



The GST/HST Implications of the Construction of Secondary Housing Units (Laneway Housing)

This info sheet explains:

- the GST/HST obligations and entitlements of individuals who construct, or engage another person to construct, a secondary housing unit (referred to as a laneway house) on the individual's land; and
- the rebates that may be available where an individual purchases a property from a builder where the property includes a principal housing unit and a laneway house.

Please note that the income tax implications with respect to laneway housing are not discussed in this info sheet. If you wish to obtain information about any income tax implications with respect to laneway housing, please contact the CRA's Individual Income Tax and Trust Enquiries line at 1-800-959-8281. If you wish to request an income tax ruling or technical interpretation on this topic, please refer to the CRA website at: www.cra-arc.gc.ca/tx/txprfssnls/srvcs/menu-eng.html.

The meanings of terms used in this info sheet, such as residential complex, builder, relative and self-supply, are discussed in Guide RC4052, *GST/HST Information for the Home Construction Industry*.

What is a laneway house?

The term "laneway house" used throughout this info sheet refers to a single unit residential complex¹ that is a separate, detached housing unit that is constructed on the same parcel of land as another residential complex, i.e. the principal housing unit. A laneway house is generally smaller than the principal housing unit and includes land that is reasonably necessary for

its use and enjoyment as a place of residence, e.g., a parking space. A laneway house does not include an addition to an existing house or a suite in the basement or over the garage of an existing house.

This info sheet does not address the situation where an individual owns a principal housing unit on one parcel of land and another housing unit on another parcel of land (i.e., under separate title).

Laneway housing and the GST/HST

If a particular individual constructs a laneway house (or engages another person to construct a laneway house) on the individual's land, and the individual subsequently supplies the house by way of lease, licence or similar arrangement (lease) for use by another individual as a place of residence, the particular individual will generally be a builder of the laneway house for GST/HST purposes.

Conversely, an individual who purchases a property from a builder that includes a principal housing unit and a laneway house, both of which are newly constructed, would generally not be a builder of the laneway house, e.g., where the individual leases the laneway house to another individual as a place of residence.

An individual who is a builder of a laneway house

Where

- a particular individual is a builder of a laneway house,
- the construction of the house is substantially completed, and

¹ A single unit residential complex is a residential complex with only one residential unit, but does not include a residential condominium unit.

- the builder gives possession or use of the house under a lease for the purpose of occupancy by an individual as a place of residence,

the builder is generally considered to have sold and repurchased (i.e., self-supplied) the residential complex (i.e., the laneway house) at its fair market value. (The residential complex consists of the building, appurtenances thereto and the land immediately surrounding the laneway house that is reasonably necessary for the use and enjoyment of the house as a place of residence).

The sale is considered to occur at the later of the time the construction of the laneway house is substantially completed and the time possession or use of the house is given to an individual under the lease. The particular individual (i.e., the builder) is also considered to have collected the GST/HST on the sale, and paid the GST/HST on the repurchase, of the laneway house. The GST/HST considered to have been collected is equal to the GST/HST on the fair market value of the laneway house at the time of the sale. Additional information concerning the sale and repurchase that is considered to occur in these circumstances is available in Guide RC4052, *GST/HST Information for the Home Construction Industry*.

If an individual is a builder and, under the circumstances described above, is considered to have sold a laneway house and collected the GST/HST, the individual must account for the GST/HST that is considered to have been collected on that sale by reporting it on a GST/HST return (self-assessing). This is the case whether or not the individual is a GST/HST registrant. See the section below, “Non-registrant reporting the GST/HST and claiming rebates” for information on a non-registrant filing a GST/HST return.

Example 1

In April 2014, Lisa hires ABC Company to build a laneway house for the purpose of renting the house to a non-relative as their place of residence.

Lisa enters into a lease agreement with a tenant, Mr. Smith, for a period of one year. He is not a relative or former spouse or common-law partner of Lisa. Construction of the laneway house is completed in July 2014, and Mr. Smith takes possession of the house under the lease on August 1, 2014.

Lisa is considered to be a builder of the laneway house. She must self-assess the GST/HST that she is considered to have collected. The GST/HST is based on the fair market value of the residential complex (the laneway house, appurtenances thereto, and the land immediately surrounding the laneway house that is reasonably necessary for its use and enjoyment as a place of residence) when Mr. Smith takes possession of the house on August 1, 2014.

Lisa is not registered for GST/HST purposes. She must report the tax on a GST/HST return for the reporting period in which she is considered to have sold the laneway house. As a non-registrant, Lisa’s reporting period is the calendar month and she is considered to have sold the laneway house on August 1, 2014.

Exception to the requirement to account for GST/HST when a laneway house is leased as a place of residence to a relative²

The sale and repurchase of a laneway house, and the collection and payment of tax, is not considered to occur if, after the construction of the laneway house is substantially completed:

- the laneway house is used primarily (more than 50%) as a place of residence of the individual, a relative, or a former spouse or common-law partner of the individual;
- the laneway house is not used primarily for any other purpose after construction of the house is substantially completed and the time the house is so occupied by the individual, relative or former spouse or common-law partner; and
- the individual (builder) did not claim any input tax credits (ITCs) in respect of the construction of the laneway house.

Example 2

In August 2014, Brian constructs a laneway house for his elderly parents to use as their place of residence. Construction of the laneway house is completed, and Brian’s parents take possession of the house under a lease, in December 2014 and occupy it as their place

² For purposes of this info sheet, “relative” may be more narrowly defined than the common understanding of the term. See Guide RC4052, *GST/HST Information for the Home Construction Industry*, for a discussion of “relative”.

of residence. Brian has not claimed any ITCs in respect of the GST/HST he has paid on the costs of construction of the house and he has not used the house primarily for any other purpose between the time construction of the house is substantially completed and the time his parents occupy it as their place of residence.

Brian is not considered to have sold and repurchased the laneway house, or to have collected or paid tax, when his parents occupy the house. This is because the exception to the requirement to account for the GST/HST applies.

Example 3

Monique purchases a property from a builder that includes a newly constructed principal housing unit and laneway house. She uses the principal housing unit as her primary place of residence and leases the laneway house to another individual as a place of residence.

Monique is not a builder of the laneway house. As such, she is not considered to have sold and repurchased the house, or to have collected tax, when she leases the house to an individual as a place of residence.

Recovering the GST/HST paid on construction inputs where the individual is considered to have sold and repurchased the laneway house

If an individual is a builder of a laneway house and is required to self-assess the tax payable in respect of the house, provided the individual is not a GST/HST registrant, the individual may be eligible to claim a rebate for the GST/HST paid or payable on the construction of the laneway house (i.e., improvements to the property), and on the land that forms part of the laneway house. Guide RC4033, *General Application for GST/HST Rebates*, provides information and instructions for claiming this rebate, i.e., non-registrant's rebate. The rebate itself is claimed on Form GST189, *General Application for rebate of GST/HST*, using reason Code 7. For a complete discussion of this rebate, refer to GST/HST Memorandum 19.3.6, *Rebate on Non-Registrant's Sale of Real Property*.

The individual cannot claim a non-registrant's rebate in respect of expenses that are incurred after the sale of the laneway house is considered to have occurred.

Where a laneway house is constructed by an individual and there is no requirement to self-assess the tax (because of the exception to the requirement to account for GST/HST), the individual is not eligible to claim a non-registrant rebate for the GST/HST paid on the construction of the house. Similarly, an individual who purchases a property that includes a laneway house that is leased by the individual to another individual as a place of residence is not eligible to claim a non-registrant rebate for the GST/HST paid on the purchase of the house. Such individuals may, nonetheless, be eligible for a GST/HST new housing rebate or GST/HST new residential rental property rebate as discussed below.

Example 4

Returning to Example 1, Lisa has paid a total of \$19,000 in GST/HST to ABC Company to build the laneway house, which constitutes an improvement to Lisa's property. Recall that Mr. Smith, who is not a relative or a former spouse or common-law partner of Lisa, is renting the laneway house from Lisa as a place of residence.

As Lisa is a non-registrant for GST/HST purposes, she may be eligible to claim a rebate of \$19,000 for the GST/HST she has paid on the construction of the laneway house. If Lisa paid the GST/HST on the lot that includes the laneway house, she may also include the portion of the GST/HST paid on the lot that can reasonably be attributed to the land that now forms part of the laneway house. The amounts can be reported on Form GST189 and included with the return on which Lisa must self-assess the GST/HST considered to have been collected on the sale of the house.

When Mr. Smith occupies the laneway house, Lisa will be supplying exempt residential accommodations. She is not eligible to claim a rebate for any of the GST/HST paid on improvements or ongoing expenses after the time the sale is considered to have occurred, e.g., expenses associated with the ongoing rental of the laneway house.

Lisa may also be eligible for a GST/HST new residential rental property rebate as discussed below.

Example 5

Returning to Example 2, Brian has paid a total of \$8,000 in GST/HST on the costs incurred to construct the laneway house. Brian is not able to claim a non-registrant's rebate in respect of any of the GST/HST that he paid on the construction costs as he is not considered to have sold and repurchased the house (the exception to the requirement to account for GST/HST applies). Brian may be eligible for a GST/HST new housing rebate as discussed in the section below.

An individual who is registered for the GST/HST is not eligible to claim ITCs on the construction of a laneway house where the entire parcel of land is used primarily for the personal use and enjoyment of the individual or a related individual.

GST/HST new housing rebate

A particular individual who constructs, or engages another person to construct, a laneway house may be eligible for a GST/HST new housing rebate if the laneway house is occupied as the primary place of residence of the particular individual or a relative of the particular individual. Under this rebate (owner-built rebate), an individual is able to recover some of the GST or federal part of the HST that is paid on the construction of the laneway house and, if applicable, on the land that forms part of the house.

A particular individual who purchases a newly constructed laneway house from a builder may be eligible for a GST/HST new housing rebate if the house is used as the primary place of residence of the particular individual or a relative of the particular individual. Under this rebate (rebate for house purchased from a builder), an individual is able to recover some of the GST or federal part of the HST that is paid on, and can reasonably be attributed to, the purchase of the laneway house from the builder. An individual may also be eligible for a GST/HST new housing rebate in respect of the principal housing unit.

Information on both types of GST/HST new housing rebates, and a complete list of the eligibility criteria for each, is available in Guide RC4028, *GST/HST New Housing Rebate*. Note that the maximum thresholds for the rebates, as discussed in the guide, will be applied separately to each housing unit.

Example 6

Returning again to Example 2, Brian constructed a laneway house to be used by his elderly parents as their primary place of residence. Brian may be eligible to claim the GST/HST new housing rebate for an owner-built home, provided he meets all the eligibility requirements for this rebate.

Example 7

Returning to Example 3, Monique has purchased a property from a builder that includes a newly constructed principal housing unit and laneway house. Monique may be eligible for a GST/HST new housing rebate with respect to the laneway house if it is used as the primary place of residence of a relative of Monique. If Monique leases the laneway house to a non-relative, she may be eligible for a GST/HST new residential rental property rebate as discussed below. Monique may also be eligible for a GST/HST new housing rebate with respect to the principal house she occupies as her primary place of residence. These rebates are available, provided she meets all the eligibility requirements for each rebate.

GST/HST new residential rental property rebate

A GST/HST new residential rental property rebate may be available to the builder of a laneway house where the builder is required to self-assess the tax in respect of the house. Under this rebate (builder/landlord), a builder is able to recover some of the GST or the federal part of the HST that the builder is required to self-assess when the builder is considered to have sold and repurchased the laneway house.

A GST/HST new residential rental property rebate may also be available to a particular individual who purchases a newly constructed laneway house from a builder where the house is leased by the particular individual to another individual as a place of residence. Under this rebate (purchaser/landlord), the particular individual may be able to recover some of the GST or federal part of the HST paid to the builder to the extent that the amount can reasonably be attributed to tax paid on the purchase of the laneway house.

Information on both types of GST/HST new residential rental property rebates, and a complete list of the eligibility criteria for each, is available in Guide RC4231, *GST/HST New Residential Rental Property Rebate*.

Example 8

Returning again to Example 1, Lisa is leasing her laneway house to Mr. Smith. Since Lisa is a builder that is considered to have sold and repurchased the house, and must self-assess the GST/HST on the sale, she may be eligible to claim a GST/HST new residential rental property rebate, as a builder/landlord, to recover some of the GST or federal part of the HST that she must self-assess on the sale of the house.

Example 9

Returning again to Example 3, if Monique leases her laneway house to a non-relative as their place of residence, she may be eligible to claim a GST/HST new residential rental property rebate, as a purchaser/landlord, to recover some of the GST or federal part of the HST she paid on the purchase of the laneway house (i.e., the tax paid on the purchase of the property that can reasonably be attributed to the laneway house), provided she meets all the eligibility requirements for this rebate.

The appendix to this info sheet provides a summary of the foregoing scenarios with respect to the requirement to self-assess the GST, the eligibility for a rebate of the GST/HST paid on construction costs, and the eligibility for a GST/HST new housing rebate or a GST/HST new residential rental property rebate. Note that a person cannot claim both a GST/HST new housing rebate and a GST/HST new residential rental property rebate in respect of the same laneway house.

Fair market value of laneway housing

One condition that must be met in order for an individual to be eligible for a GST/HST new housing rebate in the case of owner-built housing is that the fair market value of the laneway house (the building, appurtenances thereto, and the land immediately surrounding the house that is reasonably necessary for the use and enjoyment of the laneway house as a place of residence) must be less than \$450,000 at the time of substantial completion of the construction of the house.

Such land would not include the principal housing unit that is situated on the land prior to the construction of the laneway house, but could include land that, prior to the construction of the laneway house, was land that was considered reasonably necessary for the use and enjoyment of the principal housing unit as a place of residence and is now considered to be reasonably necessary for the use and enjoyment of the laneway house.

Example 10

Returning again to Example 2, it is determined that 800 square feet of the 5,000 square foot lot on which his principal housing unit is located is reasonably necessary for the use and enjoyment of the laneway house as a place of residence. Brian will have to take the value of the land that forms part of the laneway house (the 800 square feet) into account when establishing the fair market value of the laneway house.

Similarly, in order for an individual to be eligible for a GST/HST new housing rebate in respect of a laneway house purchased from a builder, the consideration attributable to the laneway house must be less than \$450,000.

Example 11

Returning to Example 3, suppose the consideration for Monique's purchase of the property, which includes the principal housing unit and the laneway house, is \$1.4 million. The consideration that is reasonably attributable to the principal housing unit is \$900,000, while the consideration reasonably attributable to the laneway house is \$500,000. As the amount attributable to each house exceeds the \$450,000 threshold, there is no GST/HST new housing rebate eligibility with respect to either house.

One condition that must be met in order for an individual to be eligible for a GST/HST new residential rental property rebate is that the fair market value of the laneway house at the time tax becomes payable in respect of the sale of the house that is considered to occur, or the time tax becomes payable on the purchase of the laneway house, as the case may be, is less than \$450,000. In either case, the determination of the fair market value of the laneway house (the building, appurtenances thereto, and the land immediately surrounding the house that is reasonably necessary for the use and enjoyment of the

laneway house as a place of residence) must be made on a fair and reasonable basis.

Provincial new housing rebates and new residential rental property rebates

In addition to the GST/HST new housing rebate and the GST/HST new residential rental property rebate, an individual may be eligible for a provincial rebate in respect of a portion of the provincial part of the HST paid on laneway housing. For more information, see the following guides: RC4028, *GST/HST New Housing Rebate*, and RC4231, *GST/HST New Residential Rental Property Rebate*.

Non-registrant reporting the GST/HST and claiming rebates

Where a non-registrant individual is required to self-assess the tax considered to have been collected in respect of a laneway house, the individual will report the amount on Form GST62, *Goods and*

Services Tax/Harmonized Sales Tax (GST/HST) Return (Non-Personalized). Note that Form GST62 is only available in pre-printed format and is not available for download on the CRA website; however, it can be ordered online at www.cra-arc.gc.ca/orderforms, or by calling 1-800-959-5525.

If the individual is entitled to a non-registrant's rebate or a GST/HST new residential rental property rebate (including a provincial rebate), they may include the amount of the rebate(s) on line 111 of Form GST62 and remit the difference between the tax collectible and the amount of the rebate(s). No remittance is required if the rebate(s) to which the individual is entitled exceeds the amount of tax collectible. The return and the rebate form(s) must be filed together if the individual wants to reduce their remittance amount by the amount of the rebate(s).

Form GST62, along with any amount required to be remitted, must be filed within one month after the end of the month in which the sale is considered to have occurred.

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 centre 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 centres. If you wish to make a technical enquiry on the GST/HST by telephone, please call 1-800-959-8287.

Reference in this publication is made to supplies that are subject to the GST or the HST. The HST applies in the participating provinces at the following rates: 13% in Ontario, New Brunswick and Newfoundland and Labrador, 14% in Prince Edward Island and 15% in Nova Scotia. The GST applies in the rest of Canada at the rate of 5%. If you are uncertain as to whether a supply is made in a participating province, you may refer to GST/HST Technical Information Bulletin B-103, *Harmonized Sales Tax – Place of Supply Rules for Determining Whether a Supply is made in a Province*.

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

If you are located in Quebec and wish to make a technical enquiry or request a ruling related to the GST/HST, please contact Revenu Québec at 1-800-567-4692. You may also visit the Revenu Québec website at www.revenuquebec.ca to obtain general information.

Appendix

1. A particular individual constructs, or engages another person to construct, a laneway house on the individual's land and subsequently supplies the laneway house by way of lease, licence, or similar arrangement for use by another individual, who is not a relative or former spouse or common-law partner of the particular individual, as a place of residence. In these circumstances,

- the particular individual is a builder of the laneway house;
- as a builder, the particular individual is considered to have sold and repurchased the laneway house, and to have collected and paid tax, on its fair market value at the later of the time construction of the house is substantially completed and the time the particular individual gives possession or use of the house to the other individual as a place of residence;
- the particular individual must self-assess the GST/HST on the sale by reporting it on a GST/HST return, whether or not the particular individual is a GST/HST registrant;
- a particular individual who is a non-registrant may be eligible to claim a non-registrant rebate to recover the GST/HST paid on the construction; and
- the particular individual may be eligible for a GST/HST new residential rental property rebate in respect of a portion of the GST/HST that they must self-assess on the laneway house.

2. An individual constructs, or engages another person to construct, a laneway house on the individual's land and subsequently supplies the laneway house by way of lease, licence, or similar arrangement for use by a relative or former spouse or common-law partner as a place of residence. In these circumstances,

- the requirement to self-assess the GST/HST does not apply;
- the individual is not entitled to a non-registrant rebate for the GST/HST paid on construction costs; and
- the individual may be eligible for a GST/HST new housing rebate for the laneway house.

3. A particular individual purchases a property from a builder that includes a principal housing unit and a laneway house, both of which are newly constructed, on the same parcel of land. In these circumstances,

- the particular individual is not a builder of either housing unit;
- the particular individual may be eligible for a GST/HST new housing rebate for the principal housing unit if it is used as the primary place of residence of the particular individual or a relative;
- the particular individual may be eligible for a GST/HST new housing rebate for the laneway house if the laneway house is used as the primary place of residence of the particular individual or a relative of the particular individual; and
- the particular individual may be eligible for a GST/HST new residential rental property rebate for the laneway house if the laneway house will be used as a place of residence of another individual who is not a relative or former spouse of common-law partner of the particular individual.