

GST/HST Technical Information Bulletin

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GST/HST NEW RESIDENTIAL RENTAL PROPERTY REBATE

This bulletin does not replace the law found in the *Excise Tax 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 Customs and Revenue Agency (CCRA) tax services office for additional information. If you are located in the Province of Quebec, please contact the Ministère du Revenu du Québec (MRQ) for additional information.

This bulletin reflects amendments to the *Excise Tax Act* contained in Bill C-13, which received Royal Assent on June 14, 2001.

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Overview

Amendments to the *Excise Tax Act* (the Act) that created a new rebate for persons who supply new residential rental properties received Royal Assent on June 14, 2001. The new residential rental property rebate contained in section 256.2 of the Act is now available under particular conditions to:

- persons that supply residential properties by way of lease, licence or similar arrangement. In general, the properties must be newly constructed or substantially renovated or converted residential rental properties and they must be intended for long-term residential accommodation.
- persons who sell the building portion of a residential complex and who supply the land portion by way of lease, licence or similar arrangement for a period of at least twenty years or the lease contains an option to purchase the land.
- persons who supply qualifying residential units in an addition to multiple unit residential rental properties.
- cooperative housing corporations in respect of new qualifying residential units. However, for units supplied to individuals who acquire shares in the corporation that give the purchaser a right to occupy a new residential unit of the corporation, the new rental rebate that the cooperative receives is reduced by the amount of the new housing rebate to which the purchaser is entitled.
- persons who supply land by way of lease, licence or similar arrangement for long-term residential use; and
- persons who supply sites in residential trailer parks by way of lease, licence or similar arrangement for long-term residential use.

The new residential rental property rebate will also be available where a new residential unit that is for sale is first leased, but special rules will apply.

The maximum rebate is 36% of the GST or federal portion of the HST paid or deemed paid by the person on the acquisition, or deemed acquisition, of qualifying residential rental properties. The rebate does not apply, however, to the provincial portion of the HST. The maximum rebate amount for each qualifying residential rental property is \$8,750.

The new residential rental property rebate applies to construction, substantial renovations or conversions that were started after February 27, 2000, and to lease agreements signed after that date.

Background

A person who buys a newly constructed residential rental property, e.g., an apartment building, from a builder, is liable for GST/HST calculated on the sale price of the property. If the purchaser then supplies the units in the new residential rental property to individuals as a place of residence under long-term leases, the supply of the units is generally exempt and input tax credits (ITCs) are not available to the purchaser (now landlord) in respect of the GST/HST paid upon acquiring the property. As a result, the purchaser/landlord finances the tax liability up front and recovers the tax over time.

Similarly, if a builder constructs a new residential rental property, e.g., an apartment building, and supplies the units in the new residential rental property by way of lease, licence or similar arrangement, the builder is required to self-assess tax on the fair market value of the entire property when the first unit is first rented. If the builder leases the units in the new residential rental property to individuals as a place of residence under long-term leases, the builder/landlord is in the same position as the purchaser/landlord in that the supply of the units is exempt and ITCs are not available in respect of the GST/HST paid at the time of self-supply. Thus, while the GST/HST would be financed up front, its recovery would occur over time.

This inability to recover GST/HST except over time is experienced by persons who supply land by way of lease for long-term residential use, by persons who supply sites by way of lease for long-term residential use in residential trailer parks, and by cooperative housing corporations.

While existing GST/HST new housing rebates allow the recovery of a portion of the GST/HST paid or payable by the purchaser when new housing is acquired, they do not apply to new rental properties. The new residential rental property rebate now allows a recovery of a portion of the GST/HST paid or payable in respect of residential rental properties.

General Conditions for the Rebate

No ITCs or other rebates

A person who is entitled to claim ITCs in respect of any part of the tax payable on the acquisition of the property or the tax self-assessed under section 191¹ is not entitled to the new rental rebate. The same is true for a person entitled to claim other rebates in respect of the property such as a public service body (PSB) rebate or a new housing rebate. No amount of tax can be included in the rebate to the extent that the person is, under any other Act or law, not required to pay or remit or is entitled to recover by way of rebate, refund or remission.

¹ See the section “Rebate in respect of lease of land and building for residential rental accommodation” in this bulletin. For a complete discussion of the self-assessment provisions of section 191, see GST/HST Memorandum 19.2.3, *Residential Real Property—Deemed Supplies*.

Thresholds

The thresholds for the new residential rental property rebate apply on a unit-by-unit basis, except in the case of duplexes where the thresholds apply to the value of the entire complex, i.e., both units.

The full rebate is available for qualifying residential units whose value does not exceed \$350,000. For rental units valued between \$350,000 and \$450,000, the rebate is gradually reduced. No rebate is available for rental units valued at \$450,000 or more. Except where otherwise noted, these are the same rebate thresholds that apply for GST/HST new housing rebates.

A similar rebate range applies in the case of land that is leased for residential purposes. The full rebate is available where the fair market value of the land (other than a site in a residential trailer park or in an addition to one) or the fair market value of a site in a residential trailer park or in an addition to one does not exceed \$87,500. For land or a site valued between \$87,500 and \$112,500, the rebate is gradually reduced. No rebate is available for land or a site whose fair market value is \$112,500 or more. The fair market value of a site in a residential trailer park or in an addition to one is determined by dividing the fair market value of the entire park or addition to the park by the total number of sites in the park or addition as the case may be.

Coming into force

The new residential rental property rebate applies to construction, substantial renovations, conversions or additions to rental properties that were started after February 27, 2000. Generally, construction is considered to begin at the time the excavation work relating to the residential complex begins. In the case of a deemed substantial renovation of a building converted into a residential complex, the rebate applies if the construction or alteration necessary to effect the conversion began after February 27, 2000. In the case of leased land, the rebate applies if the lease agreement is entered into after February 27, 2000.

Supporting documentation

For rebate applications concerning:	Supporting documents to be included with the rebate application: (photocopies acceptable)
a single unit residential complex	<ul style="list-style-type: none"> • statement of adjustments; • the purchase agreement (only for claimants who have purchased the single unit residential complex); • the lease/rental agreement; or • the insurance policy (that the claimant has on the property, not the lessee insurance policy); <p>whichever is appropriate for the claimant’s particular rebate application.</p>
a lease of land	<ul style="list-style-type: none"> • the lease/rental agreement; or • the statement of adjustments.
all other cases	<p>No supporting documents need to be submitted with the rebate application. However, all records must be retained for verification purposes, including receipts, invoices, written contracts, and agreements, for six years after the end of the year to which they relate. The CCRA may ask for these documents to verify the amount of the rebate claim and the statements certified on the rebate application form. All claims are subject to verification.</p>

Definitions and Interpretations

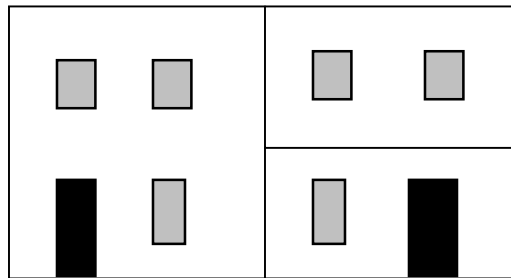
Duplex

A duplex is a residential complex situated on a single legal land description that contains not more than two residential units where each unit contains private kitchen facilities, a private bath and a private living area. For purposes of the new residential rental property rebate, references to a single unit residential complex include a duplex. Therefore, the new residential rental property rebate in respect of a duplex is in accordance with the provisions for a single unit residential complex. The thresholds and phase out provisions apply to the value of the entire complex, i.e., both units.

Where a residential unit in a duplex is supplied by way of lease and at least one of the two residential units meets the definition of a qualifying residential unit, the new residential rental property rebate may be available in respect of tax paid for the acquisition of the entire residential complex, i.e., both units, provided a GST/HST new housing rebate cannot be claimed in respect of the complex. The \$350,000 threshold at which the rebate starts to decrease is the same threshold as for a single unit residential complex. The threshold does not apply to each unit separately. It applies to the fair market value of the entire complex, i.e., both units.

In some situations, there may be uncertainty about the number of separate residential units in a building. To determine how many separate residential units there are, one must apply the test of “direct internal access”. Under this test, if a residential unit (referred to for purposes of this explanation as the “specified unit”) in a building affords direct internal access (with or without the use of a key or similar device) to another area of the building that is all or part of the living area of a particular residential unit, the specified unit is deemed to be part of the particular residential unit and not a separate residential unit.

Example: A newly constructed building, situated on a single legal land description, is composed of two two-storey, semi-detached units. One of the two-storey units is further divided into an upstairs unit and a downstairs unit.



The occupants of the upstairs unit must pass through the kitchen area of the downstairs unit to reach the stairs leading to their unit. In this situation, the upstairs unit is deemed to be part of the downstairs unit. They are not separate units for purposes of the new residential rental property rebate. Thus, this building is a duplex and the rebate formula and threshold levels that are appropriate for a duplex apply here. The building is not considered to be a multiple unit residential complex containing three units.

First use

“First use” in respect of a new residential unit (other than a residential unit in a multiple unit residential complex) means the first use of the unit after the construction or substantial renovation of the unit is substantially completed. In the case of a residential unit situated in a multiple unit residential complex, “first use” means the first use of the unit after the construction or last substantial renovation of the complex, or addition to the complex, in which the unit is situated is substantially completed.

Lease

A reference to a lease may be read as a reference to a “lease, licence or similar arrangement”.

Percentage of total floor space

The percentage of total floor space in respect of a residential unit that forms part of a residential complex or part of an addition to a multiple unit residential complex means the percentage that the total square metres of floor space occupied by the unit is of the total square metres of floor space occupied by all the residential units in the complex or addition as the case may be.

Qualifying residential unit

The definition of “qualifying residential unit” is key to targeting the rebate to new rental properties supplied for long-term use by individuals as a primary place of residence. In doing so, the definition sets out various criteria for the person holding the residential unit to qualify for a rebate under section 256.2. The criteria address: the nature of the unit itself, the purpose for which person supplies the unit, the nature of its occupancy, and the duration of the first occupancy. Specifically, a residential unit is a qualifying residential unit of a person at a particular time if:

- the person is
 - the owner or a co-owner, a lessee or a sublessee of the unit or has possession of the unit as purchaser under an agreement of purchase and sale; or
 - a lessee or a sublessee of a residential complex in which the residential unit is situated;
- the residential unit is a self-contained residence;
- the residential unit is held by the person
 - for the purpose of making exempt supplies included in section 5.1, 6, 6.1 or 7 of Part I of schedule V to the Act²; or
 - if the unit is held for use as the primary place of residence of the person, the complex in which the unit is situated includes one or more other residential units at least one of which is a qualifying residential unit of the person;
- the unit will be first used or it can reasonably be expected by the person that the first use of the unit will be as the primary place of residence of individuals, which could include the person or a relation of the person;
- the use as a primary place of residence by each such individual
 - must be for a period of at least one year, although not necessarily under one lease (e.g., an individual could occupy a unit for one year under twelve consecutive monthly leases); or
 - if the period is less than one year, the residential unit could still be a qualifying residential unit provided the unit:
 - (i) is sold to a recipient who acquires the unit for use as the primary place of residence of the recipient or a relation,
 - (ii) is taken for use as the primary place of residence of the person or a relation, or
 - (iii) is taken as the primary place of residence of a lessor of the complex or a relation of that lessor.

Finally, if the person intends that once the unit has been occupied as a primary place of residence of an individual for a period of at least one year, the person will occupy the unit or lease it as a place of residence or lodging to an individual who is a relation, shareholder, member or partner of the person, or with whom the person is not dealing at arm’s length, then the unit must be used as the primary place of residence of the person or that individual.

In general, the occupancy requirements set out in the definition of qualifying residential unit are applied on a unit-by-unit basis. In the case of large multiple unit residential complexes, i.e., 10 or more residential units, the entire complex is considered to meet the expected one-year occupancy test if substantially all of the units (90% or more) meet that test.

² These sections of Part I of Schedule V are explained later in this bulletin in the section “Eligibility for the New Residential Rental Property Rebate”.

Relation

“Relation” of a particular individual means another individual who is related to the particular individual or who is a former spouse or former common-law partner of the particular individual. This is the same meaning as is found in subsection 256(1) of the Act.

Self-contained residence

A self-contained residence means a residential unit that

- is a suite or room in a hotel, a motel, an inn, a boarding house or a lodging house or in a residence for students, seniors, individuals with a disability or other individuals; or
- contains private kitchen facilities, a private bath and a private living area.

Eligibility for the New Residential Rental Property Rebate

The provisions of section 256.2 set out the rebate for four categories of new residential rental properties:

- rebate in respect of lease of land and building for residential rental accommodation;
- rebate in respect of sale of building and lease of land;
- rebate for cooperative housing corporation; and
- rebate for land leased for residential purposes.

Each category is discussed below.

Rebate in respect of lease of land and building for residential rental accommodation

A person is eligible to claim a new residential rental property rebate in respect of land and building if:

- the person has bought and paid tax on a residential complex (which includes a duplex as defined above), or an interest in such, and is not a builder of the complex,
- or
- the person is a builder of a residential complex or of an addition to a multiple unit residential complex who has self-assessed tax as required under section 191 upon leasing the first unit in the residential complex under exempt conditions in section 6³ or 6.1⁴ of Part I of Schedule V to the Act (see below);

³Section 6 of Part I of Schedule V exempts long-term supplies of a residential complex or a residential unit in a residential complex by way of lease, licence or similar arrangement if the complex or unit is to be occupied as a place of residence or lodging by an individual. Section 6 also exempts the supply of a residential unit by way of lease or licence where the consideration does not exceed \$20 per day. For a long-term lease of a residential complex or unit to be exempt, it must be occupied by the same individual for a continuous period of at least one month. The person who has paid tax on the last acquisition of such residential rental accommodation and who supplies it on an exempt basis under section 6 of Part I of Schedule V may be eligible to claim the new residential rental property rebate in respect of the property.

and

- the person is not a cooperative housing corporation;
- the property is a qualifying residential unit of the person or includes one or more qualifying residential units of the person; and
- the person is not entitled to include the tax in respect of the purchase from the supplier or the self-assessed tax in the case of a builder when determining ITCs.

— **Single unit residential complex or residential condominium unit**

If the complex is a single unit residential complex (including a duplex) or a residential condominium unit with a fair market value of \$350,000 or less, the new residential rental property rebate is the lesser of \$8,750 and 36% of the GST or the federal portion of the HST, i.e., 7/15 of the HST, paid on the actual or deemed purchase of the residential complex.

If the complex has a fair market value exceeding \$350,000, the rebate is determined by the formula:

$$A \times (\$450,000 - B) / \$100,000$$

where

A is the lesser of

- (i) \$8,750, and
- (ii) 36% of the GST or the federal portion of the HST, i.e., 7/15 of the HST, in respect of the actual or deemed purchase,

and

B is the greater of

- (i) \$350,000 and
- (ii) the fair market value of the single unit residential complex or residential condominium unit at the time tax is payable.

— **Multiple unit residential complex or an addition to one**

If the complex is a multiple unit residential complex (i.e., a residential complex that contains more than two residential units) or an addition to one, the amount to be rebated in respect of each qualifying residential unit in the complex is calculated as:

$$A \times (\$450,000 - B) / \$100,000$$

where

⁴Section 6.1 of Part I of Schedule V exempts supplies of land, residential buildings, or a residential complex by way of lease, licence or similar arrangement to a person who, in turn, supplies the property by way of lease, licence or similar arrangement on an exempt basis under section 6 or 7 of Part I, or to a lessee or sublessee described in section 6.1. The person who has paid tax on the last acquisition of the property and who supplies it on an exempt basis under section 6.1 of Part I of Schedule V may be eligible to claim the new residential rental property rebate.

A is the lesser of \$8,750 and the amount determined by the formula

$$A_1 \times A_2$$

where

A_1 is 36% of the GST or the federal portion of the HST, i.e., 7/15 of the HST, that is payable in respect of the purchase from the supplier or is deemed to have been paid in respect of the deemed purchase, and

A_2 is the unit's percentage of total floor space,

and

B is the greater of \$350,000 and the amount determined by the formula

$$B_1 \times B_2$$

where

B_1 is the unit's percentage of total floor space, and

B_2 is the fair market value of the entire complex or addition at the time tax is payable.

The new residential rental property rebate payable in respect of the complex is equal to the sum of the amounts for each qualifying residential unit in the complex. Apportioning the complex's fair market value is done in the formula by comparing the percentage of total floor space of a particular unit to the total floor space for all of the units in the property (B_1) and multiplying that amount by the fair market value of the whole complex or the addition (B_2).

An applicant will make only one rebate claim for a multiple-unit residential complex or addition. This means that there will be one rebate payment that will be the sum of all rebate amounts for each qualifying residential unit in the complex or addition.

Example

Rentco Inc., a BC firm, constructs a 100-unit apartment building with a fair market value of \$3,000,000. Each unit in the building is a self-contained residence, that is, each unit has private kitchen facilities, a private bath and a private living area. The company intends to supply each apartment under a long-term lease as a primary place of residence for individuals. All units have the same amount of floor space. Following substantial completion of the building, Rentco gives possession of the first apartment to an individual under a one-year lease. The terms of the lease permit the tenant to use the apartment only as a place of residence. When Rentco supplies possession of the first apartment, Rentco is deemed under the provisions of subsection 191(3) of the Act to have sold and repurchased and paid tax calculated on the fair market value of the entire multiple unit residential complex, i.e., $7\% \times \$3,000,000 = \$210,000$. In this situation, Rentco is eligible to claim a new residential rental property rebate.

Rebate calculation:

$$A \times (\$450,000 - B) / \$100,000$$

where

A is the lesser of \$8,750 and the amount determined by the formula

$$A_1 \times A_2$$

where

$$\begin{aligned} A_1 &= 36\% \text{ of the GST that is deemed to have been paid in respect of the deemed purchase,} \\ &= 36\% \times \$210,000 \\ &= \$75,600 \end{aligned}$$

and

$$\begin{aligned} A_2 &= \text{the unit's percentage of total floor space} \\ &= 1\% \text{ (since there are 100 units of the same size).} \end{aligned}$$

Since A is the lesser of \$8,750 and $(\$75,600 \times 1\% = \$756)$
 $A = \$756$;

and

B is the greater of \$350,000 and the amount determined by the formula

$$B_1 \times B_2$$

where

$$\begin{aligned} B_1 &= \text{the unit's percentage of total floor space,} \\ &= 1\% \end{aligned}$$

and

$$\begin{aligned} B_2 &= \text{the fair market value at the time tax is payable,} \\ &= \$3,000,000. \end{aligned}$$

Since $B_1 \times B_2 = (1\% \times \$3,000,000) = \$30,000$,
 $B = \$350,000$.

Accordingly, the new residential rental property rebate for each of Rentco's units:

$$\begin{aligned} &= A \times (\$450,000 - B) / \$100,000 \\ &= \$756 \times (\$450,000 - \$350,000) / \$100,000 \\ &= \$756. \end{aligned}$$

The total new residential rental property rebate for Rentco's multiple unit residential complex is $\$756 \times 100$ (i.e., the number of qualifying units in the complex) = \$75,600.

Rebate in respect of sale of building and lease of land

A person is eligible to claim a new residential rental property rebate if a building that forms part of a residential complex is sold and the related land is supplied to the purchaser of the building by way of lease. The supplier of the land and building is eligible to claim a new residential rental property rebate if:

- the person is a builder of a residential complex or an addition to a multiple unit residential complex;
- the builder is not a cooperative housing corporation;

- the person makes an exempt supply by way of sale included in section 5.1 of Part I of Schedule V of a building or part of a building, and an exempt supply of land by way of lease, or assignment of lease, included in section 7 of that Part⁵;
- the lease provides for continuous possession or use of the land for a period of at least twenty years or it contains an option to purchase the land;
- the person who supplies the residential complex is deemed under section 191 to have made and received a taxable supply by way of sale of the complex or addition and to have paid tax at a particular time in respect of that supply;
- in the case of a multiple unit residential complex or an addition to such a complex, the complex or addition, as the case may be, includes, at the particular time, one or more qualifying residential units of the person;
- the person is not entitled to include the tax payable in respect of the deemed purchase made under section 191 when determining ITCs of the person; and
- in the case of an exempt supply by way of sale of a single unit residential complex or a residential condominium unit, the recipient of that supply is entitled to claim a new housing rebate in respect of the complex or unit.

— **Single unit residential complex or residential condominium unit**

If the building that is sold forms part of a single unit residential complex or residential condominium unit and if the residential complex or unit (land and building) has a fair market value of \$350,000 or less, the person calculates the new residential rental property rebate for the land portion of the residential complex as

$$A - C$$

where

A is the lesser of

- (i) \$8,750 and
- (ii) 36% of the GST or the federal portion of the HST, i.e., 7/15 of the HST, that is deemed to have been paid in respect of the deemed purchase of the residential complex (i.e., land and building);

and

C is the amount of the new housing rebate under subsection 254.1(2) that the purchaser of the building is entitled to claim in respect of the complex or unit.

⁵Section 5.1 of Part I of Schedule V exempts the sale of a building that contains one or more residential units where the building is sold to the lessee of the land on which the building is situated. In order to qualify for the exemption, the building must be situated on the land both immediately before and immediately after it is sold and the lease of the land must be exempt by virtue of subparagraph 7(a)(i) of Part I of Schedule V, i.e., the recipient of the land supplied by way of lease is the owner, lessee or person in occupation or possession of a residential unit that is or is to be affixed to the land for the purpose of its use and enjoyment as a place of residence for individuals. A builder who has made an exempt sale under section 5.1 of Part I of Schedule V and an exempt lease under subparagraph 7(a)(i) of the same Part may be eligible to claim the new residential rental property rebate in respect of the tax owing on the deemed self-supply made under section 191.

The rebate referred to in element C of this formula is the new housing rebate available to purchasers of a residential complex where the building is purchased and the land is leased⁶.

Thus, there could be two rebates available in situations where a building forming part of a residential complex is sold and the land forming part of that residential complex is leased:

- the existing new housing rebate under section 254.1 is available to the purchaser of the building, and
- the new residential rental property rebate under section 256.2 is available to the owner/lessor of the land.

However, if the purchaser of the building is not entitled to claim a new housing rebate, the new residential rental property rebate will not be available in respect of the property either.

If the fair market value of the residential complex (land and building) exceeds \$350,000, and if the conditions for the rebate are satisfied, the person calculates the new residential rental property rebate for the land portion of the residential complex by using the following formula:

$$[A \times (\$450,000 - B) / \$100,000] - C$$

where

A is the lesser of

- (i) \$8,750 and
- (ii) 36% of the GST or the federal portion of the HST, i.e., 7/15 of the HST, that is deemed to have been paid on the deemed purchase of the residential complex (i.e., land and building);

B is the greater of

- (i) \$350,000, and
- (ii) the fair market value of the single unit residential complex or residential condominium unit at the time the tax is deemed payable;

and

C is the amount of the rebate under subsection 254.1(2) that the purchaser of the building is entitled to.

Example

Develco, an Ontario firm, developed a parcel of land into serviced lots for residential use. Develco entered into a contract with Buildco whereby Buildco would acquire the lots by way of lease, construct detached houses on each of the lots and enter into agreements to supply the house by way of sale to individuals and the related lot by way of sub-lease.

Due to financing limitations and cash flow requirements, Buildco decided to construct the houses one at a time. Buildco gave possession of the first completed residential complex and triggered the requirement to self-assess tax under the self-supply provisions of subparagraph 191(1)(b)(ii). The

⁶For more information on this new housing rebate, see GST/HST Memorandum 19.3.2, *Rebate for Builder-Built Unit (Land Leased)*.

term of the lease was 49 years. There was no option to purchase the land. The deemed tax paid was \$14,000 on a fair market value of the complex of \$200,000. The fair market value attributed to the land lease was \$50,000. The purchaser of the building was entitled to claim a new housing rebate in respect of the GST/HST for the purchase of the building.

The rebate calculation would be as follows:

$$A - C$$

where

A is the lesser of

(i) \$8,750 and

(ii) 36% of the GST deemed to have been paid in respect of the deemed purchase of the residential complex (i.e., land and building); in this case, $36\% \times \$14,000 = \$5,040$;

and

C is the amount of the rebate under subsection 254.1(2) that the purchaser of the residential unit is entitled to, in this case, $(\$200,000 - \$50,000) \times 2.34\%^7 = \$3,510$.

Therefore, the new residential rental property rebate for the land portion of this residential complex payable to Buildco is:

$$\begin{aligned} A - C &= \$5,040 - \$3,510 \\ &= \$1,530. \end{aligned}$$

— Multiple unit residential complex or an addition to one

If the building that is sold forms part of a multiple unit residential complex or an addition to one and the land forming part of the multiple unit residential complex or the addition is leased, the formula to calculate the amount to be rebated in respect of each qualifying residential unit in the complex is:

$$[A \times (\$450,000 - B) / \$100,000]$$

where

A is the lesser of \$8,750 and the amount determined by the formula

$$A_1 \times A_2$$

where

A₁ is 36% of the GST or the federal portion of the HST, i.e., 7/15 of the HST, that the supplier is deemed to have paid in respect of the deemed purchase of the residential complex (building and land) at the time tax becomes payable on the supply;

A₂ is the unit's percentage of total floor space,

and

B is the greater of \$350,000 and the amount determined by the formula

$$B_1 \times B_2$$

⁷ Subparagraph 254.1(h) provides that where the fair market value of the complex is not more than \$374,500, the new housing rebate amount is equal to the lesser of \$8,750 and 2.34% of the total consideration.

where

B_1 is the unit's percentage of total floor space, and

B_2 is the fair market value of the residential complex (land and building) or addition, as the case may be, at the time tax is payable.

The new residential rental property rebate payable in respect of the complex is equal to the sum of the amounts for each qualifying residential unit in the complex.

Rebate for cooperative housing corporation

A cooperative housing corporation is eligible to claim a new residential rental property rebate if:

- the corporation has bought and paid tax on a residential complex or an interest in one and is not the builder of the complex;

or

- the cooperative is a builder of a residential complex or an addition to a multiple unit residential complex and makes an exempt supply by way of lease included in section 6 of Part I of Schedule V⁸ that results in the cooperative being deemed under section 191 to have made and received a taxable supply by way of sale of the complex or addition and to have paid tax in respect of that supply;

and

- the cooperative is not entitled to include the tax in respect of the purchase from the supplier, or the tax payable on the deemed purchase under section 191 in the case of a builder, when determining ITCs; and
- at any time at which a residential unit included in the complex is a qualifying residential unit of the cooperative, the cooperative first gives occupancy of the unit after its construction or last substantial renovation under an agreement for a supply of the unit that is an exempt supply included in section 6 of Part I of Schedule V.

— Single unit residential complex

If the property being supplied is a single unit residential complex with a fair market value of \$350,000 or less, the cooperative calculates the new residential rental property rebate as:

$$A - C$$

where

A is the lesser of

(i) \$8,750 and

(ii) 36% of the GST or the federal portion of the HST, i.e., 7/15 of the HST, that is deemed to have been paid in respect of the deemed purchase of the residential complex (i.e., land and building);

and

⁸See footnote #3.

C is the amount of the new housing rebate under subsection 255(2) that the individual who is purchasing a share in the capital stock of the corporation in respect of the unit was entitled to claim.

If the fair market value of the single unit residential complex exceeds \$350,000, the cooperative calculates the new residential rental property rebate as:

$$[A \times (\$450,000 - B) / \$100,000] - C$$

where

A is the lesser of

- (i) \$8,750 and
- (ii) 36% of the GST or the federal portion of the HST, i.e., 7/15 of the HST, that is payable in respect of the purchase or deemed to have been paid in respect of the deemed purchase of the residential complex;

B is the greater of

- (i) \$350,000 and
- (ii) the fair market value of the single unit residential complex or residential condominium unit at the time tax is payable;

and

C is the amount of the new housing rebate under subsection 255(2) that the individual who is purchasing a share in the capital stock of the corporation in respect of the unit was entitled to claim.

— Multiple unit residential complex or an addition to one

If the unit for which the cooperative is eligible to claim a new residential rental property rebate forms part of a multiple unit residential complex or an addition to one, the cooperative calculates the new residential rental property rebate for each unit in the complex as follows:

$$[A \times (\$450,000 - B) / \$100,000] - C$$

where

A is the lesser of \$8,750 and the amount determined by the formula

$$A_1 \times A_2$$

where

A₁ is 36% of the GST or the federal portion of the HST, i.e., 7/15 of the HST, that is payable in respect of the purchase from the supplier or is deemed to have been paid in respect of the deemed purchase of the residential complex or addition;

A₂ is the unit's percentage of the total floor space;

B is the greater of \$350,000 and the amount determined by the formula

$$B_1 \times B_2$$

where

B_1 is the unit's percentage of total floor space, and

B_2 is the fair market value of the multiple unit residential complex or the addition at the time tax is payable; and

C is the amount of the new housing rebate under subsection 255(2) that the individual who is purchasing a share of the capital stock of the corporation in respect of the unit was entitled to claim, if any.

Rebate for land leased for residential purposes

— Lease of land, other than land in a residential trailer park

If a particular person leases land to another person under conditions that make the supply of the land an exempt supply under subparagraph 7(a)(i) of Part I of Schedule V, the particular person may be eligible to claim a new residential rental property rebate. Under subparagraph 7(a)(i) of Part I of Schedule V, a supply of land (other than a site in a residential trailer park) is exempt if the land is leased for a period of continuous possession or use of at least one month to the owner, lessee or person in occupation or possession of a residential unit that is or is to be affixed to the land for the purpose of its use and enjoyment as a place of residence for individuals. While the person may lease any amount of land, the exemption under subparagraph 7(a)(i) applies only to the amount of land forming part of the residential complex or that will form part of the residential complex when the residential unit is affixed to it. This amount of land is generally considered to be up to a half hectare⁹. The new residential rental property rebate applies only in respect of this amount of land.

The person who supplies the land by way of lease may be eligible for the new residential rental property rebate if in entering the lease agreement, the person is deemed to have made and received a taxable supply by way of sale of the land and to have paid tax in respect of that deemed supply. In order to be eligible for the rebate, the deemed sale of the land must occur under subsection 190(3), 200(2), 206(4) or 207(1) of the Act. An overview of these subsections, as they relate to the new residential rental property rebate, is set out below. Since the supply of the land by way of lease is exempt, the lessor cannot claim ITCs in respect of this payment of tax on the deemed purchase.

- Subsection 190(3)¹⁰— Land leased for residential use: If a person supplies land by way of lease and this is the first supply of the land under an exempt residential lease agreement, i.e., the land had been used or supplied in ways other than as exempt residential rental accommodation, the person is required under subsection 190(3) to account for tax on the fair market value of land when the person gives possession of the land under the lease agreement.

⁹ For more information on the land allowance for a residential complex, see GST/HST Memorandum 19.2.1, *Residential Real Property—Sales*.

¹⁰ For more information on this provision, see GST/HST Memorandum 19.2.3, *Residential Real Property—Deemed Supplies*.

If a person supplies land by way of lease on an exempt basis under subparagraph 7(a)(i) that results in the person being deemed to have paid tax under subsection 190(3), and if the conditions for eligibility for the new residential rental property rebate are otherwise satisfied, the person would calculate the rebate according to the following formula:

$$A \times (\$112,500 - B) / \$25,000$$

where

A is 36% of GST or the federal portion of the HST, i.e., 7/15 of the HST, deemed to have been paid in respect of the deemed purchase, and

B is the greater of

(i) \$87,500 and

(ii) the fair market value of the land forming part of the residential complex (or that will form part of the complex after the residential unit is affixed to the land) when possession of the land is given under the lease agreement.

- Subsections 200(2), 206(4) and 207(1)¹¹ — Change in use: Persons who supply land by way of lease and whose eligibility for the new residential rental property rebate arises from tax being deemed paid following a change in use, i.e., under subsections 200(2), 206(4) or 207(1) of the Act, calculate the rebate by using the following formula:

$$A \times (\$112,500 - B) / \$25,000$$

where

A is 36% of the qualifying portion of the basic tax content (see the Appendix to this bulletin) at the time possession of the land is given under the lease agreement, and

B is the greater of

(i) \$87,500 and

(ii) the fair market value of the land forming part of the residential complex (or that will form part of it after the residential unit is affixed to the land) when possession of the land is given under the lease agreement.

- subsection 200(2) — If a registrant that is a public service body (PSB) (other than a financial institution or a government) ceases to use land that is capital real property primarily in commercial activities, and begins to use it primarily in non-commercial activities, the PSB is deemed to have made a supply by way of sale of the land. Specifically, the registrant is deemed to have sold the land and collected tax on the sale calculated on the basic tax content of the land

¹¹ Further information on the application of subsection 200(2), will be provided in GST/HST Memorandum 19.6, *Real Property and Public Sector Bodies*. For further information on the application of subsection 206(4) and subsection 207(1), see the discussion of the change-in-use rules in GST/HST Memorandum 19.4.2, *Commercial Real Property—Deemed Supplies*.

at the time of the sale and to have reacquired the land and paid tax equal to the same basic tax content.

- subsection 206(4) — If a registrant, other than an individual or a PSB that is not a financial institution, ceases to use land that is capital real property in commercial activities and begins to use it exclusively for other purposes, the registrant is deemed to have made a supply of the land by way of sale, i.e., the registrant is deemed to have sold the land and collected tax on the sale calculated on the basic tax content of the land at the time of the sale and to have reacquired the property and paid tax equal to the same basic tax content.
- subsection 207(1) — If a registrant who is an individual ceases to use land that is capital real property in commercial activities and begins to use it exclusively for other purposes or primarily for his or her personal use and enjoyment or for the personal use and enjoyment of a related individual, the registrant is deemed to have made a supply of the land by way of sale, i.e., the registrant is deemed to have sold the land and collected tax on the sale calculated on the basic tax content of the land at the time of the sale and to have reacquired the property and paid the tax equal to the same basic tax content.

The term “qualifying portion of basic tax content” is explained in the Appendix to this bulletin, which also contains a sample calculation. Note that for most persons (i.e., persons other than listed financial institutions) in Canada outside the participating HST provinces, which are Nova Scotia, New Brunswick and Newfoundland, the “qualifying portion of basic tax content” means all the basic tax content.

— Lease of land in a residential trailer park

If a particular person leases land to another person under conditions that make the supply of the land an exempt supply under paragraph 7(b) of Part I of Schedule V, the particular person may be eligible to claim a new residential rental property rebate. Under paragraph 7(b) of Part I of Schedule V, a supply of a site in a residential trailer park is exempt if the site is leased for a period of continuous possession or use of at least one month to the owner, lessee or person in occupation or possession of a mobile home, travel trailer, motor home or similar vehicle or trailer that is situated or is to be situated on the site. While the person may lease any amount of land in a residential trailer park, the exemption under paragraph 7(b) applies only to the amount of land that is reasonably necessary for the use and enjoyment of the mobile home, travel trailer, etc. as a place of residence for individuals. This amount of land is generally considered to be up to a half hectare.

The person who supplies the site in the residential trailer park by way of lease may be eligible for the new residential rental property rebate if in entering the lease agreement, the person is deemed to have self-supplied the land, i.e., is deemed to have sold the land, to have re-purchased it and to have paid tax on the deemed purchase. Since the supply by way of lease of the land is exempt, the lessor cannot claim ITCs in respect this payment of deemed tax. This situation of being deemed to have made and received a supply by way of sale of the land could result under any of subsections 190(4), 190(5), 200(2), 206(4) and 207(1) of the Act. The provisions of subsection 200(2), 206(4) and

207(1) have been set out in the preceding pages. The provisions of subsections 190(4) and 190(5)¹² are as follows:

- subsection 190(4) — When a person first supplies a site in a residential trailer park for a period of at least one month by way of lease, licence or similar arrangement, the person is deemed to have sold the entire park and collected tax on the sale calculated on its fair market value at the time of the sale and to have reacquired the park and paid the tax equal to the amount deemed collected.
- subsection 190(5) — This subsection parallels subsection 190(4) and applies when a person first supplies a site located in an additional area of a residential trailer park for a period of continuous possession or use of the site for at least one month by way of lease, licence or similar arrangement. When the first site in the additional area is leased, the person is deemed to have sold the entire additional area and collected tax on the sale calculated on its fair market value at the time of the sale and to have reacquired the area and paid the tax equal to the amount of tax deemed to have been collected.

If a person supplies land by way of lease on an exempt basis under paragraph 7(b) that results in the person being deemed to pay tax under subsection 190(4) or 190(5), and if the conditions for eligibility for the new residential rental property rebate are otherwise satisfied, the person would calculate the rebate according to the following formula:

$$A \times (\$112,500 - B) / \$25,000$$

where

A is 36% of GST or the federal portion of the HST, i.e., 7/15 of the HST, deemed to have been paid in respect of the deemed purchase, and

B is the greater of

(i) \$87,500 and

(ii) the fair market value of the residential trailer park or the additional area to the residential trailer park as the case may be, divided by the total number of sites in the residential trailer park or the additional area as the case may be, at the time tax is deemed to be paid.

- subsections 200(2), 206(4) and 207(1) of the Act are change-in-use provisions that may cause a registrant to be deemed to have made and received a supply of property by way of sale when the registrant makes an exempt supply of a site in a residential trailer park. These subsections are described in the preceding section of this bulletin.

Persons who are eligible for the new residential rental property rebate for tax deemed paid following a change in use under subsections 200(2), 206(4) or 207(1) of the Act as a result of making an exempt supply by way of lease of land under paragraph 7(b), calculate the rebate by using the following formula:

¹² For further information on the application of subsections 190(4) and 190(5), see GST/HST Memorandum 19.2.3, *Residential Real Property—Deemed Supplies*.

$$A \times (\$112,500 - B) / \$25,000$$

where

A is 36% of the qualifying portion of the basic tax content at the time possession of the land is given under the lease agreement, and

B is the greater of

(i) \$87,500 and

(ii) the fair market value of the residential trailer park or the additional area to the residential trailer park, as the case may be, divided by the total number of sites in the residential trailer park or the additional area, as the case may be, at the time tax is deemed to be paid.

The term “qualifying portion of the basic tax content” is explained in the Appendix to this bulletin.

Temporary Rentals Before Sale

A person who supplies a residential unit by way of lease may be entitled to the new residential rental property rebate where the unit is leased to an individual as a primary place of residence even if the person intends to sell the unit at the earliest opportunity. As provided in the definition of qualifying residential unit, if that sale is made to a recipient who acquires the unit as the primary place of residence of the recipient or a relation, the unit may still be a qualifying residential unit.

However, the rebate will have to be repaid with interest if:

- the rebate was paid in respect of a single unit residential complex or a residential condominium unit where both the complex or unit and the land were supplied by way of lease by the person,
- the complex or unit is sold to a purchaser who is not acquiring the unit for use as the primary place of residence of the purchaser or a relation of the purchaser, and
- the sale is within one year from the time it is first occupied as a place of residence after the construction or last substantial renovation of the unit was substantially completed.

This repayment of the rebate does not apply to deemed sales under section 183 or 184, that is, sales deemed to have occurred due to seizures or repossessions or acquired by insurers on settlement of a claim.

Applying for the New Residential Rental Property Rebate

Both non-registrants and registrants will use form GST 524 to claim the new residential rental property rebate. In the case of a multiple unit residential complex, claimants will also use form GST 525 in addition to GST 524. Non-registrants send the claim to the Summerside Tax Centre at the address shown on the form. Registrants may offset the amount of the rebate on their return when calculating the amount to be remitted and file the claim with their return.

When more than one person is eligible for the rebate, i.e., there is more than one eligible claimant in respect of the property, each person will be required to file an application for the portion of the rebate to which they are entitled.

Time limits

Except for cooperative housing corporations, a person who has paid tax or is deemed to have paid tax must file the rebate application within two years after the end of the month in which tax first becomes payable or is deemed to have been paid by the person.

A cooperative housing corporation that is eligible for the rebate must file an application for the rebate within two years after the end of the month in which the cooperative makes the first exempt lease under section 6 of Part I of Schedule V of a residential complex or a residential unit in a residential complex.

In any case, a claimant will have two years from June 14, 2001, the day that Bill C-13 received Royal Assent, to file the rebate claim. In other words, even if the day determined above is less than two years after June 14, 2001, a claimant will have still have two years from June 14, 2001, to file the rebate claim.

Enquiries

If you wish to make a **technical enquiry** on the GST/HST by telephone, please call one of the following toll-free numbers:

1-800-959-8287 (English service)

1-800-959-8296 (French service)

General enquiries about the GST/HST should be directed to Business Enquiries at one of the following toll-free numbers:

1-800-959-5525 (English service)

1-800-959-7775 (French service)

If you are in the Province of Québec, please call the following toll-free number:

1-800-567-4692 (Ministère du Revenu du Québec)

All GST/HST Technical Information Bulletins are available on the Internet at the CCRA site <http://www.ccra-adrc.gc.ca/> under the heading “Technical Information” in “Tax”. All other CCRA publications are also available at this site.

APPENDIX

Qualifying Portion of Basic Tax Content

If eligibility for the residential rental property rebate arises from tax deemed paid under a change-in-use provision, i.e., subsection 200(2), 206(4) or 207(1) of the Act, there must be an adjustment when calculating the rebate so that any amount that would be the provincial portion of the HST is not included when determining the basic tax content of the property, since the residential rental property rebate applies only to the GST or the federal portion of the HST. This adjusted amount is known as the “qualifying portion of basic tax content.” For most persons (i.e., persons other than a selected listed financial institution) in Canada outside the participating HST provinces, which are Nova Scotia, New Brunswick and Newfoundland, the qualifying portion of basic tax content means the entire basic tax content.

The qualifying portion of basic tax content, at a particular time, of property of a person means the amount that would be the basic tax content of the property at that time if:

- that amount were determined without reference to subparagraph (v) of the description of A in the definition “basic tax content” in subsection 123(1) of the Act, and
- no amount of tax under any of subsections 165(2), 212.1(2) and 218.1(1) and Division IV.1 of Part IX of the Act that was, or would have been, payable by the person was included in determining that basic tax content.

The reference to subparagraph (v) of the description of element A in the definition of “basic tax content” is a reference to the adjustment that a selected listed financial institution must make when calculating basic tax content to add an amount reflecting the provincial tax component of the HST.¹³

The reference to subsections 165(2), 212.1(2) and 218.1(1) and Division IV.1 of Part IX of the Act is a reference to the provisions of the Act that impose the provincial component of the HST.

Any amount that would normally have been included pursuant to one of these subsections in the calculation of basic tax content is not included when calculating the qualifying portion of basic tax content for purposes of the residential rental property rebate.

Persons in the participating provinces can calculate the qualifying portion of the basic tax content by first calculating the entire basic tax content of the property and then multiplying this figure by 7/15. If the person is a selected listed financial institution, the person must also exclude any additional adjustments as noted above.

¹³ For further information on basic tax content and the change-in-use rules for financial institutions, see GST/HST Memorandum 19.4.2, *Commercial Real Property—Deemed Supplies*.

Example:

Joe Marchand, a registrant, bought a half-hectare of land in New Brunswick in July 1997. He paid \$10,000, plus \$1,500 HST for the land. Mr. Marchand levelled and cleared the land, and used the land for storage in the lumber and sawmill operation that he carried on and from which he had a reasonable expectation of profit. Mr. Marchand carried out improvements to the land that cost \$7,000 plus \$1,050 HST. In March 2000, Mr. Marchand ceased using the land as capital property in his lumber and sawmill operations and entered into an agreement whereby he supplied the land by way of lease for a period of 50 years to Ms. Dionne. Ms. Dionne owned a mobile home, which she affixed to the land immediately after obtaining possession of the land from Mr. Marchand. The mobile home is her primary place of residence. At the time of entering into this lease agreement, the fair market value of the land had increased to \$20,000.

When Mr. Marchand makes a supply by way of lease of the land, the supply is exempt under subparagraph 7(a)(i) of Part I of Schedule V. Further, instead of being capital real property held for use in a commercial activity (the lumber and sawmill business), the land is now being supplied on an exempt basis. Consequently, subsection 207(1) will apply to deem Mr. Marchand to have made and received a taxable supply of the property by way of sale and to have paid tax in respect of the sale equal to the basic tax content of the property.¹⁴

Mr. Marchand is eligible to apply for a residential rental property rebate in this situation because:

- land (a half hectare) is being supplied under exempt conditions described by subparagraph 7(a)(i) of Part I of Schedule V;
- Mr. Marchand is deemed under subsection 207(1) to have made a taxable supply by way of sale of the land and to have paid tax in respect of the supply;
- the mobile home that is affixed to the land is for use by individuals as a primary place of residence;
- Mr. Marchand entered the lease agreement in March 2000 (i.e., as stated earlier, to be eligible for the rebate in this case, the lease must be entered into after February 27, 2000);
- Mr. Marchand cannot claim ITCs in respect of the deemed tax arising from the change in use; and
- Mr. Marchand is not eligible for any other rebate in respect of the land.

Prior to calculating the amount of the rebate, Mr. Marchand is required to account for tax under the change-in-use provisions of subsection 207(1). The amount of tax Mr. Marchand is deemed to have collected and paid under that provision is the basic tax content of the property at the time of the change in use¹⁵.

¹⁴ See the discussion of the change-in-use provisions and calculating basic tax content in GST/HST Memorandum 19.4.2, *Commercial Real Property—Deemed Supplies*.

¹⁵ Note that Mr. Marchand is not deemed to have collected any tax under section 190 (conversion to residential use). Therefore, element B of the formula in subsection 207(1) is zero. For further information on section 190, see GST/HST Memorandum 19.2.3, *Residential Real Property—Deemed Supplies*.

The basic tax content of the property at the time of the change in use is calculated as

$$(A - B) \times C$$

where

A = \$ 2,550 (i.e., the tax paid on the last acquisition of the property, plus the tax paid on improvements to the property since it was last acquired)

B = zero (i.e., the amount of tax in A of this formula that Mr. Marchand was exempt from paying, and the amount he was eligible to recover by way of rebate, refund or remission)

and

C = 1

(i.e., the lesser of 1, and

fair market value of the land at the time the basic tax content is being determined
consideration payable on the last acquisition + consideration for improvements

$$= \frac{\$20,000}{(\$10,000 + \$7,000)} = 1.18).$$

Accordingly, the basic tax content of the half hectare is $(A - B) \times C$

$$= (\$2,550 - \text{nil}) \times 1$$

$$= \$2,550.$$

Mr. Marchand will calculate the amount of the residential real property rebate as:

$$A \times (\$112,500 - B) / \$25,000$$

where

A is 36% of the qualifying portion of the basic tax content at the time possession of the land is given under the lease agreement, and

B is the greater of

(i) \$87,500 and

(ii) the fair market value of the land forming part of the residential complex (or that will form part of the complex after the residential unit is affixed to the land) when possession of the land is given under the lease agreement.

Since the qualifying portion of the basic tax content in this case is that portion of the basic tax content that remains after the provincial component of the HST is excluded, Mr. Marchand can determine the qualifying portion by multiplying the basic tax content by 7/15. Thus, the qualifying portion of basic tax content in this example is $\$2,550 \times 7/15 = \$1,190$.

Accordingly, in the formula for the new residential rental rebate:

$$A = (36\% \times \$1,190) = \$ 428.40.$$

$$B = \$87,500 \text{ (as this amount is greater than the fair market value of the land, } \$20,000\text{).}$$

Mr. Marchand is eligible for the following amount as a residential rental property rebate:

$$\begin{aligned} & A \times (\$112,500 - B) / \$25,000 \\ = & \$428.40 \times (\$112,500 - \$87,500) / \$25,000 \\ = & \$428.40. \end{aligned}$$