



Residential Care Facilities and Proposed Changes in the 2008 Budget

On February 26, 2008, the Minister of Finance presented the 2008 federal budget and tabled a Notice of Ways and Means Motion which proposes changes to the GST/HST new residential rental property rebate and the self-supply rules under section 191 of the *Excise Tax Act* (the Act). These proposed changes will have an impact on the draft policy statement, *The GST/HST Real Property Implications of Constructing, or Purchasing, and Operating a Residential Care Facility* published in September 2007 in GST/HST Notice 224. While the proposed changes generally apply prospectively, they also apply to past transactions where certain circumstances exist.

The information in this info sheet reflects some of these proposed amendments. Any commentary in this publication should not be taken as a statement by the Canada Revenue Agency (CRA) that these amendments will be enacted in their current form.

For the purposes of this info sheet, a residential care facility includes any residential facility at which an individual intends to reside for an indefinite period where the individual receives additional property and services together with a room or suite in the facility. Such additional property and services may include meals; nutritional, housekeeping, laundry, security monitoring and nursing care services; scheduled transportation, social, recreational, educational and religious services; personal supervision; personal care; and assistance with the activities of daily living (e.g., bathing, dressing, grooming, eating, ambulating).

Residential care facilities include facilities that are generically described as care homes, personal care homes, congregate housing, assisted living residences, seniors' residences, retirement residences, nursing homes and homes for the aged. However, a residential care facility does not include a facility described in paragraph (a) or (b) of the definition of "health care facility" in section 1 of Part II of Schedule V to the Act.

This info sheet explains some of the proposed amendments that affect both purchasers and builder-operators of residential care facilities. In particular, it explains the extension of the new residential rental property (NRRP) rebate to certain residential care facilities such as nursing homes.

Where the GST/HST is applicable in respect of a supply of a residential care facility, the HST applies where the facility is located in a participating province (Nova Scotia, New Brunswick or Newfoundland and Labrador) and the GST applies to facilities located in the rest of Canada. Refer to GST/HST Technical Information Bulletin B-078, *Place of Supply Rules Under the HST*, for information regarding the application of the HST.

New residential rental property rebate

Under the proposed amendments, builder-operators and purchasers of residential care facilities will be entitled to claim a NRRP rebate even if they are supplying to their residents, nursing and/or personal care services that include a residential unit, provided that all of the other conditions for claiming the rebate are met. Refer to guide RC4231, *GST/HST New Residential Rental Property Rebate*, for information on the other conditions for claiming the rebate.

Prior to the proposed amendments, purchasers and builder-operators of residential care facilities could only claim a NRRP rebate if the supply they were making was one of residential units (i.e., long-term residential rentals). For example, where a builder-operator of a nursing home is providing nursing/personal care services to its residents and the residential unit provided to the residents is merely an element included in the supply of the services, the operator was not entitled to claim the

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NRRP rebate under the existing legislative provisions.

Generally, the proposed amendments extend the availability of the NRRP rebate to purchasers or builder-operators who would have qualified for the rebate following its introduction in February 2000, but who were disqualified solely because they supply nursing and/or personal care services that include the use of a residential unit.

Purchasers of residential care facilities

The purchase of a residential care facility may be subject to the GST/HST. For example, the purchase of a newly constructed residential care facility from a builder is subject to the GST/HST. A purchaser who is required to pay tax in respect of the purchase may be entitled to claim a NRRP rebate to recover a portion of the tax payable on the purchase.

Where the tax on a purchase of a residential care facility becomes payable after February 26, 2008, the purchaser may file a NRRP rebate application within two years after the end of the month during which the tax in respect of the purchase becomes payable. As indicated above, the NRRP rebate is available where all of the other conditions are met. For example, all of the tax payable in respect of a purchase must be paid before a rebate application may be filed.

Example

Co. A purchases a newly constructed nursing home on March 15, 2008, and pays GST/HST in respect of the purchase. Co. A enters into agreements with its residents to supply nursing/personal care services and each supply includes the provision of a residential unit.

Under the proposed amendments, Co. A would be entitled to claim a NRRP rebate for a portion of the GST/HST payable in respect of the purchase of the nursing home provided that all of the other conditions for claiming the NRRP rebate are met. For example, Co. A must have paid all of the tax in respect of the purchase prior to filing the rebate application. To claim the rebate, Co. A must file the rebate application within two years after March 31, 2008.

Where the tax on the purchase became payable on or before February 26, 2008, the purchaser may be entitled to file a NRRP rebate application to claim the rebate, provided that all of the tax in respect of the purchase has been paid. To be eligible to claim

the NRRP rebate, all of the other conditions for claiming the rebate must be met. In this case, the rebate application must be filed on or before February 26, 2010. The proposed amendments provide that the purchaser may file a rebate application even if a prior rebate application was filed with the CRA and denied. If the purchaser of a residential care facility filed a NRRP rebate application and only a portion of the rebate was denied solely because that portion of the rebate related to supplies of services that included the use of a residential unit, the proposed amendments provide that the purchaser may file a rebate application in respect of these residential units.

If the purchaser was entitled to claim a GST/HST transitional rebate in respect of the purchase as a result of the reduction in the GST/HST rate, the amount of the NRRP rebate will be adjusted to take into consideration the transitional rebate. Reference can be made to GST/HST Info Sheet GI-043, [*The 2008 GST/HST Rate Reduction and Purchases of New Housing*](#), for information on the transitional rebate.

Example

Co. B purchased a newly constructed nursing home on January 20, 2005, and paid GST/HST in respect of the purchase. Co. B enters into agreements with its residents to supply nursing/personal care services and each supply includes the provision of a residential unit. Co. B filed a NRRP rebate application in February 2005. An assessment was raised in respect of the rebate and no rebate amount was paid to Co. B.

Under the proposed amendments, Co. B would be entitled to claim a NRRP rebate for a portion of the GST/HST paid in respect of the purchase of the nursing home provided that all of the other conditions for claiming the NRRP rebate are met. To claim the rebate, Co. B must file a new rebate application on or before February 26, 2010.

To claim the NRRP rebate, a purchaser of a residential care facility must complete the NRRP rebate application Form GST524, [*GST/HST New Residential Rental Property Rebate Application*](#), and, where applicable, Form GST525, [*Supplement to the New Residential Rental Property Rebate Application - Multiple Units*](#), and file these forms with the CRA. The NRRP rebate application form will be revised to reflect the proposed changes. The revised rebate application will be available on the CRA Web site.

If a NRRP rebate application was previously filed with the CRA in anticipation of a positive outcome to the review undertaken by the Department of Finance and has not been assessed, the rebate application will be processed in accordance with the proposed amendments following their enactment.

Builder-operators of residential care facilities

Generally, a builder-operator of a residential care facility is required to account for tax on the fair market value of the facility in accordance with the self-supply rule under section 191 of the Act. Proposed amendments clarify that the self-supply rules also apply to builder-operators of facilities such as nursing homes, where the builder-operator is making supplies of nursing/personal care services and one or more of these supplies made by the builder-operator includes the provision of a residential unit as part of the supply of the service.

Where tax on a self-supply of a residential care facility is deemed to be paid after February 26, 2008, the builder-operator may file a NRRP rebate application within two years after the end of the month during which the tax in respect of the self-supply is deemed to be paid. As indicated above, the NRRP rebate is available where all of the other conditions are met. For example, any net tax remittable for the reporting period that includes the tax deemed paid on the self-supply must be remitted.

Example

Co. C built a nursing home. Substantial completion of the construction of the nursing home occurs on April 25, 2008. Co. C first provides a residential unit to a resident on April 30, 2008. Co. C includes an amount as tax calculated on the fair market value of the nursing home in its return for the reporting period that includes April 30, 2008.

Under the proposed amendments, Co. C would be entitled to claim a NRRP rebate for a portion of the GST/HST paid in respect of the self-supply of the nursing home provided that all of the other conditions for claiming the NRRP rebate are met. For example, Co. C must have remitted all of the net tax remittable, if any, reported in its return for the reporting period that includes April 30, 2008. The NRRP rebate application may be attached to this return and the amount of the rebate may offset all or part of the net tax remittable. In any case, the NRRP rebate application must be filed within two years after April 30, 2008.

Where the tax on a self-supply of a residential care facility was deemed to be paid on or before February 26, 2008, the builder-operator may file a NRRP rebate application to claim the rebate, provided that the tax in respect of the self-supply has been reported in the builder-operator's return as required and that any net tax remittable has been remitted. The builder-operator may file the rebate application even if a prior rebate application was filed and all or part of the rebate amount claimed in that application was denied. In this case, the rebate application must be filed on or before February 26, 2010.

Under the proposed amendments, a builder-operator of a nursing home who accounted for an amount as tax in accordance with the self-supply rules will be treated as a builder-operator who was required to do so and will be entitled to claim a NRRP rebate.

Example

Co. D built a residential care facility where three floors are operated as a seniors' residence and two floors are operated as a nursing home. Substantial completion of the construction of the facility occurred on March 20, 2006. Co. D first provided a residential unit to a resident on April 1, 2006. Co. D included an amount as tax calculated on the fair market value of the entire facility in its return for the reporting period that included April 1, 2006, and attached a NRRP rebate application. An assessment was raised in respect of the rebate and the amount of the rebate claimed in respect of the two floors that are operated as a nursing home was not paid to Co. D.

Under the proposed amendments, Co. D would be entitled to claim a NRRP rebate for a portion of the GST/HST paid in respect of the self-supply of the nursing home part of the facility, provided that all of the other conditions for claiming the NRRP rebate are met. Co. D must file a new rebate application on or before February 26, 2010.

Where a builder-operator has not accounted for tax on the self-supply of a residential care facility that occurred on or before February 26, 2008, as required under the existing self-supply rules or in accordance with the proposed rules, the builder-operator may file an election under the proposed amendments to adjust its net tax. In order to be eligible for this election, a builder-operator must not have made a supply of the facility by way of sale on or before February 26, 2008.

Generally, under the proposed election, a builder-operator will be entitled to adjust its net tax to account for input tax credits in respect of the purchase of the land and construction costs, the tax deemed paid under the self-supply rules and the NRRP rebate. To be eligible to make the election, the builder-operator must be eligible to claim the NRRP rebate. For example, a builder-operator that is a public service body (PSB) who is eligible to claim a PSB rebate in respect of the tax deemed paid on the self-supply, cannot make this election since they are not entitled to claim the NRRP rebate.

The proposed election may be made to adjust the net tax of a reporting period that ends on or before February 26, 2010. The election must be filed no later than the due date of the return for the reporting period in which the adjustment to net tax is made. A new election form will be made available on the CRA Web site. Once the election is made, it cannot be revoked. It is important to note that the calculation of the net tax adjustment is based on the fair market value of the residential care facility at the time of the self-supply.

Payment of the rebate

NRRP rebates claimed in accordance with the proposed amendments will not be paid to the claimant until the proposed amendments receive Royal Assent.

Sale of residential care facility

Where a builder-operator was not required to account for tax on a self-supply of a residential care facility under the existing rules, and has not done so, a subsequent sale of the facility by the builder-operator will generally be subject to tax.

However, a supply of a residential care facility by way of sale by a builder-operator will generally be exempt from the GST/HST if the builder-operator has accounted for tax in respect of the self-supply of the facility.

If a builder-operator makes an election in respect of a residential care facility in accordance with the proposed amendments, a subsequent sale of the facility by the builder-operator will generally be exempt.

The supply by way of sale of a residential care facility by an operator, where the operator acquired the facility by way of sale, is exempt.

Head lease

Under the existing rules, the supply by way of lease, licence or similar arrangement of a residential care facility to an operator is generally subject to tax if the operator is making supplies of nursing/personal care services where one or more of these supplies includes the provision of a residential unit.

Under the proposed amendments, the supply of the facility by way of lease, licence or similar arrangement to an operator who is making supplies of nursing/personal care services that include the provision of a residential unit is exempt where the consideration for the supply becomes due after February 26, 2008, or is paid after that day without having become due.

If the supplier of the facility treated the supply by way of lease, licence or similar arrangement as an exempt supply on or before February 26, 2008, the proposed amendments provide that the supply is exempt.

If the supplier charged tax in respect of the supply of the facility by way of lease, licence or similar arrangement on or before February 26, 2008, the supplier may be required to account for tax in respect of a change in use that will occur as a result of the proposed amendment. In determining the amount of tax payable in respect of the change in use, the proposed amendments provide that an adjustment may be made to account for the NRRP rebate or the rebate in respect of the land that would have been available.

Draft policy statement on residential care facilities

The draft policy statement that was released in September 2007 will be amended to reflect the proposed amendments included in the 2008 Budget.

Rulings

Purchasers and builder-operators of residential care facilities are encouraged to contact their local GST/HST Rulings Centre for further information regarding the proposed amendments. For greater certainty, a person may request an interpretation or ruling to address their particular circumstances.

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. These centres are listed in GST/HST Memorandum 1.2, [Canada Revenue Agency GST/HST Rulings Centres](#). If you wish to make a technical enquiry on the GST/HST by telephone, please call the toll-free number 1-800-959-8287. A ruling should be requested for certainty in respect of any particular GST/HST matter.

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 by calling the toll-free number 1-800-567-4692, or visit their Web site at www.revenu.gouv.qc.ca.

All GST/HST publications are available on the CRA Web site at www.cra-arc.gc.ca/tax/technical/gsthst-e.html.

Reference in CRA publications is made to the harmonized sales tax (HST) that applies to property and services provided in Nova Scotia, New Brunswick, and Newfoundland and Labrador (the “participating provinces”) at the rate of 13%. The goods and services tax rate is 5%.