing Rebate is capped at a maximum of \$28,475.
- The BC Transitional Tax will not apply to owner-built homes, and no Transitional Rebate will be available to owner-built homes.

**Planning tip:** For people building their own home, where the home will be near completion by April 1, 2013, it may be more beneficial to ensure completion is before April 1, 2013 and, thereby, avail themselves of the new incentives provided in BC, including the Enhanced BC New Housing Rebate and the First Time Home Buyers' Bonus.

Summary for owner-built homes				
Date of Substantial Completion	Before April 1, 2012	On or after April 1, 2012, but before April 1, 2013	On or after April 1, 2013 and before April 1, 2015, with <b>less than</b> 10% completed at April 1, 2013	On or after April 1, 2013 and before April 1, 2015, with <b>more than</b> 10% completed at April 1, 2013
Pay HST of 12% on costs	√	√		
Pay GST of 5% on costs			√	√
Pay BC Transition Tax of 2%				
Claim federal New Housing Rebate	√	√	√	√
Claim BC New Housing Rebate	√			
Claim Enhanced BC New Housing Rebate		√		
Claim First Time Home Buyers' Bonus (if applicable)		√		

## Home buyers

### Primary residence

#### First Time Home Buyers' Bonus

The First Time Home Buyers' Bonus is a refundable income tax credit available to first time home buyers. First time home buyers could qualify for the bonus if they have paid HST on the purchase of their new home and they intend to occupy the home as their primary place of residence.

Applicants would need to file a BC 2011 personal tax return to receive the credits, and they would also need to complete the **FIN520** form with all the appropriate supporting documents.

### BC Transition Tax

On top of the regular GST, home buyers will need to pay a 2% BC Transition Tax to the builder, if HST does not apply to the sale; the construction of the new home is 10% or more completed at April 1, 2013; and the ownership or possession transfers before April 1, 2015.

**Planning tip:** For a new home buyer, the BC Transition Tax has an undesirable effect of paying a 2% extra tax with no additional rebates. To plan around having to pay the 2% BC Transition Tax, where practical, ensure the percentage of completion at April 1, 2013 is less than 10%; however, please note that PST will apply on all building materials.

### Federal New Housing Rebate

Home buyers should remember that there is also the new housing rebate available for the federal portion of the HST paid on a new home. This rebate has been in place for a number of years. The rebate is 36% of the GST paid on a new home priced less than \$350,000 (to a maximum of \$8,750). For homes priced between \$350,000 and \$450,000, the rebate is gradually reduced to zero. For homes priced over \$450,000, no federal rebate is available.

### BC New Housing Rebate

Introduced on July 1, 2010, this rebate applies to the provincial portion of the HST (i.e., 7%). It is calculated at 71.43% of the provincial portion of HST, paid to a maximum of \$26,250. Unlike the Federal New Housing Rebate, there is not a gradual reduction in the rebate (e.g., homes priced in excess of maximum calculation still qualify to receive \$26,250).

### Enhanced BC New Housing Rebate

From April 1, 2012 to April 1, 2013, new home buyers are eligible for the Enhanced BC New Housing Rebate. For homes up to the value of \$850,000, a 71.43% rebate of the provincial portion of the HST is available (i.e., a rebate of \$42,500). There is no phase-out of the rebate, which means if someone purchases a home over the value of \$850,000, they are still entitled to the maximum rebate of \$42,500. This contrasts the federal portion of the rebate, which is phased out if a home is over \$450,000.

Prior to April 1, 2012, there was a BC New Housing Rebate in place. That rebate was capped at \$26,250 for homes valued up to \$525,000. Effectively, the province raised the rebate threshold by 60% to reflect the reality of housing prices in some parts of BC.

### **Recreational Home Buyers**

Most of the existing rebates and the new incentives require that the individual, or a relation of the individual, occupies the new home as their primary place of residence, and as such, vacation properties do not qualify. To further promote the construction industry in BC, a new incentive is now offered for recreational home buyers.

Between April 1, 2012 and April 1, 2013, purchasers of recreational homes (including floating homes and mobile homes), outside of the Greater Vancouver and Capital regional districts, priced up to \$850,000 will be entitled to a provincial grant of up to \$42,500. There is no phase-out of the grant; therefore, a recreational home priced over \$850,000 will still qualify for the maximum grant of \$42,500.

**Planning tip:** If you are buying a recreational home over the \$850,000 price mark, it is likely more beneficial to buy the home on or after April 1, 2013, as only the 5% GST will apply at that time.

The grant will be administered provincially, and buyers must apply directly to the province for the grant. Buyers that purchased a recreational home from a builder must complete the **FIN201** form and be filed within six months of paying the HST and before October 1, 2013. For owner-built

recreational homes, form **FIN203** must be filed within six months of substantial completion and before October 31, 2013.

<b>Summary for home buyers</b>				
Date of ownership / possession transfer	Before April 1, 2012	On or after April 1, 2012, but before April 1, 2013	On or after April 1, 2013 and before April 1, 2015, with <b>less than</b> 10% completed at April 1, 2013	On or after April 1, 2013 and before April 1, 2015, with <b>more than</b> 10% completed at April 1, 2013
<b>Primary residence</b>				
Pay HST of 12%	√	√		
Pay GST of 5%			√	√
Pay BC Transition Tax of 2%				√
Claim federal New Housing Rebate	√	√	√	√
Claim BC New Housing Rebate	√			
Claim Enhanced BC New Housing Rebate		√		
Claim First Time Home Buyers' Bonus (if applicable)		√		
<b>Recreational home buyers</b>				
Pay HST of 12%	√	√		
Pay GST of 5%			√	√
Pay BC Transition Tax of 2%				√
Claim New Recreational Housing Grant		√		

### How can we help?

We are here to help you plan and execute your real property development plans in the most cost effective way for tax purposes. Please call us to discuss your objectives and business plans.

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