



Elimination of the Harmonized Sales Tax in British Columbia: British Columbia Transition Tax on New Housing

Effective April 1, 2013, the 12% HST, consisting of a 5% federal part and a 7% provincial part, will no longer apply in British Columbia (B.C.). Instead, the GST at 5% and a provincial sales tax will apply.

To aid the transition between the two tax regimes, the B.C. *New Housing Transition Tax and Rebate Act*, which was passed in May 2012:

- imposes a new, temporary, 2% B.C. transition tax on purchasers of certain newly constructed or substantially renovated housing or interests in such housing, that is fully or partially constructed under the HST, but where ownership and possession generally transfer on or after April 1, 2013;
- introduces a new, temporary B.C. transition rebate for builders who supply new housing or qualifying interests in such housing, that is subject to the B.C. transition tax, but where provincial sales tax (PST) has been paid on substantially all of the construction materials incorporated into the new housing on or after April 1, 2013; and
- requires vendors of new housing to provide certain tax-related information to purchasers.

The B.C. transition tax and the B.C. transition rebate will apply until April 1, 2015. The B.C. transition tax and the B.C. transition rebate are administered by the Canada Revenue Agency (CRA) on behalf of the Government of British Columbia.

This info sheet reflects information contained in the B.C. *New Housing Transition Tax and Rebate Act*, and related information set out in the *Regulations Amending Various GST/HST Regulations, No. 3*, made by the Government of Canada and published in the *Canada Gazette* on October 10, 2012.

For more information on the rules surrounding real property during the transition from the HST to the GST and PST, refer to the following publications:

- GST/HST Notice 276, *Elimination of the HST in British Columbia in 2013 – Transitional Rules for Real Property Including New Housing*,

- GST/HST Info Sheet GI-157, *Elimination of the Harmonized Sales Tax in British Columbia: British Columbia Transition Rebate for Builders of New Housing*, and
- GST/HST Info Sheet GI-132, *Elimination of the HST in British Columbia: Builder Information Requirements for the Transition Period*.

For transitional rules regarding the implementation of the new PST, contact the Government of British Columbia at 1-877-388-4440 or by email at CTBTaxQuestions@gov.bc.ca.

Transition back to the GST – New housing

Under the general transitional rules, the 5% GST (rather than the 12% HST) applies to a builder's taxable sale, including a self-supply, of new housing, or the sale of an interest in new housing, in B.C. where the tax on the sale or self-supply becomes payable on or after April 1, 2013.

In addition to the GST, the B.C. transition tax may apply to a builder's sale of new housing or an interest in new housing, or to a self-supply of new housing where the GST in respect of the sale or self-supply becomes payable on or after April 1, 2013 and before April 2015.

This info sheet explains the circumstances in which the B.C. transition tax applies, who is required to pay the tax, how the tax is calculated, and who is required to report and remit the tax.

First Nations: In the case of new housing on land where the First Nations goods and services tax (FNGST) has replaced the GST, any reference in this info sheet to “GST” includes a reference to the FNGST. For an overview of the FNGST, refer to Guide RC4365, *First Nations Goods and Services Tax (FNGST)*.

Where the B.C. transition tax applies, a builder may be eligible for the B.C. transition rebate in respect of the new housing. More information on the B.C. transition rebate is available in GST/HST Info Sheet GI-157, *Elimination of the Harmonized Sales Tax in British Columbia: British Columbia Transition Rebate for Builders of New Housing*.

In most cases, definitions for GST/HST purposes (e.g., builder and substantial renovation) apply for the purposes of the B.C. transition tax and the B.C. transition rebate, as do the CRA’s current policies on the application of the GST/HST to housing. CRA publications, Guide RC4052, *GST/HST Information for the Home Construction Industry*, and GST/HST Info Sheet GI-005, *Sale of a Residence by a Builder Who is an Individual*, discuss many of these terms and concepts. However, certain terms (e.g., affixed residential complex, affixed mobile home) are used for the purposes of the B.C. transition tax and the B.C. transition rebate.

New housing

An “affixed residential complex” is defined for purposes of the B.C. transition tax and the B.C. transition rebate and generally means a residential complex (as defined for GST/HST purposes) that is located in B.C., but does not include mobile homes not affixed to land or floating homes.

The terms “new house” and “new housing” used throughout this info sheet refer to an affixed residential complex that is newly constructed or substantially renovated and supplied by a builder (as defined for GST/HST purposes), and includes the building and land portions of the housing unless otherwise indicated. The terms also refer to certain mobile homes affixed to land and to a newly constructed addition to a multiple unit residential complex (for example, a new addition to an apartment building or a nursing home). The terms do not apply to floating homes.

Housing that has been substantially renovated is generally given the same treatment under the B.C. transition tax and the B.C. transition rebate as newly constructed housing. Extensive modifications must

have been made to the housing in order to meet the definition of a “substantial renovation” for these purposes. For a full explanation of the factors to consider in deciding if a substantial renovation has taken place, refer to Technical Information Bulletin B-092, *Substantial Renovations and the GST/HST New Housing Rebate*.

B.C. transition tax and transition rebate – Overview

For a temporary period, the B.C. transition tax may apply (and the B.C. transition rebate may be available) where the GST applies (and the HST does not apply) on a sale of new housing or certain interests in new housing or on a self-supply of new housing.

Where the construction or substantial renovation of housing begins before April 2013, a builder will generally have claimed input tax credits (ITCs) in respect of the HST paid (including the provincial part of the HST) on the construction materials incorporated into the house to that point in time.

Recognizing that the HST does not apply to a sale of the housing or an interest in the housing or to a self-supply of the housing where tax becomes payable after March 2013, the B.C. transition tax generally applies to the sale of the housing, an interest in the housing or a self-supply of the housing if:

- the construction or substantial renovation is at least 10% complete before April 2013, and
- the GST in respect of the sale or self-supply becomes payable on or after April 1, 2013 and before April 2015.

The B.C. transition tax is generally calculated at 2% of the consideration payable for the sale or, in the case of a self-supply, 2% of the fair market value of the housing.

However, recognizing that a builder is not entitled to claim ITCs with respect to the PST paid on construction materials incorporated into the housing after March 2013, the B.C. transition rebate may be available where the B.C. transition tax applies and the construction or substantial renovation of the housing is not more than 90% completed immediately before April 2013.

For more information on the B.C. transition rebate, see GST/HST Info Sheet GI-157, *Elimination of the*

When does the B.C. transition tax apply?

This section does not apply to mobile homes. For the circumstances in which the B.C. transition tax applies to mobile homes, see the section “Mobile homes”.

General rule

The B.C. transition tax generally applies to a builder’s taxable sale of new housing or an interest in new housing, or to a builder’s self-supply of new housing, where:

- the GST (rather than the HST) becomes payable on the sale or self-supply on or after April 1, 2013 and before April 2015, and
- the construction or substantial renovation of the housing is at least 10% complete before April 2013.

These two conditions are explained fully in the sections that follow.

Despite the foregoing, there are situations where these conditions are met and the B.C. transition tax does not apply. For more information, refer to the section “Housing excluded from the B.C. transition tax”.

Condition 1 – Tax becomes payable on or after April 1, 2013 and before April 2015

When GST/HST is payable on a sale of new housing or an interest in new housing

Except for the sale of certain residential condominium units described in the next paragraph, the GST/HST becomes payable on a taxable sale of real property, including an interest in new housing, on the earlier of:

- the day that ownership of the new housing, or of the interest, is transferred to the purchaser, and
- the day that possession of the housing, or the interest, is transferred to the purchaser under the agreement for the sale.

There is a special timing rule that applies to the sale of a residential condominium unit if possession of the unit is transferred to the purchaser before the

condominium complex in which the unit is situated is registered as a condominium. In that case, the GST/HST becomes payable on the earlier of:

- the day ownership of the unit is transferred to the purchaser; and
- the day that is 60 days after the condominium complex is registered as a condominium.

If possession of a residential condominium unit is transferred at a time when the condominium complex in which the unit is situated is registered as a condominium, the general rule applies, i.e., the GST/HST is payable on the earlier of

- the day ownership of the unit is transferred to the purchaser, and
- the day possession of the unit is transferred to the purchaser under the agreement for sale.

If, in accordance with the foregoing, GST on a sale of new housing, or an interest in new housing, becomes payable on or after April 1, 2013 and before April 2015, condition 1 is met.

When GST/HST is payable on a self-supply of new housing

In respect of a self-supply of new housing, GST/HST is payable at the later of:

- the time the construction or substantial renovation of the housing is substantially completed, and
- the time possession or use of the housing, or a unit in the housing, is given to an individual who is the first individual to occupy the housing or unit as a place of residence.

For a complete discussion on self-supplies of new housing, see the section “When you finish construction” in Guide RC4052, *GST/HST Information for the Home Construction Industry*.

If GST on a self-supply of new housing becomes payable on or after April 1, 2013 and before April 2015, condition 1 is met.

When tax is payable on an appropriation of new housing or an interest in new housing

A GST/HST registrant that is a corporation, partnership, trust, charity, public institution or non-profit organization may appropriate new housing for the benefit of a shareholder, partner, beneficiary or member (hereafter, “member”) or an individual who is related to the member.

If such an appropriation occurs, where the registrant is a builder of the housing who acquired or constructed the housing, or acquired the interest, in the course of its commercial activities and the housing is not capital property of the registrant, the registrant is deemed to have sold the housing or interest for purposes of the B.C. transition tax unless the registrant supplies the housing or interest to the member or related individual for consideration equal to the fair market value of the housing or interest.

For the purposes of the GST and the B.C. transition tax, the sale is deemed to be made for consideration equal to the fair market value of the housing or interest at the time of the appropriation. However, in the case of the B.C. transition tax, the tax becomes collectible by the registrant from the member or related individual at the time of the appropriation.

If the appropriation occurs on or after April 1, 2013 and before April 2015, condition 1 is met.

Condition 2 – Construction of the new housing is at least 10% complete before April 2013

The method used to determine the percentage of completion must be fair and reasonable.

GST/HST Info Sheet GI-105, *How to Determine the Percentage of Completion for Purposes of the Provincial Transitional New Housing Rebates and the Transitional Tax Adjustment in Ontario and British Columbia* sets out methods for determining the degree of completion of housing. While these methods were outlined for purposes of the provincial transitional new housing rebate, the same methods are generally acceptable for determining the degree of completion of housing as of a specific date for purposes of the B.C. transition tax and the B.C. transition rebate.

Example 1

A builder and a purchaser enter into a written agreement of purchase and sale for a single detached house on December 15, 2012. Construction of the house is 25% completed before April 2013 and ownership and possession of the house transfer on October 15, 2013.

The B.C. transition tax applies to the sale of the house. The tax is equal to 2% of the consideration payable for the house.

Example 2

A builder is constructing an apartment building. Construction is at least 10% complete before April 2013. Upon substantial completion of construction of the apartment building in July 2014, the builder leases and gives possession of a unit in the building to an individual who is the first person to occupy a unit in the building as a place of residence.

The builder must account for the B.C. transition tax on the self-supply of the apartment building. The B.C. transition tax is equal to 2% of the fair market value of the residential complex (building and land) at the time of self-supply.

Mobile homes

For purposes of the GST/HST, a mobile home includes certain modular homes. Modular homes are considered mobile homes for GST/HST purposes if they meet certain criteria, including that the manufacture or assembly of the modular home is substantially completed prior to being moved to a site. For more detailed information refer to GST/HST Policy Statement P-223, *Meaning of “manufacture or assembly of which is completed or substantially completed” in the definition of “mobile home”*.

The B.C. transition tax does not apply to a builder's sale of a new mobile home or an interest in a new mobile home where the builder is selling only the home or an interest in only the home.

However, the B.C. transition tax applies to a builder's sale of a new mobile home or an interest in a new mobile home where:

- the new mobile home is affixed to land before April 2013;
- the sale includes the land or an interest in the land to which the mobile home is affixed;
- both possession and ownership are transferred by the builder on or after April 1, 2013;
- the GST on the sale of the mobile home or on the interest becomes payable on or after April 1, 2013 and before April 2015; and
- in the case of an affixed mobile home that has been substantially renovated, the last substantial renovation was at least 10% complete before April 1, 2013.

A builder includes the manufacturer, distributor, or retailer of a mobile home, and is commonly referred to as a dealer.

Example 3

A dealer affixes one of its new mobile homes to a building lot in January 2013. On March 20, 2013, the dealer enters into a written agreement to sell both the mobile home and the lot. Under the agreement, ownership and possession of the mobile home and lot transfer to the purchaser on May 31, 2013.

The B.C. transition tax applies to the sale of the residential complex (mobile home and land) because:

- the new mobile home was affixed to the land before April 2013,
- the sale is for both the land and the mobile home,
- possession and ownership are both transferred by the builder on or after April 1, 2013, and
- the GST becomes payable on or after April 1, 2013 and before April 2015 (in this case, on May 31, 2013).

The B.C. transition tax is equal to 2% of the consideration payable for the complex (mobile home and land).

The B.C. transition tax applies to a builder's self-supply of a mobile home where:

- the mobile home is affixed to land before April 2013;
- in the case of an affixed mobile home that has been substantially renovated, the last substantial renovation was at least 10% complete before April 2013; and
- GST on the self-supply is payable on or after April 1, 2013 and before April 2015.

Who is required to pay the B.C. transition tax and when is it payable?

Where a builder sells new housing or an interest in new housing to another person, the B.C. transition tax is payable by the purchaser. The tax is payable on the same day the GST is payable.

In the case of a grandparented taxable sale¹, the total amount payable by the purchaser for the sale is deemed to include the B.C. transition tax. The tax is deemed to have been paid by the purchaser and the builder is deemed to have collected the tax from the purchaser at the time the GST becomes payable on the sale (see example 6). The builder must report and remit the B.C. transition tax that is deemed to have been collected.

Where a builder is deemed to have paid the GST on a self-supply of new housing, the B.C. transition tax is payable by the builder. The B.C. transition tax on a self-supply is payable on the same day as the GST is payable, i.e., the date of the self-supply.

Where a registrant builder appropriates new housing or an interest in new housing for the benefit of a member or a related individual as discussed above, the B.C. transition tax is payable by the member or related individual, and collectible by the registrant builder, at the time of the appropriation.

Calculating the B.C. transition tax – Sales

General rule

Where the B.C. transition tax is payable by the purchaser on the sale of new housing or an interest in new housing, the tax is generally calculated at 2% of the consideration (i.e., excluding GST and rebates) for the sale of the housing or the interest in the housing, as the case may be.

Example 4

In September 2013, a builder transfers possession and ownership of a single detached new house to an individual for consideration of \$400,000 plus GST of \$20,000. The agreement of purchase and sale for the house was entered into after November 18, 2009 and construction of the house was at least 10% complete before April 2013.

The B.C. transition tax applies to the sale of the house and is equal to \$8,000 ($\$400,000 \times 2\%$).

Special provisions apply to the calculation of the B.C. transition tax on non-arm's length sales, the sale of combined interests, grandparented taxable sales, and

¹ See the section on "Grandparented taxable sales" below.

deemed sales under the appropriation rules. Each of these is discussed in the sections that follow.

Non-arm's length sale

If a builder makes a GST-taxable sale of new housing or an interest in new housing, for purposes of calculating the B.C. transition tax, the sale is deemed to be made for consideration equal to the fair market value of the housing or interest at the applicable time where:

- the sale meets the conditions for the B.C. transition tax,
- the builder and the purchaser are not dealing with each other at arm's length, and
- no consideration is paid on the sale, or the value of the consideration paid is less than the fair market value of the housing or the interest at the earlier of the time at which ownership or possession of the housing or interest is transferred (referred to as the "applicable time").

The B.C. transition tax at 2% applies on the fair market value of the housing or interest at the applicable time.

Sale of combined interests

Where the B.C. transition tax is payable on the sale of an interest in new housing, the tax is generally calculated at 2% of the consideration for the sale of the interest. However, if the sale of any portion of that interest was previously subject to the B.C. transition tax, the tax is not imposed on that portion. Instead, the B.C. transition tax is calculated at 2% of the portion of the total consideration for this sale that is reasonably attributable to that portion of the interest that has not previously been subject to the B.C. transition tax (the untaxed portion).

Example 5

Corporation A and Corporation B, each a builder, each own a ½ undivided interest in a new house. Construction of the house is at least 10% complete before April 2013. The parties are unable to sell the new house and Corporation A sells its ½ interest in the house to Corporation B on December 31, 2013 for \$425,000, which is equal to the fair market value of that interest, plus GST. Corporation B sells the house on June 1, 2014 for \$860,000 plus GST. The house remained unoccupied throughout this time.

The B.C. transition tax applies in the following manner:

Sale of the undivided interest in the new house by Corporation A:

The sale by Corporation A to Corporation B is subject to the B.C. transition tax because

- it is the sale by a builder of an interest in new housing,
- the GST becomes payable on or after April 1, 2013 and before April 2015, and
- construction of the housing was at least 10% complete before April 2013.

Corporation B is required to pay the B.C. transition tax of \$8,500 ($\$425,000 \times 2\%$) to Corporation A.

Sale of the new house by Corporation B:

When Corporation B sells the house on June 1, 2014, the B.C. transition tax applies only to the portion of the consideration that is reasonably attributable to the untaxed portion, i.e., the ½ interest held by Corporation B. The sale of Corporation A's interest was previously subject to the B.C. transition tax and is not taxed a second time. The purchaser is required to pay the B.C. transition tax to Corporation B. The B.C. transition tax applies to that portion of the \$860,000 consideration that is reasonably attributed to the untaxed portion, \$430,000 ($\$860,000 \times 50\%$).

Grandparented taxable sales

Special rules apply to sales of certain new housing referred to under the B.C. transition tax rules as "grandparented taxable sales".

Under the transitional rules for implementing the HST in B.C., certain sales of single-unit housing and residential condominiums were "grandparented" (i.e., not subject to HST) where the written agreement of purchase and sale was entered into on or before November 18, 2009². If ownership and possession of such new housing transfer on or after April 1, 2013 and before April 2015, the sale of the new housing is subject to the GST and the B.C. transition tax, but not to the 7% provincial part of the HST.

² For a discussion of sales that qualify as grandparented sales under the HST transitional rules, see GST/HST Info Sheet GI-084, *Harmonized Sales Tax: Information for Builders of New Housing in British Columbia*.

Therefore, a grandparented taxable sale is a sale that is subject to the B.C. transition tax, but would have qualified for grandparenting from the 7% provincial part of the HST if the sale had been subject to the HST.

Where the B.C. transition tax applies to a grandparented taxable sale of new housing, the consideration for the housing, as otherwise determined, is deemed to include the B.C. transition tax such that the purchaser does not pay an additional amount on account of the B.C. transition tax. The B.C. transition tax is equal to 2/102 of such consideration (i.e., the consideration as it would be determined for a non-grandparented sale must be divided by 1.02 and the 2% B.C. transition tax applies to that amount).

Example 6

A purchaser and a builder enter into a written agreement of purchase and sale for new housing in October 2009 for a purchase price of \$600,000 (excluding GST) and the sale qualifies for grandparenting under the transition to the HST. Ownership and possession of the new housing are transferred after March 2013. The sale of the housing is subject to the B.C. transition tax.

For purposes of calculating the B.C. transition tax, the consideration is \$588,235 ($\$600,000 \div 1.02$). Therefore, the B.C. transition tax is equal to \$11,765 ($\$588,235 \times 2\%$, which is the same as $\$600,000 \times 2/102$). The B.C. transition tax is deemed to have been collected by the builder from the purchaser on the day the GST becomes payable on the sale. The builder must remit the B.C. transition tax to the CRA.

To see how the GST applies to a grandparented taxable sale of new housing, see question and answers 75 to 77 in GST/HST Notice276, *Elimination of the HST in British Columbia in 2013 – Transitional Rules for Real Property Including New Housing*.

Example 7

In October 2009, Samantha enters into a written agreement of purchase and sale for a new condo in a condo complex that is not yet built. The consideration payable (that is, the price before GST or any rebates) is \$600,000. Under the agreement, the builder transfers ownership and possession of the housing to Samantha on June 30, 2013. Construction of the condominium complex is at least 10% complete before April 2013.

Because the agreement is entered into on or before November 18, 2009, and both ownership and possession transfer to Samantha after March 2013, the sale is a grandparented taxable sale. The B.C. transition tax applies on the sale of the condo unit. The B.C. transition tax is equal to \$11,764.70 ($\$600,000 \times 2/102$).

The builder is required to account for the B.C. transition tax deemed to be included in the consideration. Samantha is not liable to pay any additional amount to the builder on account of this tax.

Deemed sale – Appropriation of new housing

For purposes of calculating the B.C. transition tax on the deemed sale of new housing or an interest in new housing to a member or related individual made under the appropriation rules described above, the total consideration is deemed to be equal to the fair market value of the new housing or interest at the time it was appropriated for the benefit of the member or related individual. The B.C. transition tax is calculated at 2% of that value.

Calculating the B.C. transition tax – Self-supply by builder

Where a builder is required to pay GST on a self-supply of new housing and the B.C. transition tax applies, the tax is calculated at 2% of the fair market value of the housing (building and land) at the time of the self-supply.

Example 8

Construction of an apartment building is at least 10% complete before April 2013. Upon substantial completion of the construction in July 2014, the builder leases and gives possession of a unit in the building to an individual who is the first person to occupy a unit in the building as a place of residence.

The builder must account for the B.C. transition tax because:

- the self-supply occurs on or after April 1, 2013 (i.e., the GST, rather than the HST applies) and before April 2015, and
- construction of the apartment building is at least 10% complete before April 2013.

The B.C. transition tax at 2% is based on the fair market value of the residential complex (building and land) at the time of self-supply.

Housing excluded from the B.C. transition tax

The B.C. transition tax does not apply to the sale of new housing, or the sale of an interest in new housing, made by a person who is not a builder of the housing for GST/HST purposes.

The B.C. transition tax does not apply in respect of homes built by owners for their personal use (referred to as owner-built homes). For purposes of this info sheet, an owner-built home does not include a home the construction or substantial renovation of which is undertaken in circumstances that make the owner a “builder” for GST/HST purposes.

The B.C. transition tax does not apply on a sale of new housing or an interest in the housing where all of the following conditions are met:

- the construction or substantial renovation was substantially completed before July 1, 2010,
- an application for a PST transitional new housing rebate was not filed before February 17, 2012, and
- where the purchaser assigned the PST transitional rebate to the builder, the form for the assignment of the rebate was not filed before February 17, 2012.³

The B.C. transition tax is not payable by the builder on a self-supply of new housing where:

- the construction or substantial renovation was substantially completed before July 1, 2010, and
- an application for the PST transitional new housing rebate was not filed before February 17, 2012.

Example 9

A builder substantially completes the construction of a detached house prior to July 1, 2010. The builder uses the house as a show home in its new subdivision until January 2013, at which time the house is listed for sale. Unable to find a buyer, the builder enters into a

lease agreement with an individual for the house. The individual takes possession of the house under the lease agreement on September 1, 2013 and is the first individual to occupy the house as a place of residence. A PST transitional new housing rebate is not available in respect of the house as tax on the self-supply becomes payable on or after April 1, 2013.

The builder is deemed to have made a self-supply of the house on September 1, 2013. However, the B.C. transition tax does not apply because the house was substantially completed before July 1, 2010 and the PST transitional new housing rebate was not claimed before February 17, 2012.

The B.C. transition tax applies only once to the sale of new housing or to the sale of a particular interest in the new housing. As a result, the B.C. transition tax is not imposed on a subsequent sale of the new housing or of the particular interest even if the subsequent sale is subject to the GST. However, if any portion of the interest being subsequently sold had not previously been subject to the B.C. transition tax, the tax applies to that portion at the time of the subsequent sale where the relevant conditions are satisfied. Refer to the section “Sale of combined interests” for details.

For example, the B.C. transition tax does not apply in the following scenarios:

- An original builder sells a $\frac{1}{2}$ undivided interest in new housing to a purchaser (“Co-Owner 2”) who also qualifies as a “builder” of the new housing. The B.C. transition tax applies on the sale of the interest to Co-Owner 2. Subsequently, the two co-owners of the new housing sell the new housing to a final purchaser. The B.C. transition tax must be collected on the portion of the consideration payable by the final purchaser that is attributable to the original builder’s remaining $\frac{1}{2}$ undivided interest. The B.C. transition tax is not collectible on the portion of the total consideration payable by the final purchaser that is attributable to Co-Owner 2’s $\frac{1}{2}$ undivided interest, since that interest already was subject to the B.C. transition tax.
- A person purchases a $\frac{1}{2}$ undivided interest in new housing and the B.C. transition tax applies on the purchase. The subsequent sale of a portion of that interest (e.g., a $\frac{1}{4}$ undivided interest in the new housing) by the person would not be subject to the B.C. transition tax.

³ February 17, 2012 was the date the British Columbia Ministry of Finance released HST Notice #12, *Enhanced New Housing Rebates and Transitional Rules for the Re-implementation of the British Columbia Provincial Sales Tax*.

- A person purchases new housing and the B.C. transition tax applies on the purchase. The subsequent sale of a ½ undivided interest in the housing by the person would not be subject to the B.C. transition tax.

Sale by agent on behalf of builder

Where a GST/HST registrant acts as agent in making a supply on behalf of a principal who is required to collect the GST/HST on the supply, the agent and principal may make a joint election to have the agent report and remit the GST/HST on the supply as if the tax were collectible by the agent. This election may be made in respect of a taxable sale of new housing or an interest in such housing.

Where this election has been made and applies to a particular sale of new housing or an interest in new housing to which the B.C. transition tax applies:

- the B.C. transition tax collectible on the sale is deemed to be collectible by the agent;
- any amount collected as or on account of the B.C. transition tax by the agent on behalf of the builder is deemed to be collected by the agent and not the builder; and
- the agent and builder are jointly and severally liable for
 - all obligations of a supplier under the legislation imposing the B.C. transition tax and the B.C. transition rebate as they relate to the sale, including the builder information requirements;⁴ and
 - all obligations arising as a consequence of errors or omissions made by the agent in reporting the B.C. transition tax or in claiming a B.C. transition rebate, or as a consequence of an underpayment of a remittance by the agent.

Reporting and remitting the B.C. transition tax

Generally, it is the builder who is required to report and remit the B.C. transition tax payable on a sale of new housing or an interest in new housing, or on an appropriation or self-supply of new housing, even if

the purchaser is required to remit the GST on the sale because the purchaser is registered for GST/HST purposes and is required to remit the tax under the GST/HST legislation.

A GST/HST registrant builder, including a non-resident who makes a grandparented taxable sale of new housing, is required to report the B.C. transition tax on its GST/HST return for the reporting period in which the tax becomes payable. That return must be filed using GST/HST NETFILE.

A non-registrant builder, including a non-resident who makes a grandparented taxable sale of new housing, who is required to report the B.C. transition tax must report the tax on Form GST62, *Goods and Services Tax/Harmonized Sales Tax (GST/HST) Return (Non-personalized)* along with a note indicating what amount of the total tax reported at line 105 is B.C. transition tax and what amount is GST. The return must be filed directly with the CRA, together with the payment, by the last day of the month following the month in which the B.C. transition tax became payable.

Other than in respect of a grandparented taxable sale of new housing, a builder is not responsible to report the applicable B.C. transition tax on a sale of new housing or an interest in new housing where the builder is a non-resident person or is a resident only by virtue of having a permanent establishment in Canada. In that case, the purchaser, if a GST/HST registrant, must include the amount of the B.C. transition tax in the return for the reporting period in which the tax becomes payable. That return must be filed using GST/HST NETFILE. If the purchaser is a non-registrant, the purchaser is required to report the B.C. transition tax payable on Form GST62, *Goods and Services Tax/Harmonized Sales Tax (GST/HST) Return (Non-personalized)* along with a note indicating that the tax reported at line 105 is the B.C. transition tax. The return must be filed directly with the CRA, together with the payment, by the last day of the month following the month in which the B.C. transition tax became payable.

As discussed above, a GST/HST registrant who acts as agent of a builder in respect of a taxable sale of new housing or an interest in new housing may, under the GST/HST legislation, jointly elect with the builder to have the agent report and remit the GST/HST on the sale. In that case, the agent is required to report the B.C. transition tax in the agent's GST/HST return for the reporting period in which the tax becomes

⁴ For more information on the builder information requirements, refer to GST/HST Info Sheet GI-132, *Elimination of the HST in British Columbia: Builder Information Requirements for the Transition Period*.

payable. That return must be filed using GST/HST NETFILE.

Where a builder (or the builder's agent) reports the B.C. transition tax collectible on a sale of new housing or an interest in new housing in the builder's (or agent's) GST/HST return and the builder qualifies for a B.C. transition tax rebate in respect of the sale, provided the rebate application form is filed at the same time as the return is filed, the rebate may be claimed in that return and may be offset against the B.C. transition tax so that the builder (or the agent) must only remit the net amount owing on the return.

For more information on offsetting the rebate see GST/HST Info Sheet GI-157, *Elimination of the Harmonized Sales Tax in British Columbia: British Columbia Transition Rebate for Builders of New Housing*.

Right of supplier to sue for tax remitted

Where a builder (or the builder's agent) has remitted the B.C. transition tax collectible from, but as yet unpaid by, a purchaser, and the builder (or agent) has disclosed in writing to the purchaser the amount of the B.C. transition tax payable in respect of the sale, the builder has a right to sue the purchaser for the unpaid tax as if it were a debt owed to the builder.

This info sheet does not replace the law found in *the Excise Tax Act* (the Act) and its regulations. It is provided for your reference. As it may not completely address your particular operation, you may wish to refer to the Act or appropriate regulation, or contact any CRA GST/HST rulings office for additional information. A ruling should be requested for certainty in respect of any particular GST/HST matter. Pamphlet RC4405, *GST/HST Rulings – Experts in GST/HST Legislation* explains how to obtain a ruling and lists the GST/HST rulings offices. If you wish to make a technical enquiry on the GST/HST by telephone, please call 1-800-959-8287.

All technical publications related to GST/HST are available on the CRA Web site at www.cra.gc.ca/gsthstech.