

# GST/HST Info Sheet

## Sale of a Residence by a Builder Who is an Individual

September 2004

This GST/HST Info Sheet discusses the sale of a house by a builder who lives in the house before selling it. It provides examples of how the GST/HST applies to common situations involving these sales.

In this Info Sheet, “taxable” means subject to the GST/HST and “exempt” means not subject to the GST/HST.

An individual is considered to be a “builder” for GST/HST purposes if, in the course of a business or adventure or concern in the nature of trade, they build a house on their land (or hire someone else to build it) for the purpose of selling the house or renting it to someone else to live in. The individual does not have to be involved in the house construction industry to be considered a builder for GST/HST purposes.

The following factors may indicate that you are a builder of a house. The factors are not listed in any particular order and there is no intent to weigh one more heavily than another.

- You co-own the house with others who have contributed to the costs of purchasing the land or building the house, but who do not intend to live in the house.

- Your primary or secondary intention in buying the land and building a house is the prospect of the sale of the house at a profit. This may be inferred, for example, where the financing of the house is beyond your means and may depend on the increased value and saleability of the house in a burgeoning housing market.
- Your private documents (driver’s licence, health card) or public records (telephone book, child’s school records) do not list the address of the house.
- Your pattern of activity is such that your occupancy of the house does not have the qualities or characteristics of being permanent. For example, you may purchase more than one lot or build (or have built) more than one house in the same time period. (However, under certain circumstances, you may also be considered a builder if you build and sell a single house.) You may arrange short-term financing or financing without balance repayment penalties. You may own and live in the house for a short period of time and then sell the house for a profit. You may put the house up for sale or take other actions to attract buyers before or at the same time that you use it as a residence.
- The house is not treated as your principal residence for income tax purposes.

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La version française de ce document est intitulée *Vente d’une résidence par un constructeur qui est un particulier.*

**Canada**

If you are not considered a builder, there is no GST/HST liability when you move into your personal residence or when you sell it. The rest of this Info Sheet does not apply to you.

As a builder of a house, when you move into the house as the first occupant (or rent it to someone else), or when the house is substantially completed, whichever is later, you must self-assess and remit the GST/HST calculated on the fair market value of the house unless the exception for a builder's personal residence applies. (See information below.) If your construction occurs in the course of a business, you are required to register for the GST/HST when you self-assess and remit the GST/HST.

If you are a GST/HST registrant, you are entitled to claim input tax credits for the GST/HST you have paid on the construction, the purchase of land, and other costs.

If you are not a GST/HST registrant, you may be entitled to claim a rebate on your construction and other costs if certain conditions are met. For more information, refer to GST/HST Memorandum 19.3.6, [Rebate on Non-registrant's Sale of Real Property](#).

You may be entitled to claim a new housing rebate for a portion of the tax paid on the self-assessment (whether or not you are registered for the GST/HST) if certain conditions are met. For more information on this rebate refer to the GST/HST Guide RC4028, [GST/HST New Housing Rebate](#).

If you have already paid the GST/HST on the self-assessment, any later sale of the house is exempt.

### Question no. 1

Recently I had a house built on a lot that I own. Although I had intended to live in the house on a permanent basis, I lived in it for only two months. Then my employer transferred me to another city. Consequently, I have to sell my new house. Does the GST/HST apply to the sale?

### Answer

No, the GST/HST does not apply to the sale of the house. Since you built the house for your personal use and not in the course of a business or as an adventure or concern in the nature of trade, you are not considered to be a builder.

### Question no. 2

My main source of income is from building and selling new houses. I usually build a new house for my own temporary use with the intention of selling it and building another house that I will move into as soon as I find a purchaser for the house I currently occupy. Does the GST/HST apply on the sale of the houses that I have built, lived in, and then sold?

### Answer

You are considered to be a builder for GST/HST purposes. Consequently, you have to self-assess and pay the GST/HST based on the fair market value of each house when you move into it or when it is substantially completed, whichever is later. When you later sell the house, it would be exempt.

You may be entitled to claim a new housing rebate for a portion of the tax paid on the self-assessment (whether or not you are registered for the GST/HST) if certain conditions are met.

### Question no. 3

I am the same individual as in the previous question. When I started building a house I had the intention of selling it to make a profit. However, before I substantially completed the house, I changed my mind. I now plan to live in the house on a permanent basis. Am I required to self-assess the GST/HST when I move into the house?

### Answer

Provided that you did not claim input tax credits on construction, land or other costs related to the house, you are not required to self-assess and remit the GST/HST when you move into the house since you intend to use it primarily as your place of residence.

If you did claim input tax credits for the GST/HST paid on the construction, land, or other costs you are required to self-assess and remit the GST/HST calculated on the fair market value of the house when you move into it or when it is substantially completed, whichever is later.

**Exception for Builder's Personal Residence**

The sale of a house is exempt if the builder or a relation of the builder<sup>1</sup> used the house primarily as a place of residence after the construction was substantially completed and before it was sold.

The residency in the house must not have the qualities or characteristics of being a temporary residency indicating that the builder has the intention of selling the house as inventory, stock or in other words, as a disposable asset; rather, it must indicate permanent residency.

Where the house is the builder's personal residence, the builder does not collect or remit the GST/HST on its sale. Also, the builder would not be required to self-assess and remit the GST/HST when the builder moved into their personal residence before selling it.

However, the builder would be required to self-assess the GST/HST if they had claimed input tax credits on construction or land costs related to their personal residence.

**Question no. 4**

I am employed as an electrician with ABC Construction (ABC Inc.). I purchased three vacant lots from a developer and hired ABC Inc. to build a house on one of the lots. My wife and I planned to live in this house for six months, during which time we would have our permanent residence (a larger house) built on another of my lots. The first house was listed with a real estate agent after substantial completion and before we moved into it. We lived in the first house for six months, then sold it at a profit and moved into the second larger house. After having lived in the second house for five months my

<sup>1</sup> "Relation" of a particular individual generally means another individual related by blood, marriage or adoption, and includes a former spouse or common-law partner of the builder. For more information, refer to GST/HST Memorandum 19.3 [Real Property Rebates](#).

wife and I realized that the house was too small because her parents had moved in with us due to unforeseen personal circumstances. We have put a conditional offer on an already constructed house that is twice the size of our second house. I am now selling the second house. I did not claim input tax credits on construction, land or other costs related to the houses.

Was I required to self-assess on the houses when they were substantially completed or when I moved into them? Does the GST/HST apply to the sale of the first and second house?

**Answer**

You are considered to be a builder of the first house even though you do not generally earn your living by building and selling houses. The primary purpose for building this house was to sell it since it was listed for sale prior to occupancy and was only meant to be a temporary residence. The exception for a builder's personal residence does not apply because the house was not used primarily as your place of residence after its construction was substantially completed.

Consequently, even though you did not claim input tax credits on your costs, you are required to pay the GST/HST based on the fair market value of the first house when it was substantially completed. Then, when you sold the first house, it would be tax exempt.

However, you are not required to self-assess and remit the GST/HST on the second house. In this case, the house was constructed for use primarily as your place of residence. Even though you abandoned your plans to live in this house and sold it soon after you had moved into it, your sole motivation for doing so arose out of unforeseen personal circumstances. The house was not sold in the course of a business or an adventure or concern in the nature of trade. In this case, the sale of the second house would also be exempt.

### Question no. 5

In June 2003, I finished building a house on a lot that I own and moved into it shortly thereafter. My main purpose for building the house was to sell it and use the proceeds to build a larger house. In August 2003, I listed the house with a real estate agent with the intention of selling it at a profit. With this in mind, I obtained short-term financing and purchased a second lot in October 2003. I began construction of a second larger house on that lot at that time. My first house was sold in February 2004 around the same time that the second house was completed. At that same time I listed the second house with a real estate agent. Shortly thereafter I moved into it advertising that I was willing to vacate the house at the convenience of the purchaser. In April 2004, I sold the second house and repaid the balance of the financing without incurring penalties. I moved into an apartment where I will live until I finish building my third house, which is currently under construction. I intend to live in this house permanently.

Do I have to pay the GST/HST on the construction and sale of these houses?

### Answer

You are considered to be a builder of the first and second houses since you built them primarily for the purpose of selling them, and, as such, sold them in the course of a business or an adventure or concern in the nature of trade. This is supported by the fact that you built and sold the houses over a short period of time. Also, you obtained short-term financing with no balance repayment penalties and you were willing to vacate the houses, and in fact, you did vacate the second house, when you received a suitable offer. The exception for a builder's personal residence does not apply, because you did not use the first and second houses primarily as your place of residence after their construction was substantially completed.

Consequently, you would have had to pay the GST/HST calculated on the fair market value of each of the first two houses when you moved into

the house or when it was substantially completed, whichever was later. If this had been the case, when you sold the houses, there would not have been any tax liability created.

Provided the third house is used primarily as your place of residence, you will not have to pay the GST/HST as long as you did not claim input tax credits for the GST/HST paid on construction, land and other costs related to the house. If you did claim input tax credits for these costs, you will be required to self-assess and remit the GST/HST calculated on the fair market of the house when it is substantially completed or when you move in, whatever is later.

For more information on who is considered a builder refer to the GST/HST Memorandum 19.2, *Residential Real Property*. For more information on sales of houses refer to the GST/HST Memorandum 19.2.1, *Residential Real Property—Sales*.

### GST/HST forms

If your only commercial activity is the taxable sale of your house and you are not in the business of selling houses, you are required to remit the tax using GST62, *Goods and Services Tax/Harmonized Sales Tax (GST/HST) Return (Non-personalized)*. You are not required to register for GST/HST purposes (unless you are in the business of selling houses); however, you may choose to do so.

If you are a GST/HST registrant, you would remit the tax using your regular personalized GST/HST return, GST34, *Goods and Services Tax/Harmonized Sales Tax (GST/HST) Return For Registrants*.

If you are selling a taxable house to a GST/HST registrant (other than an individual), the registered purchaser is required to remit the tax. You are not required to collect the tax as the purchaser has to self-assess.

The purchaser would remit the tax using either the GST 60, *GST/HST Return for Acquisition of Real Property* or, if using the house primarily in their commercial activities, their regular personal GST/HST return GST 34.

This Info Sheet does not replace the law found in *the Excise Tax Act* (the Act) and its Regulations. It is provided for your reference. As it may not completely address your particular operation, you may wish to refer to the Act or appropriate regulation, or contact any Canada Revenue Agency (CRA) GST/HST Rulings Centre for more information. These centres are listed in the GST/HST Memorandum 1.2, [Canada Revenue Agency GST/HST Rulings Centres](#). If you wish to make a technical enquiry on the GST/HST by telephone, please call the toll-free number 1-800-959-8287. A ruling should be requested for certainty in any particular GST/HST matter.

If you are located in the province of Quebec and wish to make a technical enquiry or request a ruling related to the GST/HST, please contact the Ministère du Revenu du Québec (MRQ) by calling the toll-free number 1-800-567-4692.

All GST/HST publications are available at the CRA's Web site at <http://www.cra-arc.gc.ca/tax/technical/gsthst-e.html>.

Reference in CRA publications is made to property and services taxable at 7% (the GST rate) or 15% (the HST rate). The 15% HST applies to property and services provided in Nova Scotia, New Brunswick, and Newfoundland and Labrador (the "participating provinces").