

**December 12, 2001**

## **Notice of Change**

GST/HST Memorandum 19.2.4, *Residential Real Property—Special Issues*

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This is a correction to an earlier notice of change to this Memorandum. Some text was omitted. The underlined text has been added.

Paragraph 12 of GST/HST Memorandum 19.2.4, *Residential Real Property—Special Issues* addresses the GST/HST treatment of the sale of a building that has been severed from its foundation and is being moved to a new legal description. The explanation given in paragraph 12 of the June 1998 version of this memorandum is incomplete and as such it could be misleading. Consequently, paragraphs 12, 13 and 14 are being replaced with the following:

Supply of a building

12. Generally, outside Quebec, the sale of a building that is being relocated to a new legal description is treated under the provisions affecting tangible personal property rather than real property. Accordingly, the following considerations apply:

Commercial activity  
paras 123(1)(a) and (b)

- If a person were to sell a building that is being relocated to another legal description, the sale is made in the course of commercial activities if the building is sold in the course of a business carried on by the person or as an adventure or concern in the nature of trade of the person. Since a taxable supply is by definition a supply made in the course of a commercial activity, this sale would be taxable. However, GST/HST may not apply if the vendor is not a registrant (i.e., if the vendor is a small supplier).

Note that if the person selling the building is an individual, a personal trust or a partnership, all the members of which are individuals, the business or the adventure or concern in the nature of trade must be carried on or engaged in with a reasonable expectation of profit for the sale to be a commercial activity.

Taxable supply  
ss 123(1)

- If a person were to sell a building that is being relocated to another legal description, the sale is made otherwise than in the course of commercial activities if the sale is not made in the course of a business carried on by the person nor as an adventure or concern in the nature of trade of the person. In this case, the sale would not be a taxable supply.

13. In Quebec, and in any province where the building is relocated within the same legal description, the supply is not a supply of a residential complex but may be that of real property and, therefore, may be an exempt supply of real property under section 9 (sale of real property by an individual or a personal trust) of Part I of Schedule V. (For more information about section 9 of Part I of Schedule V, see GST/HST Memorandum 19.5, *Land and Associated Real Property*.)

Paragraph 14 is now redundant and is deleted.