



Municipal Designation of Organizations Providing Rent-Geared-to-Income Housing

This info sheet discusses the eligibility criteria for municipal designation of certain organizations in respect of their supplies of rent-geared-to-income (RGI) housing. This info sheet also outlines the documentation to be submitted in support of an organization's request to be designated.

For purposes of this info sheet, "RGI housing" means housing for individuals (referred to in this info sheet as tenants) whose eligibility for occupancy of the housing unit or for reduced lease payments depends on a means or income test.

Background

An organization can request to be designated as a municipality in respect of its supplies of RGI housing. The Canada Revenue Agency (CRA), on behalf of the Minister of National Revenue, may designate the organization to be a municipality in respect of activities specified in the designation that involve the making of exempt supplies of long-term residential accommodation to tenants. The organization must provide this accommodation on a RGI basis within a program to provide housing to low to moderate-income households. The organization must also receive funding from a government or municipality to assist it in providing this accommodation.

An organization will not qualify for designation as a municipality if it provides accommodation in conjunction with care, assistance, or other support services. This may include organizations operating assisted living centres, care homes, shelters for homeless individuals and transition homes.

Once designated as a municipality, the organization is able to claim the municipal public service body rebate (PSB rebate) for GST/HST paid or payable on its purchases or on expenses incurred to provide the RGI housing. This rebate is available only to the extent that the property or services acquired are intended for consumption, use or supply in the course of the activities for which the organization has been designated.

The organization that provides the accommodation is the person that may apply to be designated as a municipality for purposes of the municipal rebate. More specifically, it is the legal entity that provides the RGI housing that should apply to be designated, not the individual housing project. Accordingly, once an organization has been designated as a municipality, it does not need to reapply for designation if it builds or acquires additional housing projects where RGI housing is provided.

Designation criteria

An organization can be designated as a municipality if it meets all of the four eligibility criteria listed below:

1. the organization is a charity, a cooperative housing corporation, a non-profit organization or a public institution;
2. the organization supplies long-term residential accommodation within a program to provide housing to low to moderate-income households;
3. more than 10% of the housing units in a particular housing project are provided on a RGI basis; and

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4. the organization receives funding from a government or municipality to assist it in providing the accommodation within a program to provide housing to low to moderate-income households.

Further information and guidance on these criteria are provided below.

Eligibility criterion 1 – Eligible organizations

Supporting documentation required: *certified copies of the applicant's incorporating documents or other governing documents*

To qualify for municipal designation, an organization must be a charity, a cooperative housing corporation, a non-profit organization or a public institution.

“Charity” means a registered charity or a registered Canadian amateur athletic association within the meaning of the *Income Tax Act*. For GST/HST purposes, a charity does not include a public institution.

“Cooperative housing corporation” means a corporation that was incorporated, by or under a law of Canada or a province providing for the establishment of the corporation or respecting the establishment of cooperative corporations, for the purpose of making supplies by way of lease, licence or similar arrangement of residential units to its members for the purpose of their occupancy as places of residence for individuals where

- (a) the statute by or under which it was incorporated, its charter, articles of association or by-laws or its contracts with its members require that the activities of the corporation be engaged in at or near cost after providing for reasonable reserves and hold forth the prospect that surplus funds arising from those activities will be distributed among its members in proportion to patronage,
- (b) none of its members (except other cooperative corporations) have more than one vote in the conduct of the affairs of the corporation, and
- (c) at least 90% of its members are individuals or other cooperative corporations and at least 90% of its shares are held by such persons.

“Non-profit organization” (NPO) means a person (other than an individual, estate, trust, charity, public institution, municipality, or government) that meets the following conditions:

- it was organized and is operated solely for a purpose other than profit;
- it does not distribute or make available any of its income for the personal benefit of any proprietor, member or shareholder, unless they are a club, a society or an association that has, as its primary purpose and function, the promotion of amateur athletics in Canada.

In order to be designated as a municipality and therefore, be eligible to claim a municipal PSB rebate in respect of its supplies of RGI housing, a non-profit organization does not need to be a “qualifying non-profit organization; i.e., its percentage of government funding does not have to be at least 40% of its total revenues in order to be eligible for the municipal rebate.

“Public institution” means a registered charity for income tax purposes that is also a school authority, a public college, a university, a hospital authority, or a local authority determined to be a municipality.

Eligibility criterion 2 – Long-term residential accommodation

Supporting documentation required: *copy of a dated and signed financial and/or operating agreement that demonstrates that the applicant is providing long-term residential accommodation within a program to provide housing to low to moderate-income households*

To be designated as a municipality, an organization must supply long-term residential accommodation within a program to provide housing to low to moderate-income households.

The organization that applies for municipal designation must be the person that provides the RGI accommodation. The organization must have an interest in the real property that allows it to act as landlord to the individual tenants. Generally, the CRA would expect the organization to either own the housing project or lease the housing project from the owner and sub-lease housing units to the tenants.

The CRA considers the supply of long-term residential accommodation to mean the rental of self-contained housing units for periods of one month or more. A self-contained housing unit is considered to be private living quarters which include cooking facilities and a bathroom.

Example 1

A non-profit organization owns and operates 30 units of rental housing. Each unit includes a kitchen and bathroom and is provided for periods of one month or more. It rents 20 of these units at market rents. The non-profit organization as landlord leases the remaining 10 units to a charity that pays the non-profit organization monthly rent for these units. The charity subleases the 10 units to individuals and families on a RGI basis for periods of 12 months.

The non-profit organization is not the person that provides the long-term accommodation on a RGI basis and therefore, is not eligible for municipal designation.

As the charity is the person that supplies the accommodation to the tenants on a RGI basis, it is providing eligible accommodation for the purpose of municipal designation and therefore meets this eligibility criterion.

A supply of accommodation is not considered to be eligible accommodation if it includes, or must be supplied with other elements such as meals, health care services, personal care services, laundry services, or housecleaning as such supplies are considered to be provided in a program that is broader than a program to provide housing to low to moderate-income households. This would be the case whether the other elements are supplied directly by the housing provider or by a third party.

Example 2

A non-profit organization owns and operates a rental apartment building for seniors. All of the building's units are provided on a RGI basis for periods of one month or more and contain full cooking facilities and a bathroom. Tenants may purchase housecleaning services or on-site meals from the non-profit organization, but this is optional and the housecleaning and meal fees are not included in the rent. There is no requirement in the lease or in any other agreement for tenants to purchase either housecleaning or meals from the landlord. In this situation, the non-profit organization is providing eligible accommodation for the purpose of municipal designation and therefore meets this eligibility criterion.

Example 3

A charity has constructed and operates an assisted living facility. The facility contains studio and one-bedroom apartments equipped

with a bathroom and cooking facilities. These apartments are leased for periods of 12 months at a time.

The charity has entered into a funding agreement with a provincial housing commission in connection with the facility under a provincial program to provide a middle option between home care and residential care. The common goal of both parties is to provide reliable and affordable non-market housing and a range of other services to low and moderate-income persons who are seniors or persons with a disability.

The charity has also entered into an assisted living agreement with a local health authority, under which the charity will provide residents of the facility with hospitality and other services described in the agreement in addition to the accommodation. The hospitality services include daily meals and snacks, weekly cleaning of residents' rooms and weekly linen service of residents' towels and bed linens. Other services include assistance with the activities of daily living such as bathing and dressing as well as monitoring and distributing residents' medication.

The nature of the facility, the level of dependency of the residents and the range of non-optional services provided by the charity are considered to be part of a program that is broader than a program to provide housing to low to moderate-income households. Accordingly, the charity is not providing eligible accommodation for the purpose of municipal designation and does not meet this eligibility criterion.

Example 4

A non-profit organization has entered into an agreement with a provincial government as part of a government program to assist persons who are homeless or at risk of becoming homeless. Under the agreement, the non-profit organization will own and operate a transitional housing project for individuals in recovery from addictions. Each resident has his or her own bedroom and shares a bathroom with two other residents. Food is purchased by the organization for meals to be prepared on-site by residents and staff in a communal kitchen and consumed in a communal dining room. Residents may leave the premises at any time but prior arrangements have to be made with the overnight staff to access the building during evening hours.

Staff works with residents to develop individualized support programs that may include referral to community support organizations. Residents are provided with addiction counselling, life-skills training and employment and education programs.

The nature of the facility, the level of supervision and the range of services provided by the non-profit organization are considered to be part of a program that is broader than a program to provide housing to low to moderate-income households. Accordingly, the non-profit organization is not providing eligible accommodation for the purpose of municipal designation and therefore does not meet this eligibility criterion.

In some situations, the supply of accommodation is made by one organization and the supply of non-optional services related to the accommodation is made by another organization. Where there is a link between the supplies made by these organizations – for instance, tenants are eligible for housing only if they are also eligible for the specific services offered in conjunction with the housing – then the activities of the organization providing the accommodation take place in a program that is broader than a program to provide housing to low to moderate-income households. Therefore, the organization providing the accommodation is not providing eligible accommodation for the purpose of municipal designation.

Example 5

A non-profit organization owns and operates a rental apartment building and all of the building's units are self-contained (i.e., contains a bathroom and cooking facilities) and provided on a RGI basis for periods of one month or more. The units are occupied by individuals who have chronic health issues. The non-profit organization signs an agreement with a charity whereby it is agreed that in order to be eligible for residency in the building, the individuals must receive health care services and personal care services from the charity. All of the building's units are subject to this agreement.

Even though the non-profit organization is making a supply of accommodation, the range of non-optional services provided to residents is outside the scope of independent living and qualifying activities contemplated by the municipal designation process, even if the services are provided by a third party. The degree of interconnectedness between the accommodation provided by the non-profit organization and the services provided by the charity to the residents indicates that the program within which the housing activities take place is broader than a program to provide housing to low to moderate-income households. Accordingly, the non-profit organization is not providing eligible accommodation for the purpose of municipal designation and does not meet this eligibility criterion.

Eligibility criterion 3 – More than 10% of the housing units in a particular housing project must be provided on a RGI basis

Supporting documentation required: documents indicating the number of RGI units for which the applicant receives funding from a government or municipality relative to the total number of units in the project for the current year such as: annual reports or returns filed with the funding body, written policies, guidelines and operating manuals that apply to the eligibility of tenants for housing in the project

The organization must demonstrate that rent for the RGI units is calculated in relation to the tenant household's income and/or that there is an income-

based test for occupancy in a RGI unit. More than 10% of the housing units in a particular housing project must be provided on a RGI basis for the organization to be designated.

If an organization that is designated as a municipality in respect of its supplies of RGI housing provides 10% or less of the housing units in a particular project on a RGI basis, the organization is not eligible to claim a municipal rebate in respect of any of the units of the particular project, including those provided on a RGI basis.

Example 6

A non-profit organization owns and operates two rental apartment buildings. All of the buildings' units include a kitchen and bathroom and are leased for periods of one month or more. Currently, 40% of the units in the first building and 60% of the units in the second building are provided on a RGI basis, while the remaining units are at market rents. Rent calculations for RGI units are based on 30% of the total gross household income (before deductions), excluding utility charges, with occupancy restricted to persons at or under a maximum household income threshold. As more than 10% of the units in each of the housing projects are provided on a RGI basis, the non-profit organization meets this eligibility criterion for each housing project.

Example 7

A cooperative housing corporation owns and operates a 50-unit rental apartment complex. Each apartment contains a full kitchen and a bathroom and is leased on a long-term basis. Twenty of the apartments are provided on a RGI basis with the remainder provided at market rents. In 2005, the cooperative entered into an agreement with a provincial entity that provides funding for RGI housing. Under the agreement, at least 15% of the apartments must be provided on a RGI basis, with occupancy restricted to persons at or under a maximum annual household income threshold and with monthly rent calculated according to a rent scale that is included in the operating agreement. As more than 10% of the apartments in the complex are provided on a RGI basis, the cooperative meets this eligibility criterion.

Example 8

A charity and a provincial government entered into an affordable housing program agreement. Under the agreement, the province provided a conditional capital grant to the charity, to be used for the construction of 60 studio and one-bedroom rental apartments. The charity will own and operate the housing project. The units are designed for independent living and contain full kitchens and private bathrooms. Units are leased for periods of one month or more. Residency of these units is restricted to households with total annual incomes below a maximum threshold established by the federal and provincial governments. As more than 10% of the units in the housing project are provided on a RGI basis, the charity meets this eligibility criterion.

Example 9

A non-profit organization owns and operates a rental apartment building. Each of the building's units contains a full kitchen and a bathroom and is leased on a long-term basis. Currently, 5% of the building's units are provided on a RGI basis, while the remaining units are at market rents. Rent calculations for RGI units are based on 30% of the total gross household income (before deductions), excluding utility charges. The non-profit organization does not meet this eligibility criterion as it provides only 5% of the building's units on a RGI basis.

Example 10

A charity owns and operates a rental apartment building. Each of the building's units contains a kitchen and a bathroom and is leased on a long-term basis. In 1995, the charity entered into a 25-year agreement with a provincial government department that provides funding for RGI housing. Under the agreement, at least 15% of the units must be provided on a RGI basis, with occupancy restricted to persons at or under a maximum annual household income threshold and with monthly rent calculated according to a rent scale that is included in the operating agreement. The charity requested municipal designation in 1995 and as it met all of the eligibility criteria, was designated as a municipality.

In 2009 and 2010, the charity failed to meet the 15% target and only provided 8% of the units on a RGI basis. Even though the charity is designated as a municipality, because it provided 10% or less of the housing units on a RGI basis in 2009 and 2010, the organization is not eligible to claim a municipal rebate in respect of any of the units, including those provided on a RGI basis, for these two years.

Eligibility criterion 4 – Government or municipal funding

Supporting documentation required: *signed and dated copies of funding agreements with a government or municipality in respect of the organization's supplies of RGI housing, including all schedules and appendices.*

In order to be designated as a municipality, an organization must receive government funding to subsidize the provision of RGI housing to individual tenants. Government funding may be provided by a municipality, by a province or territory, or by the federal government. Acceptable types of funding include on-going subsidies that make up the difference between the organization's costs to operate the housing units and the RGI paid by the tenants to the organization, and capital funding.

The funding received must be linked to the organization's provision of RGI housing within a program to provide housing to low to moderate-income households. An example of capital funding would be where an organization is required to provide RGI housing for twelve years pursuant to the funding agreement. If the organization does not respect this condition, it will be required to repay the capital funding to the funding organization. Such funding would be considered to be linked to the provision of RGI housing.

If an ongoing government subsidy in respect of the provision of RGI housing ceases, the housing provider no longer meets the government funding criterion. For example, this may be the case where the term of an operating agreement expires and is not renewed, or where the funding ceases because the housing provider no longer meets the necessary terms and conditions for funding.

Where an organization receives capital funding, it will cease to meet the government funding criterion when the requirement to provide funded RGI housing ceases. For example, an organization receives capital funding and is required to provide RGI housing for 15 years. After the 15 years, the organization will no longer meet the criterion to be designated as the housing will not be considered to be funded by a government or a municipality.

Example 11

A non-profit organization owns and operates two rental apartment buildings. Each of the buildings' units contains a full kitchen and a bathroom and is leased on a long-term basis. In 2002, the non-profit organization entered into a funding agreement with the local municipality in respect of the apartment buildings. Each year the municipality provides the non-profit organization with its approved budget calculations and subsidy payment schedule in respect of the RGI units. Currently, 40% of the units in one building and 60% of the units in the other building are provided on a RGI basis, while the remaining units are at market rents. The non-profit organization meets the government funding eligibility criterion.

Example 12

A housing cooperative owns and operates a 50-unit rental apartment complex. Each apartment is self-contained (i.e., contains a full kitchen and a bathroom) and is leased on a long-term basis. In 2005, the cooperative entered into an agreement with a provincial housing corporation in respect of the provision of RGI units at the complex. The cooperative receives a monthly subsidy from the provincial housing corporation calculated as the difference between the cooperative's actual cost of operating the RGI units and what it receives in rent from the tenants of those units in accordance with an approved rent scale included in the agreement. The housing cooperative meets the government funding eligibility criterion.

Example 13

Due to a shortage of subsidized rental housing, a province has instituted a program under which it pays a supplement directly to low-income individuals so that they can more easily afford rental housing. The rental housing has to be self-contained (i.e., with kitchen and bathroom) and the lease has to be for periods of 12 months. Funding provided under such a program is not considered to be government funding to the housing provider for purposes of the municipal designation process (rather it is assistance paid to qualifying individuals). Therefore, the housing provider does not meet the government funding eligibility criterion.

Example 14

A housing cooperative owns and operates a 100-unit apartment building. Each of the building's units is self-contained (i.e., contains a full kitchen and a bathroom) and is leased on a long-term basis. The housing cooperative subsidizes a limited number of members who cannot afford to pay the full rent on their units. The subsidy is generated by the cooperative's overall rental income. Such an internal subsidy does not constitute government funding and the housing cooperative does not qualify for municipal designation in respect of the subsidized units as it does not meet the government funding eligibility criterion for the municipal designation.

Example 15

A charity receives capital funding from the province to allow it to build and operate a 100-unit apartment building. Each of the building's units is self-contained (i.e., contains a full kitchen and a bathroom) and is leased on a long-term basis. The capital funding agreement provides that units have to be provided on a RGI basis for the first 20 years. If this condition is not met, the charity may be required to reimburse some or all of the capital funding. The charity meets the government funding eligibility criterion for municipal designation for the first 20 years if it provides RGI housing to its tenants. Once the term expires, after 20 years, the charity will no longer meet this eligibility criterion unless it receives some other type of eligible funding.

Supporting documentation

An applicant must demonstrate that it meets the eligibility criteria for municipal designation in connection with at least one of its housing projects. The applicant must provide sufficient documentation to demonstrate how it meets these eligibility criteria in respect to this housing project, but it does not need to provide documentation that it meets these requirements for each of its housing projects.

As noted earlier, these documents include:

- A copy of the Letters Patent or Articles of Incorporation for the organization.
- Signed and dated copies of applicable operating or other funding agreements, including all schedules and appendices, as well as an explanation of the nature of the housing and how RGI is calculated.
- Documentation that demonstrates that the selection of eligible tenants is within a program that is geared to low to moderate-income households. If this is not evident from the operating or funding agreement, then this may be demonstrated by policies, guidelines or excerpts from operating manuals that apply to the eligibility process.
- A copy of a document such as an annual information return or another accountability document that attests to the number of RGI units for which the organization receives funding from a government or a municipality, relative to the total number of units in the project. This information is generally provided to the funding source annually. The applicant organization should provide this information for at least the latest or current year.

Effects of municipal designation

An organization that has been designated as a municipality for its supplies of RGI housing is eligible to claim the municipal PSB rebate for the GST and HST paid or payable in respect of this designated activity. The municipal designation does not apply to any other activities that the organization may be engaged in such as the supply of residential units to tenants that are not on a RGI basis or for which no government subsidy is payable or for the supply of commercial space.

Designated municipalities are eligible to claim a 100% rebate of the GST and federal part of the HST with respect to their eligible expenses. They may also be entitled to claim a rebate of the provincial part of the HST. The municipal rebate rates for eligible expenses are as follows:

Municipal PSB Rebate Rates of the GST and the HST

		Rebate Rate
GST / federal part of the HST		100%
Provincial part of the HST	Nova Scotia	57.14%
	New Brunswick	57.14%
	Newfoundland and Labrador	NIL
	Ontario	78%
	British Columbia	75%

Where an organization has already been designated as a municipality, it will be a question of fact whether its activities meet all of the eligibility criteria to qualify for the municipal rebate. For instance, an organization may qualify for the municipal rebate in respect of one of its housing projects but not another.

The *Excise Tax Act* and its Regulations contain other provisions that set out conditions that apply to the PSB rebate, including the calculation of amounts eligible for rebate and filing frequency.

If an organization that has been designated as a municipality is a charity, a public institution or a qualifying non-profit organization, it may also be eligible to claim other rebates.

Although other PSB rebates may be available in some circumstances for residential units that do not qualify for the municipal PSB rebate, special rules may apply to determine which residential units and complexes can qualify. Information on the PSB rebate and on which expenses are eligible for the rebate may be found in Guide RC4034, *GST/HST Public Service Bodies' Rebate*, and in Guide RC4049, *GST/HST Information for Municipalities*.

Application

An organization may request municipal designation by applying in writing, with supporting documents, to the following:

Director
Public Service Bodies and Governments Division
Excise and GST/HST Rulings Directorate
Canada Revenue Agency
15th Floor, Tower A, Place de Ville
320 Queen Street
Ottawa, ON K1A 0L5

An organization in Quebec may request municipal designation by applying in writing, with supporting documents, to the following:

Directeur des taxes à la consommation
Direction générale de la législation, des enquêtes
et du registraire des entreprises
Agence du revenu du Québec
3800, rue Marly, secteur 5-2-2
Québec, QC G1X 4A5

Where a third party such as a tax professional is applying on behalf of the organization, the application should include authorization from a representative of the organization for the third party to act on its behalf, unless such authorization is already on file with the CRA.

If insufficient documentation has been provided, the applicant or its authorized representative will be contacted and asked to provide additional material to support its request. If the additional material is not provided, the CRA may close the file until the material is provided. The CRA will provide its decision in writing.

There is no fee to apply for municipal designation.

Effective date of designation

Generally, a municipal designation is effective the first day of the month in which the designation is approved.

However, the CRA may, on a case-by-case basis, consider an effective date of up to four years prior to this time. If an applicant would like a retroactive effective date, it must provide the reason and ensure that its supporting documentation demonstrates that it met the requirements for designation during the prior period.

For example, if an organization's only potentially qualifying activities for designation are in respect of a newly-constructed housing project, the earliest possible effective date of designation will generally be the date shown in the applicable signed and dated *Certificate of Substantial Completion* or similar document for that housing project.

If a designated municipality receives a retroactive effective date, it may telephone or write the CRA contact person indicated in the designation letter for assistance in amending any PSB rebates it has already filed for past reporting periods. This contact person may also assist the designated municipality if it has any other questions regarding its entitlements or obligations under the GST/HST.

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.

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, 15% in Nova Scotia, and 12% in British Columbia. 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*.

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 Web site to obtain general information.

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