



Elimination of the HST in British Columbia in 2013 – Transitional Rules for Real Property Including New Housing

NOTE: This notice replaces the version dated October 2012. New questions and answers have been added to this version and some have been revised to reflect regulations made under the *New Housing Transition Tax and Rebate Act* (British Columbia) and the *Excise Tax Act*. For convenience of reference, all new and revised questions and answers are identified as such.

The *Excise Tax Act* imposes the goods and services tax/harmonized sales tax (GST/HST) on most goods and services consumed in Canada. GST/HST applies in the participating provinces of Ontario, New Brunswick, and Newfoundland and Labrador at the rate of 13%, in Nova Scotia at the rate of 15%, in British Columbia at the rate of 12%, and elsewhere in Canada at the rate of 5%.

On May 31, 2012, the Province of British Columbia passed the following bills:

- Bill 54 – 2012, the *Provincial Sales Tax Act*, to re-implement the provincial sales tax (PST) in British Columbia (B.C.) alongside the GST, effective April 1, 2013. As of that date, the 12% HST for B.C., composed of a 5% federal part and a 7% provincial part (the provincial part) will no longer apply in B.C.; and
- Bill 56 – 2012, the *New Housing Transition Tax and Rebate Act*, which sets out special transitional rules that will apply to new housing transactions where at least 10% of the construction occurs before April 1, 2013, and ownership and possession of the housing transfer on or after that date.

This publication provides questions and answers that reflect the tax changes set out in the *New Housing Transition Tax and Rebate Act*. It also provides questions and answers that reflect information set out in the *Regulations Amending Various GST/HST Regulations, No. 3*, published in the *Canada Gazette* on October 12, 2012. The information in this notice is only provided for your reference and does not replace the law found in the *New Housing Transition Tax and Rebate Act* or the *Excise Tax Act* and its regulations.

Also, as this notice may not completely address your particular situation, you may wish to refer to the Acts or appropriate regulations, or contact a CRA GST/HST rulings office for more 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.

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.

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La version française de la présente publication est intitulée *Élimination de la TVH en Colombie-Britannique en 2013 – Règles transitoires visant les immeubles, y compris les habitations neuves*.



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General

1. What is meant by “new housing”?

For purposes of this document, “new house” or “new housing” refers to a residential complex that is newly constructed or substantially renovated and includes the building and land portions of the housing unless otherwise indicated.

Housing that has been substantially renovated is generally given the same treatment under the GST/HST as newly constructed housing. Extensive modifications must have been made to the housing in order to meet the definition of a “substantial renovation” for GST/HST purposes. For a full explanation of the factors to consider in deciding if a substantial renovation has taken place, refer to GST/HST Technical Information Bulletin B-092, *Substantial Renovations and the GST/HST New Housing Rebate*.

2. What qualifies as a “duplex”?

For purposes of this document, a “duplex” refers to a multiple unit residential complex containing not more than two residential units situated on a single parcel of real property.

3. What will happen to the 12% HST after March 31, 2013?

The 7% provincial part of the HST will no longer apply. The federal part of the HST, the 5% GST, will remain.

4. When is the transition to the 5% GST effective?

Generally, the transition to the 5% GST is effective April 1, 2013. Special transitional rules apply for real property as set out in this publication. For information on the transitional rules for supplies other than supplies of real property, see GST/HST Notice 270, *Elimination of the HST in British Columbia in 2013 – Questions and Answers*.

Sales of real property

5. When would the GST apply to a taxable sale of real property in B.C.? When would the HST apply to a taxable sale of real property in B.C.?

The general transitional rules would operate based on the time at which tax becomes payable in respect of the sale of the real property. The 5% GST would apply where the tax becomes payable after March 31, 2013. If the tax becomes payable before April 1, 2013, the 12% HST applies.

Generally, the GST, rather than the HST, would apply if both ownership **and** possession of the real property transfer on or after April 1, 2013. The HST, rather than the GST, will generally apply if either ownership **or** possession of the property transfers before April 1, 2013.

6. When does the GST/HST become payable on a taxable sale of real property?

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 on the earlier of:

- the day that ownership of the property is transferred to the purchaser, and
- the day that possession of the property 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.

Note that 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 tax 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.

In respect of a taxable sale of housing made under the self-supply rules, tax 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 entitled “When you finish construction” in Guide RC4052, *GST/HST Information for the Home Construction Industry*.

7. I am purchasing vacant land from a developer. In March 2013, I take possession under a written agreement of purchase and sale for the land, though title will not transfer to me until April 5, 2013. Would the GST or the HST apply to the sale?

Since, under the agreement, possession of the land transfers to you before April 2013, the HST applies to the sale.

8. I enter into a written agreement of purchase and sale in February 2013 for the taxable sale of commercial real property. Possession and ownership of the property do not transfer under the agreement until April 2013. Would the sale of the real property be subject to the GST or the HST?

As both ownership and possession of the real property transfer under the agreement after March 2013, the GST would apply to the sale, rather than the HST.

9. I am making a taxable sale of commercial real property to a corporation that is registered for GST/HST purposes. Ownership and possession of the property transfer after March 2013. Do I have to collect either the GST or the HST on the sale?

No. While the sale would be subject to the GST, since the corporation (i.e., the recipient) is registered for the GST/HST, you would not be required to collect the GST from the corporation. Rather, the corporation would include the amount of the GST payable on its purchase of the real property in its regular GST/HST return if the property were for use primarily in its commercial activities. Otherwise, the corporation would report the GST on Form GST60, *GST/HST Return for Acquisition of Real Property*.

Leases of real property¹

10. When would the GST apply to a taxable lease of commercial real property? When would the HST apply to a taxable lease of commercial real property?

The GST would apply to a lease payment that becomes due on or after April 1, 2013, unless it was paid before that date, in which case the HST applies. The 12% HST rate applies to a lease payment that becomes due before April 2013, even if it is paid on or after April 1, 2013.

11. I lease warehouse space from a GST/HST-registered person and the supply of the space is taxable for GST/HST purposes. The lease payments are due, in advance, on the first day of each month. I pay the lease payments on the same day they become due. Which monthly lease payment would be the first payment on which I would pay the GST rather than the HST?

The first lease payment that would be subject to the GST, rather than the HST, would be the lease payment that becomes due, and is paid, on April 1, 2013. The GST would also apply to all subsequent lease payments.

12. I work downtown and I rent a parking space from the operator of a parking lot that is located near my work. The operator of the parking lot is registered for GST/HST purposes and the supply of the parking space is taxable for GST/HST purposes. The parking fees for each month are due on the first day of the month. I pay the fees on the day they become due. Which monthly parking fee would be the first payment on which I would pay the GST rather than the HST?

The GST would apply to the payment you make on April 1, 2013 for the month of April and on all subsequent payments for parking.

13. I have a licence to use real property for the period of March 15, 2013 to April 15, 2013. The person supplying the licence is registered for the GST/HST and the licence is taxable for GST/HST purposes. The payment for the licence is due and paid on March 15, 2013. Would the payment be subject to the GST or the HST?

Regardless of the fact that a part of the licence period occurs after March 2013, since the payment for the licence becomes due or is paid (in this case, both) before April 2013, the HST applies to the full amount.

14. I enter into a lease agreement in February 2012 for the taxable lease of commercial real property. The term of the lease commences April 1, 2013, and requires monthly lease payments, due in advance, on the first of the month beginning April 1, 2013. I take possession of the property under the lease on April 1, 2013, and make the lease payment for the month of April on that date. Would the lease of the real property be subject to the GST or the HST?

Regardless of when the parties entered into the lease agreement and when possession is given, since each lease payment becomes due after March 2013, and is not paid before April 2013, the lease payments would be subject to the GST.

15. I lease real property from a GST/HST-registered person for March and April 2013. The lease is taxable for GST/HST purposes and the lease payment for the two-month period (the lease interval) becomes due and is paid on March 1, 2013. Would the lease payment be subject to the GST or the HST?

Regardless of the period covered by the lease interval, since the lease payment becomes due or is paid (in this case, both) before April 2013, it is subject to the HST.

¹ In this notice, supplies by way of lease include supplies by way of licence or similar arrangement.

16. A GST/HST-registered landlord receives a prepayment of rent on February 10, 2013 for a taxable lease of real property. The amount of the prepayment did not become due before that date. The term of the lease is from April 1, 2013 to December 31, 2013. Would the GST or the HST apply?

Since the lease payment is paid before April 2013, even though it did not become due before then, the HST applies to the prepayment. The landlord must account for the HST collectible on the lease payment in its GST/HST return for the reporting period that includes February 10, 2013.

17. A GST/HST-registered landlord makes a taxable lease of real property to an individual. The term of the lease is from April 1, 2013 to December 31, 2013. The lease payment becomes due on March 1, 2013, but the individual does not pay the amount due until April 1, 2013. Would the GST or the HST apply?

Although the individual pays the lease payment after March 2013, the payment becomes due before April 2013. Therefore, the HST applies to the lease payment.

18. The operator of a daycare centre leases an area in a building from a landlord and uses the area in the course of making exempt supplies. Each lease interval covers a period of one year, from January 1 to December 31. Payment for the lease is due in two separate instalments of \$50,000 on January 1 and July 1 of each year. On January 1, 2013, the operator pays the first lease payment of \$50,000 for the 2013 lease interval. The operator plans to make the second lease payment of \$50,000 on July 1, the day that it becomes due. The lease of the property by the landlord to the operator is taxable for GST/HST purposes. Would the landlord be required to charge the GST or the HST on the lease payments?

Since the first lease payment becomes due or is paid (in this case, both) before April 2013, the HST applies to the first lease payment. Since the second lease payment becomes due after March 2013 and is not paid without having become due before April 2013, that payment would be subject to the GST rather than the HST.

19. The operator of a trailer park, who is a GST/HST registrant, leases a site in the park to an individual for the individual's personal use. The lease payment is taxable for GST/HST purposes and becomes due on April 1, 2013. The lease is for the six-month period from May 1, 2013 to October 31, 2013. The individual pays the amount of the lease payment on April 15, 2013. Would the operator be required to collect the GST or the HST?

Since the lease payment becomes due and is paid after March 2013, the operator would collect the GST on the supply.

20. The operator of a trailer park, who is a GST/HST registrant, leases a site in the park to an individual for the individual's personal use. The lease payment is taxable for GST/HST purposes and becomes due on March 1, 2013. The lease is for the six-month period from May 1, 2013 to October 31, 2013. The individual pays the amount of the lease payment on March 10, 2013. Would the operator be required to collect the GST or the HST?

Since the lease payment becomes due before April 2013, the operator is required to collect the HST on the supply.

21. The operator of a trailer park, who is a GST/HST registrant, leases a site in the park to an individual for the individual's personal use. The lease payment is taxable for GST/HST purposes and becomes due in March 2013. The lease is for the six-month period from May 1, 2013 to October 31, 2013. However, the individual does not pay the amount due until April 2013. Would the operator be required to collect the GST or the HST?

Although the individual pays the lease payment after March 2013, the payment becomes due before April 2013. Therefore, the operator is required to collect the HST on the supply.

Basic tax content

22. [Revised question and answer] How does the transition from the 12% HST to the 5% GST in B.C. impact the definition of “basic tax content” as it relates to real property situated in B.C.?

The basic tax content of real property of a person is generally arrived at by doing the following:

- totalling all amounts of tax payable on the last acquisition of the property;
- adding any amounts of tax payable on improvements made to the real property since it was last acquired;
- deducting all amounts of tax recoverable by way of rebate, refund or remission (other than input tax credits [ITCs]); and
- multiplying the net amount by a factor that takes into account any depreciation in the fair market value of the real property since the property was last acquired.²

The basic tax content of real property is determined at a specific point in time.

Where real property is situated in B.C. and the basic tax content of the property is determined at any time on or after February 17, 2012, and subject to the exceptions set out below, the provincial part of the HST payable on the last acquisition of the property or on any improvements made to the property since it was last acquired is not included in determining the basic tax content of the real property.

Exceptions

For purposes of determining the ITC that may be available in respect of a registrant’s taxable sale of real property³ or the rebate that may be available in respect of a non-registrant’s taxable sale of real property⁴, the provincial part of the HST is not excluded from the basic tax content of the property where one of the following instances is applicable:

- the sale is made between persons who are dealing at arm’s length and are not associated with each other, and tax in respect of the sale becomes payable before April 1, 2013,⁵ or
- the person is deemed to make a taxable sale of the property under the self-supply rules for a residential complex or an addition to a multiple unit residential complex, and tax in respect of the deemed sale is deemed to have been paid before April 1, 2013.

² For a further discussion of basic tax content, see GST/HST Memorandum 19.4.2, *Commercial Real Property – Deemed Supplies* beginning at paragraph 20.

³ This ITC is generally based on the basic tax content of the property at the time tax in respect of the sale becomes payable. For more information on this ITC, see GST/HST Memorandum 19.2.3, *Residential Real Property – Deemed Supplies* beginning at paragraph 102.

⁴ This rebate is generally based on the basic tax content of the property at the time tax in respect of the sale becomes payable. For information on this rebate, see GST/HST Memorandum 19.3.6, *Rebate on Non-Registrant’s Sale of Real Property*.

⁵ Recapture rules apply where, within one year of the day tax becomes payable on the sale, the supplier (or a person who is associated with, or is not dealing at arm’s length with, the supplier) acquires an interest in the real property.

22.1 [New question and answer] In 2011, a registrant corporation acquires taxable real property situated in B.C. and pays HST of \$120,000 (composed of the \$50,000 federal part and \$70,000 provincial part) on the purchase. The real property is capital property for use exclusively in commercial activities of the corporation.

The corporation ceases to use the property in commercial activities and begins to use it exclusively for other purposes in November 2012. The GST/HST change-in-use rules apply. At the time of the change in use, the corporation is deemed to have made a taxable sale of the real property and must account for the HST based on the basic tax content of the property. Does the tax that must be accounted for by the corporation under the change-in-use rules include the \$70,000 (the provincial part of the HST) paid on the last acquisition of the property?

No. As the basic tax content of the real property is being determined on or after February 17, 2012 and neither of the exceptions apply, the provincial part of the HST paid on the last acquisition of the property, or on any improvements made to the property since it was last acquired, is not included in determining the basic tax content of the property at the time of the change in use.

22.2 [New question and answer] In October 2010, a registrant purchases taxable real property situated in B.C. and pays the HST. The property is for use exclusively in non-commercial activities. The registrant later makes a taxable sale of the real property to a person who is at arm's length from the registrant and is not associated with the registrant. In calculating the ITC that may be available in respect of the sale of the real property, is the provincial part of the HST taken into account in determining the basic tax content of the property?

If the tax payable on the registrant's sale of the real property is payable before April 1, 2013, the registrant may include the provincial part of the HST paid on the registrant's acquisition of the property in 2010, and on any improvements made to the property since that time, in determining the ITC that may be available with respect to the registrant's sale of the property. If the tax payable on the registrant's sale of the real property is payable on or after April 1, 2013, the registrant cannot include the provincial part of the HST paid on the registrant's acquisition of the property in 2010 or on any improvements made to the property since that time.

22.3 [New question and answer] A non-registrant builder completes construction of a new house in B.C. and leases the house to an individual who occupies it as a place of residence. Under the self-supply rules, the builder is considered to have sold the house at the later of the time construction of the house is substantially completed and the time possession or use of the house is provided to the individual. The builder is considered to have paid and collected tax on the sale based on the fair market value of the house at time of the self-supply. The builder, as a non-registrant that makes a taxable sale of real property, is eligible for a rebate with respect to the tax paid on the land and improvements that form the house. Is the builder entitled to include the provincial part of the HST paid on the acquisition of such land and improvements in determining the amount of the rebate?

The provincial part of the HST paid on the land and improvements that form the house may be included in the rebate only if the self-supply of the house occurs before April 1, 2013, i.e., only if the later of the time construction of the house is substantially completed and the time possession or use of the house is given to the individual is before April 1, 2013. If the self-supply of the house occurs on or after April 1, 2013, the provincial part of the HST paid on the land and improvements cannot be included in a rebate claim.

Transitional rules for new housing

Sales of new housing⁶

23. When would the GST apply to a taxable sale of new housing in B.C.? When does the HST apply to a taxable sale of new housing in B.C.?

The general transitional rule that applies to taxable sales of real property, as set out above, also applies to taxable sales of new housing. That is, the transitional rule would operate based on the time at which tax becomes payable in respect of the sale of the housing. The GST would apply where the tax becomes payable after March 31, 2013. If the tax becomes payable before April 1, 2013, the HST applies.

In addition to the GST, the B.C. transition tax may apply to certain sales of housing where the HST does not apply to the sale and where the construction or substantial renovation of the housing is 10% or more completed on April 1, 2013. For more information, see the section entitled “B.C. transition tax” in this notice.

24. When does the GST/HST become payable on a taxable sale of 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 a residential complex on the earlier of:

- the day that ownership of the complex is transferred to the purchaser; and
- the day that possession of the complex is transferred to the purchaser under the agreement for the supply.

Therefore, the GST, rather than the HST, would apply where ownership and possession of the residential complex transfer on or after April 1, 2013.

A special timing rule applies to the taxable 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.

Therefore, the GST, rather than the HST, would apply where the earlier of these dates is on or after April 1, 2013.

Note that 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 tax 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.

25. Are there any circumstances in which the HST, rather than the GST, would apply to a sale of new housing where ownership transfers after March 2013?

Yes. For a residential complex other than certain residential condominium units, if under a written agreement of purchase and sale, possession of the complex transfers to the purchaser before April 1, 2013, the HST, rather than the GST, applies to the sale.

⁶ This section discusses sales of housing from one person to another. For deemed sales of housing, refer to the next section, “Rentals of new housing”.

26. Before February 17, 2012, the day on which the transitional rules for the elimination of the HST in B.C. are announced, a builder and a purchaser enter into a written agreement of purchase and sale for a newly constructed detached house. The agreement provides that ownership and possession of the house will transfer to the purchaser after March 2013. Would the GST or the HST apply to the sale?

Since both ownership and possession of the house transfer to the purchaser after March 2013, tax is payable after March 2013 and the GST, rather than the HST, would apply to the sale. The date on which the written agreement of purchase and sale is entered and whether construction of the house begins before April 2013 are not relevant in determining whether the GST or the HST applies to the sale.

In the situation described, if construction of the house is 10% or more completed before April 1, 2013, the B.C. transition tax may be payable by the purchaser and the B.C. transition rebate may be available to the builder. For more information on the B.C. transition tax and B.C. transition rebate, and the information builders are required to provide to purchasers, see the sections on these topics in this notice.

27. Under a written agreement of purchase and sale, a builder transfers ownership and possession of a substantially renovated detached house to a purchaser on March 15, 2013. Does the GST or the HST apply to the sale?

As tax becomes payable before April 1, 2013 (i.e., ownership and possession of the house both transfer on March 15, 2013), the HST applies to the sale. The purchaser, if eligible, may be entitled to the enhanced B.C. new housing rebate with respect to the HST paid on the sale. For more information on the enhanced B.C. new housing rebate, see GST/HST Notice 272, *Harmonized Sales Tax – Proposed Enhancements to the British Columbia New Housing Rebates and New Residential Rental Property Rebates* or GST/HST Info Sheet GI-128, *Harmonized Sales Tax: Proposed Enhancements to the British Columbia New Housing Rebates*.

28. Under a written agreement of purchase and sale entered into in 2012, a builder transfers possession of a residential condominium unit to a purchaser on March 7, 2013. In this case, the condominium complex in which the unit is situated is registered as a condominium at the time possession of the unit is transferred. Does the GST or the HST apply to the sale?

As the condominium complex is registered as a condominium at the time possession of the unit is transferred, tax is payable at the earlier of the time ownership of the unit is transferred and the time possession of the unit is transferred under the agreement. As tax is therefore payable before April 2013, the HST at 12% applies to the sale. The purchaser, if eligible, may be entitled to the enhanced B.C. new housing rebate with respect to the HST paid on the sale. For more information on the enhanced B.C. new housing rebate, see GST/HST Notice 272, *Harmonized Sales Tax – Proposed Enhancements to the British Columbia New Housing Rebates and New Residential Rental Property Rebates* or GST/HST Info Sheet GI-128, *Harmonized Sales Tax: Proposed Enhancements to the British Columbia New Housing Rebates*.

29. A purchaser enters into a written agreement of purchase and sale with a builder for a newly constructed house. After February 17, 2012, the day the transition rules for the elimination of the HST are announced, the purchaser requests that upgrades be made to the house. Ownership and possession of the house will transfer to the purchaser under the agreement on March 10, 2013. Would the HST apply to the additional amount payable for the upgrades?

Upgrades to a house will generally result in modifications to the existing agreement such that the upgrades form part of the written agreement for the purchase and sale of the house. In such a case, the tax applicable to the purchase of the house would prevail. Since tax in respect of the sale becomes payable before April 2013, the HST applies on the total amount payable for the house, including the amount payable for the upgrades.

30. In March 2013, a person enters into an agreement to purchase a mobile home from a dealer. The dealer is not supplying any land with the mobile home. Ownership and possession of the mobile home are transferred to the purchaser in April 2013. Does the GST or the HST apply to the sale?

As tax on the sale of the mobile home becomes payable on or after April 1, 2013 (i.e., ownership and possession of the home transfer on or after that date), the GST, rather than the HST, would apply to the sale.

In some situations PST will be payable on purchases of mobile homes. Further information will be available from the Province of British Columbia before April 1, 2013.

Rentals of new housing

31. How would the GST apply to landlords who construct or substantially renovate their own rental housing?

Builders of new housing who lease the housing for use by an individual as a place of residence are considered to have sold and repurchased the housing, and to have paid and collected tax on the sale, under the self-supply rules. The builder is required to account for the tax considered to have been collected.

A self-supply by a builder is triggered at the later of the time 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 to occupy the housing or unit as a place of residence. For a complete discussion on self-supplies of new housing, see the section entitled “When you finish construction” in Guide RC4052, *GST/HST Information for the Home Construction Industry*.

Where the self-supply of new housing occurs after March 2013, the GST would apply to the self-supply. Where the self-supply occurs before April 2013, the HST will apply.

In addition to the GST, the B.C. transition tax may apply to a self-supply of housing where the HST does not apply to the self-supply and the construction or substantial renovation of the complex was at least 10% completed before April 1, 2013. See the section entitled “B.C. transition tax” in this notice for more information on this tax.

32. I am a builder of a duplex the construction of which began in January 2012. On February 1, 2013, under a lease agreement, I give possession of one of the units in the duplex to an individual who is the first to occupy a unit in the duplex as a place of residence. Construction of the duplex is substantially completed on February 15, 2013. Under a lease, I give possession of the other unit in the duplex on April 1, 2013, to an individual who occupies it as a place of residence. Would I account for the GST or the HST on this self-supply?

You would be considered to have paid and collected the HST on the self-supply of the duplex. The self-supply occurs on February 15, 2013 (i.e., the later of the time construction of the rental property is substantially completed and the time possession of a unit is given to an individual who is the first individual to occupy a unit in the housing as a place of residence). As such, the HST applies on the self-supply of the entire duplex (building and land).

33. I am the builder of a residential complex that is a traditional apartment building. Construction of the complex began in 2011, is substantially completed in March 2013 and, under a lease, possession of a unit in the apartment building is given to an individual on April 1, 2013. The individual is the first to occupy a unit in the building as a place of residence. Would I account for the GST or the HST on this self-supply?

You would be considered to have collected and paid the GST on the self-supply of the residential complex (building and land) and must account for that tax considered to have been collected. As the self-supply occurs at the later of the time construction of the complex is substantially completed and the

time possession of a unit in the complex is given to an individual who is the first to occupy a unit as a place of residence, the self-supply occurs on April 1, 2013. As such, the GST would apply rather than the HST and would be calculated on the fair market value of the complex (i.e., building and land) at that time.

The B.C. transition tax would also be payable by the builder in these circumstances. For more information on this tax, see the section entitled “B.C. transition tax” in this notice.

34. A builder begins construction of a triplex in April 2013. Construction of the triplex is substantially completed on May 28, 2014. On June 1, 2014, the builder gives possession of one of the units in the triplex, under a lease agreement, to an individual who is the first to occupy a unit as a place of residence. Would the builder account for the GST or the HST on this self-supply?

As the self-supply occurs on June 1, 2014, (i.e., the later of the time construction of the rental property is substantially completed and the time possession of a unit is given to an individual who is the first individual to occupy a unit in the housing as a place of residence), the GST would apply to the self-supply.

The B.C. transition tax would not apply in this case as construction of the triplex was not 10% or more completed before April 1, 2013.

Transitional tax adjustment

35. What is the transitional tax adjustment?

In the transition to the HST in B.C., the transitional tax adjustment applied to sales of grandparented housing where the provincial part of the HST did not apply on the sale of the housing. For more information on the transitional tax adjustment, see GST/HST Info Sheet GI-095, *Harmonized Sales Tax: Information on the Transitional Tax Adjustment for Builders of Housing in Ontario and British Columbia*. For more information on grandparented housing in B.C., see GST/HST Info Sheet GI-084, *Harmonized Sales Tax: Information for Builders of New Housing in British Columbia*.

36. How would the transition from HST to GST affect the transitional tax adjustment?

Under the transition back to the GST in B.C., the transitional tax adjustment would apply on the sale of grandparented housing in B.C. only where the tax becomes payable before April 1, 2013. The transitional tax adjustment is generally payable on the earlier of the day possession or ownership of the housing, including a residential condominium unit, is transferred to the purchaser under a written agreement of purchase and sale. If the housing is a condominium complex, the transitional tax adjustment is payable on the earlier of the day ownership of the complex is transferred to the purchaser and the day that is 60 days after the day the complex is registered as a condominium.

It should be noted that the B.C. transition tax would often be payable in those situations where the transitional tax adjustment does not apply. For more information on the B.C. transition tax, see the section on this topic in this notice.

37. A builder and an individual entered into a written agreement of purchase and sale for a residential condominium unit in October 2009. Possession and ownership of the unit transfer to the individual in May 2013. Does the transitional tax adjustment apply on the sale?

No. In this case, under the rules for the transition to the HST, the sale of the unit is grandparented and the transitional tax would have been payable at the earlier of the time ownership and possession of the residential condominium unit transfer to the individual. Under the rules for the transition back to the GST, as that date is after March 2013, the transitional tax adjustment would not apply on the sale of the unit.

However, the B.C. transition tax may apply in this case. For more information on the B.C. transition tax, see the section on this topic in this notice.

38. A builder and an individual entered into a written agreement of purchase and sale for a residential condominium unit in September 2009. Possession of the unit transfers to the individual in February 2013 and ownership of the unit transfers to the individual in October 2013. Does the transitional tax adjustment apply on the sale?

Yes. The transitional tax adjustment becomes payable by the builder at the earlier of the time possession of the residential condominium unit is transferred under the agreement and the time ownership of the unit is transferred. Under the agreement, possession of the unit is transferred in February 2013 and as such, the transitional tax adjustment becomes payable before April 2013. The builder may be eligible for a PST transitional new housing rebate in respect of the unit. Note that the B.C. transition tax would not apply in this case.

Provincial transitional new housing rebate

39. What is the provincial transitional new housing rebate (referred to hereafter as the PST transitional new housing rebate)?

In the transition to the HST in B.C., new housing constructed in full or in part prior to July 2010 would have the provincial sales tax (PST) embedded in the cost of the housing. As the sale or self-supply of the housing was to be subject to the HST (or in the case of a grandparented sale, the transitional tax adjustment), the PST transitional new housing rebate was designed to remove the estimated PST embedded in the price of the new housing. For more information on the PST transitional new housing rebate, see GST/HST Info Sheet GI-096, *Harmonized Sales Tax: Provincial Transitional New Housing Rebates for Housing in Ontario and British Columbia*.

40. How would the transition from HST to GST affect the PST transitional new housing rebate?

Under the transition back to the GST in B.C., the PST transitional new housing rebate would continue to be available only where the HST (or in the case of a grandparented sale, the transitional tax adjustment) applies. If the HST or the transitional tax adjustment does not become payable on the sale of the housing (or the HST does not become payable on a self-supply of the housing), the PST transitional new housing rebate would not be available. Further, whereas a builder was eligible to claim the rebate (using the floor space method) before the HST or transitional tax adjustment tax became payable on a sale or self-supply of the housing, effective February 17, 2012, a builder would not be able to claim the PST transitional new housing rebate until the HST or the transitional tax adjustment becomes payable on the sale of the housing.

41. In May 2010, a builder enters into an agreement of purchase and sale with an individual for a detached house. Construction began in that same month and was 10% completed on July 1, 2010.

(a) Would the PST transitional new housing rebate be available where possession and ownership of the house are transferred on March 15, 2013?

Subject to meeting the other conditions for the PST transitional new housing rebate, the rebate would be available where ownership and possession of the house transfer on March 15, 2013 as the HST applies to the sale.

(b) Would the PST transitional new housing rebate be available where possession and ownership of the house are transferred on April 15, 2013?

The PST transitional new housing rebate would not be available as the HST would not apply to the sale (i.e., the tax becomes payable after March 2013 and, as such, the HST would not apply).

In the situation described, the B.C. transition tax will be payable by the purchaser and the builder may be eligible for the B.C. transition rebate. For more information on the B.C. transition tax and B.C. transition rebate, and the information builders are required to provide to purchasers, see the sections on these topics in this notice.

42. A builder of a new residential condominium complex containing 100 units completed 20% of the construction of the complex as of July 1, 2010. The sales of 60 of the units in the complex were grandparented (i.e., written agreements of purchase and sale for the units were entered into on or before November 18, 2009), while written agreements of purchase and sale for the other 40 units were entered into after that date. Will the builder of the complex be eligible to claim the PST transitional new housing rebate in respect of any of the units?

The builder would be eligible to claim the PST transitional new housing rebate provided that:

- in respect of the grandparented units, the transitional tax adjustment becomes payable before April 1, 2013 (i.e., ownership of the unit is transferred to the purchaser or possession of the unit is transferred to the purchaser under the agreement); and
- in respect of the other units, the HST becomes payable, i.e. the tax in respect of the unit becomes payable, before April 2013.

If the builder did not claim the PST transitional new housing rebate prior to February 17, 2012 (the builder would have been entitled to claim the rebate using the floor space method even before the transitional tax adjustment or the HST became payable), the builder would not be able to claim the rebate until such time as the transitional tax adjustment or the HST, as the case may be, becomes payable. If neither becomes payable (i.e., the tax does not become payable in respect of the sale of the unit until on or after April 1, 2013), the builder would not be entitled to the PST transitional new housing rebate.

B.C. transition tax and rebate

B.C. transition tax

General

43. What are the general circumstances in which the B.C. transition tax and B.C. transition rebate will apply?

The B.C. transition tax will apply (and the B.C. transition rebate may be available as discussed in a later section of this notice) on a temporary basis and only where the HST does not apply on the taxable sale of new housing (and the other conditions for the application of the B.C. transition tax, as set out below, are met).

Where the construction or substantial renovation of housing is 10% or more completed before April 1, 2013, a builder will generally have claimed ITCs in respect of the HST paid (including the provincial part of the HST) on the housing materials incorporated into the house to that point in time. Recognizing that the HST will not apply to a sale of the housing where tax becomes payable after March 2013, the B.C. transition tax, at 2% of the consideration payable for the house, will apply to the sale.

However, recognizing that a builder will not be able to claim ITCs with respect to the PST paid on construction materials acquired after March 2013 and incorporated into the housing, the B.C. transition rebate may be available where the construction or substantial renovation of the housing is at least 10% completed immediately before April 1, 2013 and not more than 90% completed immediately before that date.

44. In what circumstances will the B.C. transition tax apply?

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

- GST becomes payable on or after April 1, 2013 (as such, the HST does not apply) and before April 1, 2015, and
- the construction or substantial renovation of the new housing is 10% or more completed before April 1, 2013.

The B.C. transition tax will **not** apply in the following circumstances:

- the sale of the interest or complex was previously subject to the B.C. transition tax;
- the construction or substantial renovation of the housing was substantially completed before July 1, 2010 and an application for a PST transitional new housing rebate was not filed before February 17, 2012;
- a builder sells a mobile home where the builder is selling only the home and does not make a supply of land along with the home.

Where the B.C. transition tax is payable, the builder of the housing may be eligible for a B.C. transition rebate if the construction or substantial renovation of the housing is at least 10% completed immediately before April 1, 2013 and not more than 90% completed immediately before that date. For information on the B.C. transition rebate, see the section on this topic in this notice.

45. Who will have to pay the B.C. transition tax and how will it be calculated?

Other than for a self-supply of housing by a builder, the B.C. transition tax will be payable by the purchaser and collected by the builder,⁷ and will generally be calculated at 2% of the total consideration for the sale of the housing (before GST and rebates) or for the sale of an interest in the housing. (For sales of grandparented housing to which the B.C. transition tax applies, the consideration will be considered to include the B.C. transition tax. For more information, see the information on grandparented sales of new housing in the section entitled "Double-straddling transactions" in this notice). The B.C. transition tax will be payable on the same date the GST becomes payable.

Where a builder is considered to have paid the GST on a self-supply of new housing, the B.C. transition tax will be payable by the builder and will be calculated at 2% of the fair market value of the housing (building and land). The B.C. transition tax will be payable at the same time as the GST is payable, i.e., on the date of the self-supply.

46. How does the B.C. transition tax relate to the transitional tax adjustment that was payable by builders on the sale of grandparented housing during the transition to the HST?

The B.C. transition tax applies only where the transitional tax adjustment does not apply. As such, the B.C. transition tax and the transitional tax adjustment would not both be payable in respect of the same housing.

⁷ Even if the purchaser is registered for the GST/HST, unless the sale is by a foreign supplier, the builder will be required to collect the B.C. transition tax payable by the purchaser. If the sale is by a foreign supplier, the purchaser will be required to remit the tax to the CRA, except in respect of a grandparented sale of new housing, in which case the tax is considered included in the consideration and must be remitted by the foreign supplier.

47. A builder makes a sale of a residential complex where possession and ownership of the complex transfer on March 15, 2013. Will the B.C. transition tax apply on the sale of the complex?

No. One of the conditions that must be met in order for the B.C. transition tax to apply is that the tax becomes payable on or after April 1, 2013 (i.e., the GST, rather than the HST, applies). As ownership or possession of the complex (in this case, both) transfer before April 2013, the HST applies on the sale and the B.C. transition tax will not apply.

48. I am the purchaser of housing where the written agreement of purchase and sale is entered into in March 2013. Construction of the house will begin in late April 2013. Will the B.C. transition tax apply on the purchase of the house?

No. The B.C. transition tax only applies if construction of the housing is 10% or more completed before April 1, 2013. In this case, construction of the house does not begin until late April 2013 and therefore the B.C. transition tax will not apply. The GST at 5% would apply on your purchase of the house.

49. 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 10% or more completed before April 1, 2013 and ownership and possession of the house transfer on October 15, 2013. Will the B.C. transition tax apply on the sale of the house?

Yes. As GST becomes payable on or after April 1, 2013 and before April 2015, and construction of the house is 10% or more completed before April 1, 2013, the B.C. transition tax will apply to the sale. The tax will be payable by the purchaser and collected by the builder (except if the builder is a foreign supplier, in which case the purchaser must remit the tax to the CRA) and will be payable at the same time the GST is payable.

The builder may be eligible for the B.C. transition rebate in this situation. For more information on this rebate, see the section entitled “B.C. transition rebate” in this notice.

50. On April 1, 2013, I tour a substantially renovated single detached house that a builder has listed for sale. I enter into a written agreement of purchase and sale with the builder for the house on April 4, 2013, and possession and ownership of the house transfer on May 1, 2013. Will I have to pay the B.C. transition tax on the purchase of the house?

Yes. The sale of the house will be subject to the B.C. transition tax because GST becomes payable on or after April 1, 2013 and before April 2015, and the substantial renovation of the house is 10% or more completed before April 1, 2013. As such, the B.C. transition tax will apply and you will have to pay the tax to the builder.

The builder will not be eligible for the B.C. transition rebate in this situation as the substantial renovation of the house was more than 90% completed immediately before April 1, 2013. For more information on the B.C. transition rebate, see the section entitled “B.C. transition rebate” in this notice.

51. Builder A sells an option to purchase a residential complex where the option constitutes an interest in the complex. Construction of the complex is at least 10% completed before April 1, 2013. Builder A sells the option to purchase the complex to person B on August 6, 2013. Is the sale of the option to person B subject to the B.C. transition tax?

Yes. The B.C. transition tax will apply to the taxable sale of an interest in a residential complex. As the GST on the assignment becomes payable on August 6, 2013 (i.e., on or after April 1, 2013 and before April 2015) and construction of the complex was at least 10% completed before April 1, 2013, the B.C. transition tax will apply to the sale of the option in this case.

52. I am a GST/HST-registered builder of housing, the sale of which is subject to the B.C. transition tax. How will I account for this tax?

You will report the B.C. transition tax on your GST/HST NETFILE return for the reporting period that includes the day on which the tax becomes payable, which will be the same date on which the GST becomes payable on the sale (or self-supply) of the housing.

Even if you do not have to collect the GST on a taxable sale of housing (e.g., the purchaser is a person other than an individual and is registered for the GST/HST), you will have to collect the B.C. transition tax from the purchaser.

53. I am the builder of an apartment building whose construction is 10% or more completed before April 1, 2013. Upon substantial completion of construction of the apartment building in July 2014, I lease and give 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. Under the self-supply rules, I have to account for the GST. Will I also have to account for the B.C. transition tax?

You will have to account for the B.C. transition tax as the self-supply occurs on or after April 1, 2013 (i.e., the GST, rather than the HST applies) and before April 1, 2015, and construction of the apartment building is 10% or more completed before April 1, 2013. Both the B.C. transition tax, at 2%, and the GST, at 5%, will be based on the fair market value of the residential complex (building and land) at the time of self-supply.

You will generally be eligible for the B.C. transition rebate in this situation. For more information on this rebate, see the section entitled “B.C. transition rebate” in this notice.

54. I am a builder of a duplex. I rent both units in the duplex to individuals who will occupy their unit as a place of residence. If construction of the duplex begins on or after April 1, 2013, do I have to account for the B.C. transition tax when I make a self-supply of the duplex?

No. The B.C. transition tax will apply to a self-supply only where the construction or substantial renovation of the residential complex is 10% or more completed before April 1, 2013 and the self-supply occurs on or after that date and before April 1, 2015. In this case, as construction has not begun prior to April 1, 2013, you will not have to account for the B.C. transition tax on the self-supply. You would have to account for the GST, based on the fair market value of the residential complex (building and land) at the time of the self-supply.

55. I am the builder of a triplex whose construction is 70% completed on April 1, 2013. An individual took possession of one of the units on March 1, 2013 and occupies the unit as a place of residence. I substantially complete construction of the triplex in June 2013. On July 1, 2013, I give possession of each of the other units in the triplex to individuals who will occupy their unit as a place of residence. Does the GST or the HST apply to the self-supply of the triplex? Will I have to account for the B.C. transition tax on the self-supply of the triplex?

The self-supply of the residential complex occurs at the later of the time construction of the complex is substantially completed and the time possession or use of a unit in the complex is provided to an individual who is the first to occupy a unit in the complex as a place of residence. As such, the self-supply in this case occurs in June 2013 and the GST would apply to the self-supply. As the self-supply occurs on or after April 1, 2013 and before April 2015, and construction of the complex is 10% or more completed before April 1, 2013, the B.C. transition tax will apply on the self-supply. Both the B.C. transition tax, at 2%, and the GST, at 5%, will apply on the fair market value of the triplex (building and land) at the time of self-supply.

You will generally be eligible for the B.C. transition rebate in this situation. For more information on this rebate, see the section entitled “B.C. transition rebate” in this notice.

56. A purchaser enters into a written agreement of purchase and sale with a builder for a newly constructed house. After entering into the agreement, the purchaser and builder agree to an upgrade to the house (a deck will be added). Construction of the house is 50% completed before April 1, 2013. All of the work related to construction of the deck occurs after March 2013. Ownership and possession of the house transfer to the purchaser under the agreement on June 10, 2013. Will the B.C. transition tax apply to the additional amount payable for the deck?

Upgrades generally result in modifications to the existing agreement such that the upgrades form part of the written agreement for the purchase and sale of the house and the amount payable for the upgrades forms part of the consideration for the house. In this case, since tax is payable on or after April 1, 2013 and before April 2015, and construction of the house is 10% or more completed before April 1, 2013, the B.C. transition tax will apply on the consideration payable for the sale of the house. The consideration will include the additional amount payable in respect of the deck.

57. A builder and a purchaser enter into an agreement whereby the builder will construct and sell a detached house on land that the builder will lease to the purchaser. Construction of the house is 10% or more completed before April 1, 2013 and the builder finishes construction and gives possession and ownership of the house, and possession of the land, to the purchaser in May 2013. Does the B.C. transition tax apply on the builder’s self-supply of the house? Does the builder or the purchaser have to pay the B.C. transition tax? On what value is the B.C. transition tax based?

The B.C. transition tax will apply on the builder’s self-supply of the residential complex as the self-supply occurs on or after April 1, 2013 and before April 2015, and construction of the house is 10% or more completed before April 1, 2013. The builder is required to pay the B.C. transition tax, which is equal to 2% of the fair market value of the complex (building and land) on the date of the self-supply.

The builder will generally be eligible for the B.C. transition rebate in this situation. For more information on the rebate, see the section entitled “B.C. transition rebate” in this notice.

58. Prior to April 2013, the builder of a mobile home affixes the mobile home to land (not in a residential trailer park) and sells both the mobile home and land to an individual where ownership and possession of the property transfer on or after April 1, 2013. Will the B.C. transition tax apply to the sale?

Yes. In this case, the PST would not apply to the sale of the mobile home and the B.C. transition tax will apply to the sale of the residential complex (mobile home and land). The B.C. transition tax will be equal to 2% of the consideration payable for the complex (mobile home and land).

59. I am a builder constructing an apartment complex. Construction of the complex is 15% completed before April 1, 2013. If I do not substantially complete construction of the complex until after March 2015, and a person does not occupy a unit in the complex as a place of residence until some time after that, will I have to account for the B.C. transition tax when I self-supply the apartment complex?

No. In order for the B.C. transition tax to apply, the self-supply must occur on or after April 1, 2013 and before April 2015. As the self-supply in this case will not be until sometime after March 2015, the B.C. transition tax will not apply.

60. How will I determine, for purposes of the B.C. transition tax, if the construction or substantial renovation of housing is at least 10% completed before April 1, 2013?

The method used to determine the percentage of completion at a given time 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 would generally be acceptable for determining the degree to which the construction or substantial renovation of housing was completed before April 1, 2013 for purposes of the B.C. transition tax.

Double-straddling transactions

61. What is a double-straddling transaction?

A double-straddling transaction refers to the following:

- a sale of new housing where ownership and possession of the housing transfer after March 2013 and either:
 - the written agreement of purchase and sale for the housing was entered into on or before November 18, 2009 and the sale is grandparented⁸ (a grandparented sale), or
 - the written agreement of purchase and sale for the housing was entered into after November 18, 2009 (or was entered into on or before November 18, 2009, but the sale is not grandparented) and construction of the housing began before July 1, 2010 (a non-grandparented sale), or
- a self-supply of housing where the self-supply occurs on or after April 1, 2013 and construction began before July 1, 2010.

Such transactions are referred to as “double-straddling” because they straddle both July 1, 2010, the date of implementation of the HST in B.C., and April 1, 2013, the date the provincial part of the HST will no longer apply in B.C.

Special rules apply for the B.C. transition tax and the B.C. transition rebate in respect of double-straddling transactions depending on whether the sale is grandparented or non-grandparented.

62. Will the B.C. transition tax apply to a grandparented sale of housing?

If tax becomes payable before April 1, 2013 in respect of a grandparented sale of housing, the transitional tax adjustment (described above) would apply rather than the B.C. transition tax.

If tax becomes payable on or after April 1, 2013 in respect of a grandparented sale of housing (i.e., the GST applies), the B.C. transition tax, rather than the transitional tax adjustment, will apply. The consideration for a sale of such housing will be deemed to include the B.C. transition tax and as such, the purchaser of the housing will not pay any additional amount on account of the B.C. transition tax. For example, if a person entered 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 is grandparented, for purposes of calculating the GST and the B.C. transition tax, the consideration would be \$588,235 ($\$600,000 \div 1.02$). The B.C. transition tax will therefore be equal to \$11,765 ($\$588,235 \times 2\%$) and must be remitted by the builder. The GST payable would be equal to \$29,412 ($\$588,235 \times 5\%$).

63. What is a non-grandparented sale of housing?

Under the federal transitional rules for implementation of the HST in B.C., sales of newly constructed or substantially renovated housing made under a written agreement of purchase and sale entered into after November 18, 2009 were not grandparented. Further, as discussed in GI-084, *Harmonized Sales Tax*:

⁸ For more information on grandparented sales of housing, see GST/HST Info Sheet GI-084, *Harmonized Sales Tax: Information for Builders of New Housing in British Columbia*.

Information for Builders of New Housing in British Columbia, there are exceptions to the grandparenting rule. If tax in respect of a non-grandparented sale becomes payable on or after July 1, 2010 and before April 1, 2013, the HST will apply to the sale. However, where tax in respect of the sale of the housing becomes payable on or after April 1, 2013, the GST, rather than the HST, would be payable.

64. How will the B.C. transition tax apply to a non-grandparented sale of housing where tax becomes payable on or after April 1, 2013?

The B.C. transition tax will apply to non-grandparented double-straddling sales of housing, and deemed sales made under the self-supply rules, where the construction or substantial renovation of the housing began before July 1, 2010 and where tax in respect of the sale of the housing becomes payable on or after April 1, 2013 and before April 2015. However, the B.C. transition tax will not apply where the construction or substantial renovation has been substantially completed before July 1, 2010 and the PST transitional new housing rebate has not been claimed on or before February 17, 2012 (see the example in the next question).⁹

In the case of a builder's sale of a newly constructed or substantially renovated non-grandparented housing to another person, the B.C. transition tax of 2% will be calculated on the consideration for the housing and such tax will be payable by the purchaser and collected by the builder. In the case of a self-supply of newly constructed or substantially renovated housing, the B.C. transition tax will be payable by the builder on the fair market value of the property at the time of the self-supply.

65. A builder has a detached house for sale. Construction of the house was substantially completed before July 1, 2010. The house sits vacant until May 1, 2013 when ownership and possession of the house is transferred to a purchaser. The builder has not claimed a PST transitional new housing rebate in respect of the house. Will the B.C. transition tax apply to the sale of the house?

No. While ownership and possession transfer on or after April 1, 2013 and before April 1, 2015 and construction of the house was at least 10% completed on April 1, 2013, the house was substantially completed before July 1, 2010 and a PST transitional new housing rebate was not claimed in respect of the house. Accordingly, the B.C. transition tax does not apply to the sale of the house.

B.C. transition rebate

66. In what circumstances will the B.C. transition rebate be available?

The B.C. transition rebate will be available in circumstances where the B.C. transition tax applies to the sale or self-supply of new housing, and construction or substantial renovation of the housing is at least 10% completed immediately before April 1, 2013 and not more than 90% completed immediately before that date. The rebate will be available to the builder of the housing.

The B.C. transition rebate will not be available for sales of mobile homes, floating homes and homes built by owners for their personal use (i.e., owner-built homes).

⁹ As stated in the section "Provincial transitional new housing rebate", after February 17, 2012, builders would not be eligible to file a PST transitional new housing rebate claim until the time the HST or transitional tax adjustment becomes payable.

67. On what value will the B.C. transition rebate be based?

For builders who sell new housing or an interest in new housing to another person where the sale is subject to the B.C. transition tax, the B.C. transition rebate will be based on the total consideration payable for the housing (i.e., excluding the GST and rebates) or for the interest in the housing and the degree of completion of the construction or substantial renovation of the housing at three key points in time:

- immediately before April 1, 2013
- immediately before July 1, 2010; and
- on the date where tax becomes payable on the new housing.

The total consideration payable for the housing is the sum of the following:

- the value of the consideration payable for the new housing as determined for GST/HST purposes, plus
- the sum of the value of the consideration for any taxable interest (such as an option to purchase the housing) payable by the recipient to the supplier in respect of the new housing.

For builders who are required to self-supply and pay the B.C. transition tax on housing, the B.C. transition rebate will be based on the fair market value of the housing at the time of self-supply and on the degree of completion of the construction or substantial renovation of the housing at three key points in time:

- immediately before April 1, 2013
- immediately before July 1, 2010; and
- on the date where tax becomes payable on the self-supply of the new housing.

68. How will I determine the degree of completion of the construction or substantial renovation of housing immediately before April 1, 2013, immediately before July 1, 2010, and on the date that tax becomes payable on the sale (or self-supply) of the new housing for purposes of the B.C. transition rebate?

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 would generally be acceptable for determining the degree of completion of housing at these points in time for purposes of the B.C. transition rebate.

69. Will there be any other conditions to claiming the rebate?

Yes. There are several other conditions including the following:

- the provincial sales tax must have been paid on all or substantially all of the materials incorporated into the newly constructed or substantially renovated housing after March 2013 and, upon request, the claimant must provide evidence that this condition has been met;
- the claimant must have reported and remitted the B.C. transition tax in respect of the sale as required, (if the claimant was required to do so); and
- the claimant must apply for the rebate in a specified form and manner and within a specified period.

70. How will the B.C. transition rebate be calculated?

Generally, the B.C. transition rebate will be calculated based on the “applicable percentage”, the corresponding B.C. transition rebate rate, and the total consideration payable on the sale of the housing (or fair market value of the housing in the case of a self-supply). The applicable percentage is determined using the degree of completion of the housing immediately before April 1, 2013, the degree of completion immediately before July 1, 2010, the degree of completion on the day that tax is payable, and the total consideration payable on the sale of the housing.

TABLE – B.C. Transition rebate rate

| APPLICABLE PERCENTAGE (100% minus the degree of completion of construction or substantial renovation as of the date tax is payable) plus (the degree of completion of construction or substantial renovation immediately before April 1, 2013 minus the degree of completion of construction or substantial renovation immediately before July 1, 2010) | B.C. TRANSITION REBATE RATE AS A PERCENTAGE OF TOTAL CONSIDERATION OR FAIR MARKET VALUE* (total consideration includes the value of the consideration for the sale and the value of the consideration for any other taxable sale of an interest in the new housing payable by the purchaser to the same supplier) |
|--|---|
| Less than 25% | 1.5% |
| Equal to or greater than 25% and less than 50% | 1.0% |
| Equal to or greater than 50% and less than 75% | 0.5% |
| Equal to or greater than 75% and not more than 90% | 0.2% |
| Greater than 90% | 0.0% |

* The B.C. transition rebate will be calculated by subtracting amounts already claimed as a PST transitional new housing rebate from the gross transition rebate.

71. In November 2012, a builder and purchaser enter into a written agreement of purchase and sale for a detached house for consideration of \$800,000 (i.e., excluding GST). Construction of the house began in December 2012, is 20% completed immediately before April 1, 2013, and fully completed by the end of September 2013. Ownership and possession of the house transfer to the purchaser in October 2013. The builder does not sell a separate interest in the house to the purchaser. Is the B.C. transition rebate available to the builder in respect of the house? If so, what is the amount of the rebate?

As the B.C. transition tax is payable on the sale of the house, the B.C. transition rebate will be available to the builder in respect of the house provided all the conditions for claiming the rebate are met. As construction of the house was 0% completed immediately before July 1, 2010, 20% completed immediately before April 1, 2013 and 100% completed on the date that tax became payable, the B.C. transition rebate will be equal to \$12,000 calculated as follows:

- the applicable percentage is 20% [(100% – 100% degree of completion on date tax becomes payable) + (20% degree of completion immediately before April 1, 2013 – 0% degree of completion immediately before July 1, 2010)].
- the B.C. transition rebate rate (from the table in question 70) is 1.5%
- the B.C. transition rebate is \$12,000 (\$800,000 × 1.5%)*

* *In this case, there was no PST transitional new housing rebate so there is no amount to deduct on account of that rebate.*

72. I am the builder of an apartment building whose construction is 80% completed immediately before April 1, 2013. Upon substantial completion of construction of the apartment building in July 2013, I lease and give 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. Will I be eligible for the B.C. transition rebate?

As you will be required to account for the B.C. transition tax at the time of the self-supply of the complex (building and land) and construction of the complex is at least 10% completed immediately before April 1, 2013 and not more than 90% completed immediately before that date, you will be eligible for the B.C. transition rebate provided you meet all the requirements for claiming the rebate. The B.C. transition rebate will be based on the fair market value of the complex at the time of self-supply, the applicable percentage (determined using the degree of completion of construction of the complex immediately before April 1, 2013, the degree of completion immediately before July 1, 2010 and the degree of completion on the date of the self-supply) and the corresponding rebate rate.

73. A builder and a purchaser enter into an agreement whereby the builder will construct and sell a detached house on land that the builder will lease to the purchaser. This is the only agreement the parties enter into in respect of any interest in the house (e.g., there is no option to purchase). Construction of the house is at least 10% completed immediately before April 1, 2013 and not more than 90% completed immediately before that date. The builder finishes construction and transfers possession and ownership of the house, and possession of the land, to the purchaser in May 2013. Will the builder be eligible for the B.C. transition rebate in respect of the house?

As the B.C. transition tax will apply on this self-supply and the degree of completion criteria are met, the builder will be eligible for the B.C. transition rebate provided the builder meets the remaining requirements for claiming the rebate.

74. Builder A is constructing a detached house, the construction of which began in January 2013 and was 20% completed immediately before April 1, 2013. When the house is 50% completed on October 1, 2013, Builder A transfers ownership and possession of the property to Builder B. The B.C. transition tax applies to the sale by Builder A. How will Builder A determine the applicable percentage for purposes of calculating the B.C. transition rebate?

The applicable percentage is equal to 70%, determined as follows:

- $(100\% - 50\% \text{ degree of completion on date tax becomes payable}) + (20\% \text{ degree of completion immediately before April 1, 2013} - 0\% \text{ degree of completion immediately before July 1, 2010}).$

Therefore, the B.C. transition rebate rate is 0.5%. The amount of the rebate will be equal to 0.5% multiplied by the total consideration.

75. A builder is constructing a residential condominium complex. The complex was 15% completed immediately before July 1, 2010 and 85% completed immediately before April 1, 2013. The builder has not claimed a PST transitional new housing rebate in respect of any residential condominium unit in the complex.

The builder entered into written agreements of purchase and sale for two residential condominium units in the complex (Unit A and Unit B) on October 18, 2009. The sale price for each unit was \$800,000, including GST (note that no GST new housing rebate is available as the consideration for the unit exceeds \$450,000). Under the agreement of purchase and sale for Unit A, ownership and possession of the completed unit will transfer to the purchaser on March 15, 2013. Under the agreement of purchase and sale for Unit B, ownership and possession of the completed unit will transfer to the purchaser on April 15, 2013. The complex is registered as a condominium at the time possession of each unit transfers to the purchaser. No other interest in the unit is sold by the builder to the purchaser. Will the B.C. transition tax apply to the sale of Unit A and Unit B? Will the builder be entitled to claim a B.C. transition rebate in respect of Unit A and Unit B?

Unit A –

The B.C. transition tax will not apply to the sale of Unit A and, as such, the builder will not be entitled to claim the B.C. transition rebate for that unit.

Since tax becomes payable before April 2013 (because ownership and possession of the unit transfer before April 2013), the B.C. transition tax will not apply. However, the builder will be required to account for the transitional tax adjustment (as the sale is grandparented and tax becomes payable before April 2013) and may be entitled to claim a PST transitional new housing rebate. For more information on the transitional tax adjustment, see GST/HST Info Sheet GI-095, *Harmonized Sales Tax: Information on the Transitional Tax Adjustment for Builders of Housing in Ontario and British Columbia*. For more information on the PST transitional new housing rebate, see GST/HST Info Sheet GI-096, *Harmonized Sales Tax: Provincial Transitional New Housing Rebates for Housing in Ontario and British Columbia*.

Unit B –

The B.C. transition tax will apply to the sale of Unit B (as this is a grandparented sale, the B.C. transition tax will be considered included in the consideration payable for the unit) and the builder will be entitled to claim a B.C. transition rebate in respect of the unit.

The B.C. transition tax will apply to the sale of Unit B since tax becomes payable on or after April 1, 2013 and before April 1, 2015, and construction of the complex in which the unit is located was 85% completed before April 1, 2013 (i.e., 10% or more completed).

The builder will be required to account for the B.C. transition tax in the amount of \$14,939, calculated as follows:

- the value of the consideration for purposes of determining the B.C. transition tax, GST and B.C. transition rebate* is \$746,965 [$(\$800,000 \div 1.05) \div 1.02$]
- the B.C. transition tax is \$14,939 ($\$746,965 \times 2\%$)
- the GST would be equal to \$37,348 ($\$746,965 \times 5\%$)

* The selling price of \$800,000 includes the GST so it is necessary to determine the consideration payable (i.e., the amount payable before GST). As the sale is grandparented, the consideration so calculated is considered to include the B.C. transition tax.

The builder will be entitled to claim a B.C. transition rebate in the amount of \$3,735, calculated as follows:

- the gross transition rebate* is \$3,735 ($\$746,965 \times 0.5\%$)
- the B.C. transition rebate is \$3,735**

* *Refer to the table in question 70 for the rebate rates that apply. The 0.5% rebate rate will apply since the applicable percentage is 70% [(100% – 100% degree of completion on date tax is payable) + (85% degree of completion immediately before April 1, 2013 – 15% degree of completion immediately before July 1, 2010)].*

** *In this case, no PST transitional new housing rebate was claimed so there is no amount to deduct from the gross rebate amount.*

The builder will be able to offset the B.C. transition tax payable by the amount of the B.C. transition rebate and remit the difference of \$11,204 ($\$14,939 - \$3,735$).

The builder would be required to remit GST in the amount of \$37,348. Note that if the builder collects the full \$800,000 for Unit B, the builder will have charged the purchaser \$38,095 ($\$800,000 \times 5/105$) as or on account of GST and must remit that amount of tax to CRA instead of \$37,348. If a purchaser pays an amount as or on account of GST/HST in circumstances where the tax was not payable, the purchaser can request a refund or credit of the amount from the builder. If the purchaser cannot obtain a refund or credit from the supplier, the purchaser can claim a rebate for tax paid in error with the CRA. More information on the rebate is available in Guide RC4033, *General Application for GST/HST Rebates*.

76. A builder of a newly constructed 150-unit residential condominium complex entered into a written agreement of purchase and sale for one of the condominium units in the complex on June 1, 2009 for \$750,000, including GST. Ownership and possession of the fully completed unit will transfer under the agreement on May 1, 2013. No other interest in the unit is sold by the builder to the purchaser. Construction of the condominium complex in which the unit is located was 10% completed immediately before July 1, 2010 and 85% completed immediately before April 1, 2013. The builder claimed a PST transitional new housing rebate of \$900 in respect of the unit in July 2010. Will the B.C. transition tax apply to the sale of the unit? Will the builder be entitled to claim a B.C. transition rebate in respect of the unit?

Yes, the B.C. transition tax will apply to the sale of the unit and will be considered included in the consideration payable for the unit. The builder will be entitled to claim the B.C. transition rebate provided all the conditions for claiming the rebate are met. However, the amount of the rebate will be reduced by the amount of the PST transitional new housing rebate already claimed by the builder in respect of the unit.

The B.C. transition tax will apply to the sale since the tax in respect of the sale becomes payable on or after April 1, 2013 and before April 1, 2015, and construction of the complex was 85% completed (i.e., 10% or more completed) before April 1, 2013. The builder will be required to account for the B.C. transition tax in the amount of \$14,006, calculated as follows:

- the value of the consideration for purposes of determining the B.C. transition tax, GST and B.C. transition rebate* is \$700,280 [$(\$750,000 \div 1.05) \div 1.02$]
- the B.C. transition tax is \$14,006 ($\$700,280 \times 2\%$)
- the GST would be equal to \$35,014 ($\$700,280 \times 5\%$)

* *The selling price of \$750,000 includes the GST so it is necessary to determine the consideration payable (i.e., the amount payable before GST). As the sale is grandparented, the consideration so calculated is considered to include the B.C. transition tax.*

Provided the conditions for claiming the B.C. transition rebate are met, the builder will be entitled to claim the rebate in the amount of \$501, calculated as follows:

- the gross transition rebate* is \$1,401 ($\$700,280 \times 0.2\%$)
- the B.C. transition rebate** is \$501 ($\$1,401 - \900)

* *Refer to the table in question 70 for the rebate rates that apply. The 0.2% rebate rate will apply since the applicable percentage completion is 75% [(100% – 100% degree of completion on the date that tax becomes payable) + (85% degree of completion immediately before April 1, 2013 – 10% degree of completion immediately before July 1, 2010)].*

** *In this case, a PST transitional new housing rebate was claimed in respect of the unit, and that amount must be deducted from the gross rebate amount.*

The builder will be able to offset the B.C. transition tax payable by the amount of the B.C. transition rebate and remit the difference of \$13,505 ($\$14,006 - \501).

The builder would be required to remit GST in the amount of \$35,014. Note that if the builder collects the full \$750,000 for the unit, the builder will have charged the purchaser \$35,714 ($\$750,000 \times 5/105$) as or on account of GST and must remit that amount of tax to CRA instead of \$35,014. If a purchaser pays an amount as or on account of GST/HST in circumstances where the tax was not payable, the purchaser can request a refund or credit of the amount from the builder. If the purchaser cannot obtain a refund or credit from the supplier, the purchaser can claim a rebate for tax paid in error with the CRA. More information on the rebate is available in Guide RC4033, *General Application for GST/HST Rebates*.

77. A builder of a newly constructed semi-detached house and an individual entered into a written agreement of purchase and sale for the house on November 1, 2009 for \$600,000, including GST. Ownership and possession of the house will transfer under the agreement on May 1, 2014. Construction of the house had not begun by July 1, 2010, is 40% completed immediately before April 1, 2013 and 100% completed on May 1, 2014. No other interest in the house is sold by the builder to the purchaser. No PST transitional new housing rebate is available in respect of the house as construction was less than 10% completed on July 1, 2010. Will the B.C. transition tax apply to the sale of the house? Will the builder be entitled to claim a B.C. transition rebate in respect of the house?

The B.C. transition tax will apply to the sale of the house and will be deemed to be included in the consideration for the house. The builder will be entitled to claim the B.C. transition rebate in respect of the house provided all of the conditions for claiming the rebate are met.

The B.C. transition tax will apply to the sale since the tax in respect of the sale becomes payable on or after April 1, 2013 and before April 1, 2015, and construction of the residential complex was 40% completed (i.e., 10% or more completed) before April 1, 2013.

The builder will be required to account for the B.C. transition tax in the amount of \$11,204, calculated as follows:

- the value of consideration for purposes of determining the B.C. transition tax, GST and B.C. transition rebate* is \$560,224 [$(\$600,000 \div 1.05) \div 1.02$]
- the B.C. transition tax is \$11,204 ($\$560,224 \times 2\%$)
- the GST would be equal to \$28,011 ($\$560,224 \times 5\%$)

* *The selling price of \$600,000 includes the GST so it is necessary to determine the consideration payable (i.e., the amount payable before tax). As the sale is grandparented, the consideration so calculated is considered to include the B.C. transition tax.*

The builder will be entitled to claim a B.C. transition rebate in the amount of \$5,602, calculated as follows:

- the gross transition rebate* is \$5,602 ($\$560,224 \times 1.0\%$)
- the B.C. transition rebate is \$5,602**

* *Refer to the table in question 70 for the rebate rates that apply. The 1.0% rebate rate will apply since the applicable percentage is 40% [(100% – 100% degree of completion at the time tax becomes payable) + (40% degree of completion immediately before April 1, 2013 – 0% degree of completion immediately before July 1, 2010)].*

** *In this case, no PST transitional new housing rebate was claimed so there is no amount to deduct from the gross rebate amount.*

The builder will be able to offset the B.C. transition tax payable by the amount of the B.C. transition rebate and remit the difference of \$5,602 ($\$11,204 - \$5,602$).

The builder would be required to remit GST in the amount of \$28,011. Note that if the builder collects the full \$600,000 for the house, the builder will have charged the purchaser \$28,571 ($\$600,000 \times 5/105$) as or on account of GST and must remit that amount of tax to CRA instead of \$28,011. If a purchaser pays an amount as or on account of GST/HST in circumstances where the tax was not payable, the purchaser can request a refund or credit of the amount from the builder. If the purchaser cannot obtain a refund or credit from the supplier, the purchaser can claim a rebate for tax paid in error with the CRA. More information on the rebate is available in Guide RC4033, *General Application for GST/HST Rebates*.

78. A builder of a newly constructed detached house and an individual entered into a written agreement of purchase and sale for the house on September 30, 2009 for \$950,000, including GST. Ownership and possession of the house will transfer under the agreement on February 1, 2013. Construction of the house was 15% completed immediately before July 1, 2010. Would the B.C. transition tax apply to the sale of the house? Would the builder be entitled to claim a B.C. transition rebate in respect of the house?

No. The B.C. transition tax will not apply and the builder will not be entitled to claim the B.C. transition rebate. Since tax becomes payable on the sale of the house before April 2013, the builder will be required to account for the transitional tax adjustment. For more information on the transitional tax adjustment, see GST/HST Info Sheet GI-095, *Harmonized Sales Tax: Information on the Transitional Tax Adjustment for Builders of Housing in Ontario and British Columbia*.

79. A GST/HST-registered builder of a newly constructed detached house entered into a written agreement of purchase and sale for the house on May 15, 2010 for \$1,200,000, including HST. The B.C. new housing rebate is not paid or credited by the builder to the purchaser. Ownership and possession of the completed house will transfer under the agreement on May 1, 2013. Construction of the house was 10% completed immediately before July 1, 2010 and 85% completed immediately before April 1, 2013. No other interest in the house is sold by the builder to the purchaser. No PST transitional new housing rebate was claimed using the floor space method and none will be available in respect of the house at the time of completion as GST in respect of the sale of the house becomes payable on or after April 1, 2013. Will the B.C. transition tax apply to the sale of the house? Will the builder be entitled to claim a B.C. transition rebate in respect of the house?

Yes. The purchaser will be required to pay the B.C. transition tax to the builder, calculated on the consideration payable for the house (i.e., the amount before HST). The builder will be required to report the amount of the B.C. transition tax in the builder's GST/HST NETFILE return for the reporting period in which GST becomes payable on the sale. The builder will be entitled to claim the B.C. transition rebate in respect of the house.

The B.C. transition tax will apply to the sale since the tax becomes payable on or after April 1, 2013 and before April 1, 2015 and construction of the house was 85% completed before April 1, 2013 (i.e., 10% or more completed). The purchaser will be required to pay the B.C. transition tax to the builder in the amount of \$21,429, calculated as follows:

- the value of the consideration for purposes of determining the B.C. transition tax, GST and B.C. transition rebate* is \$1,071,429 ($\$1,200,000 \times 100/112$)
- the B.C. transition tax is \$21,429 ($\$1,071,429 \times 2\%$)
- the GST would be equal to \$53,571 ($\$1,071,429 \times 5\%$)

* *The contracted selling price of \$1,200,000 included the HST so it is necessary to determine the consideration payable (i.e., the amount payable before HST).*

The builder will be entitled to claim a B.C. transition rebate in the amount of \$2,143 calculated as follows:

- the consideration is $\$1,071,429 \times 0.2\%$ *

* *Refer to the table in question 70 for the rebate rates that apply. The rebate rate will be 0.2% since the applicable percentage is 75% [(100% – 100% degree completion on date tax becomes payable) + (85% degree of completion immediately before April 1, 2013 – 10% degree of completion immediately before July 1, 2010)].*

The builder will be able to offset the B.C. transition tax payable by the amount of the B.C. transition rebate and remit the difference of \$19,286 ($\$21,429 - \$2,143$) to the CRA.

The builder would be required to remit GST in the amount of \$53,571. Note that if the builder receives payment of \$1,200,000 for the house, the builder must remit \$128,571 to CRA because the builder charged the purchaser this amount as or on account of the HST, even though only the GST at 5% will be in effect on May 1, 2013. If a purchaser pays an amount as or on account of GST/HST in circumstances where the tax was not payable, the purchaser can request a refund or credit of the amount from the builder. If the purchaser cannot obtain a refund or credit from the supplier, the purchaser can claim a rebate for tax paid in error with the CRA. More information on the rebate is available in Guide RC4033, *General Application for GST/HST Rebates*.

80. A builder of a newly constructed duplex enters into a lease agreement with an individual for one of the units in the duplex. The individual takes possession of the unit under the lease agreement on June 1, 2013, when construction of the duplex is completed, and is the first individual to occupy a unit in the duplex as a place of residence. Construction of the duplex was 10% completed immediately before July 1, 2010 and 85% completed immediately before April 1, 2013. The fair market value of the duplex on June 1, 2013 is \$850,000. No PST transitional new housing rebate is available in respect of the duplex as tax on the self-supply becomes payable on or after April 1, 2013. Will the B.C. transition tax apply on the self-supply of the duplex? Will the builder be entitled to claim a B.C. transition rebate in respect of the duplex?

The B.C. transition tax will apply and the builder will be entitled to claim a B.C. transition rebate provided the builder meets all the requirements for claiming a rebate.

The builder is deemed to have made a self-supply of the duplex on June 1, 2013, i.e., the later of the time construction of the duplex is substantially completed and the time possession of a unit in the duplex is given to an individual who is the first person to occupy a unit in the duplex as a place of residence.

The B.C. transition tax will apply since the tax is payable on or after April 1, 2013 and before April 1, 2015 and construction of the duplex was 85% completed on April 1, 2013 (i.e., 10% or more completed). The

builder will be required to account for the B.C. transition tax in the amount of \$17,000, calculated by multiplying the fair market value of the duplex on the date of the self-supply (\$850,000) by 2%.

The builder will be entitled to claim a B.C. transition rebate in the amount of \$1,700, calculated by multiplying the fair market value (\$850,000) by 0.2%. The rebate rate of 0.2% will apply since the applicable percentage is 75% [(100% – 100% degree of completion on date tax becomes payable) + (85% degree of completion on April 1, 2013 – 10% degree of completion on July 1, 2010)]. Refer to the table in question 70 for the rebate rates that apply.

The builder will be able to offset the amount of the B.C. transition tax payable by the B.C. transition rebate and remit the difference of \$15,300 (\$17,000 – \$1,700) to the CRA.

81. A builder of a newly constructed 50-unit apartment building enters into a lease agreement with an individual for one of the units in the building. The individual takes possession of the unit under the lease agreement on March 1, 2013 and is the first individual to occupy a unit in the building as a place of residence. Construction of the apartment building was 35% completed immediately before July 1, 2010, 90% completed immediately before March 1, 2013, and 100% completed on April 1, 2013. Will the B.C. transition tax apply on the self-supply of the apartment building? Will the builder be entitled to claim a B.C. transition rebate in respect of the apartment building?

No. The B.C. transition tax will not apply and the builder will not be entitled to claim the B.C. transition rebate.

The builder is deemed to have made a self-supply of the entire residential complex (building and land) on March 1, 2013, i.e., the later of the time construction of the apartment building is substantially completed and the time possession of a unit in the building is given to an individual who is the first person to occupy a unit in the building as a place of residence. Since the self-supply occurs before April 2013, the deemed sale is subject to the 12% HST. Therefore, the B.C. transition tax will not apply and the B.C. transition rebate will not be available.

The builder may be eligible to claim the PST transitional new housing rebate as tax on the self-supply becomes payable before April 2013. For more information on the PST transitional new housing rebate, see GST/HST Info Sheet GI-096, *Harmonized Sales Tax: Provincial Transitional New Housing Rebates for Housing in Ontario and British Columbia*.

Builder information requirements

82. [Revised question and answer] What are the specific information requirements that a builder must provide to the purchaser?

A vendor (including a builder or an agent of the builder) that enters into a written agreement of purchase and sale after February 17, 2012 and before April 1, 2015 for newly constructed or substantially renovated housing in B.C., or an interest in such housing, must provide specific information in writing to the purchaser. In some cases the information must be provided in the written agreement of purchase and sale while in other cases the information must be provided in a written addendum to the agreement.

In addition, other specific information must be provided to the purchaser in the statement of adjustments or other document if the B.C. transition tax is payable on the sale.

The information that the vendor must provide is as follows.

(A) Written agreement of purchase and sale entered into on or after December 1, 2012 and before April 1, 2015

In these cases, the vendor is required to include each of the following items in the written agreement on the date the agreement is entered:

- the value of consideration for the housing as established for GST/HST purposes;
- a statement as to whether the amount represented in the agreement as the purchase price includes any of the B.C. transition tax, the GST or the HST and, if the purchase price includes any such tax, a statement that identifies each such tax, the rate of the tax and the amount of the tax;
- if a GST/HST new housing rebate, B.C. provincial new housing rebate or B.C. transition rebate has been taken into account in determining the amount payable to the vendor under the agreement, a statement that identifies each such rebate and the amount of the rebate;
- a statement as to whether the supplier is a foreign supplier.¹⁰

If the vendor is **NOT** a foreign supplier, the following statement must be included in the written agreement:

Notice to Purchaser

If

- (a) **both** ownership **and** possession of newly constructed or substantially renovated housing, or an interest in such housing, transfer on or after April 1, 2013 and
- (b) **either** ownership **or** possession of the housing or interest transfers before April 1, 2015,

then

- the 7% provincial part of the HST and the B.C. HST new housing rebate for primary places of residence generally will not apply,
- the 2% B.C. transition tax may be payable by the purchaser, and
- the supplier may be eligible for a B.C. transition rebate in respect of the housing.

For more information, refer to GST/HST Notice276, *Elimination of the HST in British Columbia in 2013 – Transitional Rules for Real Property Including New Housing*.

¹⁰ In this notice, a foreign supplier refers to a non-resident who makes a taxable supply of real property in Canada by way of sale and is not required to collect the tax. On sales of this nature, the purchaser is required to remit GST/HST directly to the government. If a non-resident is regarded as a resident only by virtue of having a permanent establishment in Canada, the non-resident is still regarded as a non-resident for purposes of whether they are relieved from having to collect the tax.

If the supplier is a foreign supplier, the following statement must be included in the written agreement:

Notice to Purchaser

If

- (a) **both** ownership **and** possession of newly constructed or substantially renovated housing, or an interest in such housing, transfer on or after April 1, 2013 and
- (b) **either** ownership **or** possession of the housing or interest transfers before April 1, 2015,

then

- the 7% provincial part of the HST and the B.C. HST new housing rebate for primary places of residence generally will not apply,
- the 2% B.C. transition tax may be payable by the purchaser,
- because the supplier is a foreign supplier, the purchaser will be required to remit directly any 2% B.C. transition tax payable, and
- the supplier may be eligible for a B.C. transition rebate in respect of the housing.

For more information, refer to GST/HST Notice276, *Elimination of the HST in British Columbia in 2013 – Transitional Rules for Real Property Including New Housing*.

In addition, if the construction or substantial renovation of the housing was at least 10% completed before April 1, 2013 and tax in respect of the sale becomes payable on or after April 1, 2013 and before April 1, 2015, see paragraph (C) below for additional information requirements.

(B) Written agreement of purchase and sale entered into on or after February 17, 2012 and before December 1, 2012

In these cases, unless ownership or possession of the housing or interest in the housing transfers on or before December 31, 2012, the vendor must provide the purchaser with a written addendum to the agreement.¹¹ The addendum provides additional information, but does not amend the agreement. The addendum must be provided on or before January 2, 2013, and must contain the following items:

- each item set out in paragraph (A) above, including the applicable “Notice to Purchaser”; and
- the addendum must be signed by the vendor. It does not need to be signed by the purchaser.

The vendor must provide the written addendum to the purchaser in at least one of the following ways:

- by giving a copy of the written addendum in person to the purchaser or an agent of the purchaser;
- by sending a copy of the written addendum by courier or registered mail to the purchaser’s address of record for delivery specified in the agreement;
- by sending a copy of the addendum to the purchaser’s facsimile number of record specified in the agreement, provided that the facsimile confirmation of receipt is obtained; or
- by sending a copy of the addendum by any other method including, for example, electronic mail, provided the vendor obtains a written confirmation of receipt from the purchaser or purchaser’s agent.

¹¹ If ownership or possession of the housing or interest transfers on or before December 31, 2012, the addendum does not need to be provided. However, if ownership or possession transfers after that date and before April 1, 2013, the addendum must be provided even if the B.C. transition tax is not payable (e.g., ownership transfers before April 1, 2013).

The addendum will be considered to have been provided to the purchaser:

- if provided by giving a copy in person, the day the copy is given;
- if provided by sending a copy by courier or registered mail, on the date the copy is sent;
- if provided by facsimile, the date indicated on the confirmation of receipt; and
- if provided by sending a copy in any other manner, on the date indicated on the confirmation of receipt.

As stated above, the addendum must be provided on or before January 2, 2013.

In addition, if the construction or substantial renovation of the housing was at least 10% completed before April 1, 2013 and tax in respect of the sale becomes payable on or after April 1, 2013 and before April 1, 2015, see paragraph (C) below for additional information requirements.

(C) Written agreements of purchase and sale in respect of which the B.C. transition tax becomes payable after March 31, 2013 and before April 1, 2015

See the answer to question 44 for circumstances in which the B.C. transition tax will apply.

In these cases, the vendor is required to include each of the following items in the statement of adjustments or other document provided to the purchaser by the time tax on the sale becomes payable:

- the value of consideration for the housing as established for GST/HST purposes;

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| Where the sale of the housing was grandparented under the rules for the transition to the HST in 2010, the value of consideration is calculated differently than in other cases. See the answer to question 62 for determining the value of consideration for GST/HST purposes in the circumstances. |
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- a statement as to whether the GST is payable on the sale and, if so, the amount of the tax;
- a statement as to whether the B.C. transition tax is payable on the sale and, if so, the amount of the tax;
- the completion percentage of the housing:
 - immediately before July 1, 2010,
 - immediately before April 1, 2013, and
 - at the time the GST or the First Nations GST is payable in respect of the sale;
- the amount of the B.C. transition rebate that the supplier is entitled to claim;
- the amount of the PST transitional new housing rebate that the supplier has claimed or is entitled to claim in respect of the housing;
- the amount of any GST/HST new housing rebate that the vendor agreed to pay or credit to the purchaser; and
- a statement as to whether the supplier is a foreign supplier.

In the case of a grandparented sale¹², the statement of adjustments or other document must also include the following statement:

Notice to Purchaser

The purchase price is deemed to include the 2% B.C. transition tax and the purchaser is not required to pay any additional amount on account of that tax. (See section 19(4) of the New Housing Transition Tax and Rebate Act.)

For more information, refer to GST/HST Notice276, *Elimination of the HST in British Columbia in 2013 – Transitional Rules for Real Property Including New Housing*.

In the case of a sale by a foreign supplier (other than a foreign supplier of a grandparented sale), the statement of adjustments or other document must also include the following statement:

Notice to Purchaser

Because the supplier is a foreign supplier, the purchaser will be required to remit directly any 2% B.C. transition tax payable.

For more information, refer to GST/HST Notice276, *Elimination of the HST in British Columbia in 2013 – Transitional Rules for Real Property Including New Housing*.

83. [Revised question and answer] Will penalties apply if a vendor fails to provide the required information to the purchaser?

Yes. If the vendor fails to fully and accurately disclose the required information, a penalty of up to 1% of the purchase price of the housing, to a maximum of \$10,000 per sale, will be imposed on the vendor. If the vendor knowingly, or under circumstances amounting to gross negligence, makes or participates in making a false statement or fails to fully and accurately disclose the required information, a penalty of up to 4% of the purchase price, to a maximum of \$40,000 per sale, will be imposed on the vendor. A builder and an agent of the builder are jointly and severally liable for any such penalties.

Penalties could be reduced or waived in certain circumstances.

84. [New question and answer] In which statement of adjustments should the information be included?

The information can be provided in any statement of adjustments as long as it is provided at or before the time at which tax becomes payable. It is expected that the information will typically be provided in the statement of adjustments signed by the vendor and returned to the purchaser.

85. [New question and answer] When might information be required to be provided in a document other than the statement of adjustments?

There may be cases where there is no statement of adjustments or where the information must be provided before the statement of adjustments is prepared.

For example, if possession of taxable new housing transfers earlier than ownership transfers (and possession transfers on or after April 1, 2013 and before April 1, 2015), the B.C. transition tax would become payable at the time **possession** transfers. In this case, the builder must provide the information to

¹² See the answer to question 61 for the definition of a grandparented sale.

the purchaser at the time tax becomes payable, e.g., generally at the time possession transfers, which may be earlier than when a statement of adjustments would normally be prepared.

Enquiries by telephone

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| Technical enquiries on the GST/HST: | 1-800-959-8287 |
| General enquiries on the GST/HST: | 1-800-959-5525 (Business Enquiries) |
| If you are located in Quebec: | 1-800-567-4692 (Revenu Québec) |

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