



GST/HST Memoranda Series

Notice of Change: February 20, 2002

19.3.4 Rebate for Owner-Built Homes

August 1998

Overview

A GST/HST new housing rebate is provided for part of the tax paid by an individual who builds or substantially renovates his or her own primary place of residence or that of a relation of the individual or hires another person to do so. The amount of the housing rebate for owner-built homes is calculated on the tax paid for the purchase of land, building materials, construction costs and other improvements for the unit, and depends on the fair market value of the property when the construction or substantial renovation is substantially completed. For a discussion of terms which are used in this section, see Section 19.3, *Real Property Rebates*.

Disclaimer

The information in this memorandum 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 a Canada Revenue Agency (CRA) GST/HST Rulings Centre for more information. These centres are listed in GST/HST Memorandum 1.2, *Canada Revenue Agency GST/HST Rulings Centres*. If you wish to make a technical enquiry on the GST/HST by telephone, please call the toll-free number 1-800-959-8287.

If you are located in the Province of Quebec, please contact Revenu Québec by calling the toll-free number 1-800-567-4692 for additional information.

Note

This section of Chapter 19, *Special Sectors: Real Property* supersedes paragraphs 32 to 39 of GST Memorandum 500-4-5, *Housing and Other Real Property Rebates*. Side-barring indicates significant changes.

Qualifying units

Owner-built s 256

1. An individual who constructs or substantially renovates his or her own primary place of residence or the primary place of residence of a relation of the individual or who hires another person to do so may qualify for a new housing rebate under section 256 of the *Excise Tax Act* (the Act) if certain eligibility requirements are satisfied.

Single unit residential complex, mobile home

2. The rebate is available if the individual constructs or substantially renovates a single unit residential complex. The rebate is also available if a mobile home is purchased from a builder, provided that a rebate has not been claimed under either section 254 or 254.1.

19.3.4 Rebate for owner-built homes (continued)

Duplex

3. A single unit residential complex includes a multiple unit residential complex that does not contain more than two residential units. Thus, a new housing rebate may be available under section 256 to an individual who constructs or substantially renovates a duplex, or hires someone to do so. Note that if 50% or more of a newly constructed or substantially renovated owner-built duplex is rented to an unrelated person, the owner may be subject under the self-supply rules in section 191 to tax based on the fair market value of the complex.

Bed and breakfast establishments

3.1 Effective June 1, 1997, the definition of a single unit residential complex in section 256 is extended to include a residential complex that contains one or more residential units that are for supply as rooms in a hotel, motel, inn, boarding house, lodging house or similar premises if the residential complex is owned by an individual and is for use primarily (more than 50%) as the primary place of residence of the owner, a related individual, the owner's former spouse or former common-law partner. This amendment to the definition of a single unit residential complex applies for the purpose of determining any rebate of a person under section 256 in respect of a residential complex that the person has constructed or substantially renovated, or has engaged another person to construct or substantially renovate, if the construction or substantial renovation is not substantially completed until after May 1997.

Residential condominium unit para 256(2)(a)

4. The new housing rebate under section 256 also applies to a residential condominium unit if the application for the rebate is filed on or after April 23, 1996. However, this rebate is not available for residential condominium units if, prior to April 23, 1996:

- the residential complex had been occupied as a place of residence or lodging after the construction or substantial renovation began;
- the construction or substantial renovation of the residential complex was substantially completed; or
- the applicant had transferred ownership pursuant to a sale of the residential complex.

Builder's home

5. If the individual is a builder by occupation and the individual builds his or her own single unit residential complex or residential condominium unit, the housing rebate may be available if the residence is constructed for use as the primary place of residence of the individual or a relation.

Insurance proceeds

6. A housing rebate in respect of owner-built homes may be available in the case of an extensively damaged home that had to be rebuilt (i.e., newly constructed or substantially renovated) and the rebuilding is being paid for by the proceeds of a claim against the insurance policy, provided the other conditions for the rebate are satisfied.

19.3.4 Rebate for owner-built homes (continued)

Individual moves a home to a new site

7. If an individual owns or purchases a new or used home, other than a mobile home or floating home, and moves it to a new legal description (i.e., to a new lot), the individual may be eligible to claim the rebate in respect of owner-built homes, provided the eligibility requirements (listed under the following heading) are met. The home that is installed on the new site would generally be treated for GST/HST purposes in the same manner as a newly constructed owner-built home. (For further information on the GST/HST treatment of relocated homes, see Section 19.2.4, *Residential Real Property—Special Issues*.)

Qualifying individuals

- Conditions s 256
8. An individual may qualify for a GST/HST new housing rebate under section 256 if the following conditions are met:
- Primary place of residence
- (a) the unit is for use as the primary place of residence of the individual or a relation of the individual;
- Limit on fair market value
- (b) the fair market value of the unit, including the land that forms part of the complex, is less than \$450,000 (excluding GST/HST) when the construction or substantial renovation is substantially completed;
- Tax was paid
- (c) tax in respect of the purchase of the land (or an interest in the land) that forms part of a single unit residential complex or a residential condominium unit or in respect of the supply to the individual of an improvement to the land or the home itself was paid by the individual (referred to as the “total tax paid by the individual”, see paragraphs 9 to 20); and
- First occupant
- (d) the individual or relation of the individual is the first person to occupy the unit after the construction or substantial renovation began¹.

Footnote ¹

If the unit is sold prior to anyone having occupied the unit, the individual may still apply for the rebate and the sale by the individual is exempt of tax. In a situation where the individual sells the unit, the individual must be able to demonstrate that there was an intent to use the unit as the primary place of residence of the individual or relation. Note that if the individual rents the unit prior to occupying the unit as the primary place of residence of the individual or relation, the rebate would not be available.

Total tax paid

- Total tax paid para 256(2)(c)
9. The amount of the rebate is based on the “total tax paid”. Total tax paid means the tax under
- subsection 165(1) — the GST or the federal component of the HST;
 - section 212 — tax on imported goods; and
 - section 218 — tax on imported taxable supplies,
- that was paid by the individual on the purchase of the land (or an interest in the land) that forms part of a single unit residential complex or a residential condominium unit or in respect of the supply to the individual of an improvement to the land or the home itself.
- Amounts eligible for a s 256 rebate
- Land
10. The land that forms part of a single-unit residential complex is the portion of subjacent and immediately contiguous land that is reasonably necessary for the use and enjoyment of the building as a place of residence for individuals. Similarly, the land that forms part of a residential condominium unit is the land subjacent and immediately contiguous to the building that is attributable to the unit that is reasonably necessary for its use and enjoyment as a place of residence for individuals. The immediately contiguous land may include, for example, a driveway, parking space, garden or an in-ground swimming pool. Such items qualify as forming part of the residential complex provided the land is reasonably necessary for the use and enjoyment of the building or unit as a place of residence for individuals. (For more information on the amount of land that can be included when calculating a rebate, see Section 19.3.1, *Rebate for Builder-Built Unit (Land Purchased)*).
- An interest in the land
11. An "interest" in the land that forms part of a single unit residential complex or a residential condominium unit may include a legal or equitable interest. Any tax paid in respect of the acquisition of an interest in the land forming part of a single-unit residential complex or attributable to a residential condominium unit (e.g., the purchase of an option to acquire such land) may be eligible for the rebate. Amounts paid for the supply of the ongoing rights to use the land without legal ownership of the underlying land (e.g., a lease of land) are not eligible for the rebate since the supply does not involve the sale of the land or the sale of an interest in it.
- Improvement ss 123(1)
12. An "improvement" in respect of capital property is defined to be any property or service to the extent that the consideration for the property or service would be included in determining the adjusted cost base of the capital property for income tax purposes. Where the capital property in question is a residential complex, the improvement must relate to a property or service the consideration for which is included in the adjusted cost base of the residential complex. Such an improvement in respect of a single unit residential complex or residential condominium unit would comprise property and services acquired for the purpose of improving the land, or constructing or improving the home itself, or any appurtenances to them.

19.3.4 Rebate for owner-built homes (continued)

- Appurtenance 13. Generally, an appurtenance is something which is annexed to or belongs to another thing that is the main element of the item or object in question. Usually, to qualify as an appurtenance, an article is adapted to the use of the property to which it is connected, and there is an intent that the article be affixed to the land permanently. As such, provided the appurtenance is reasonably necessary for the use and enjoyment of the building as a place of residence for individuals, the appurtenance is considered to be part of the residential complex. For example, a free-standing garage or a tool shed could be characterized as an appurtenance.

Included in total tax paid 14. Generally, tax paid in respect of the following may be included when calculating total tax paid, provided the item forms part of the adjusted cost base of the residential complex and provided that the expense satisfies the other eligibility requirements for the section 256 rebate:

- land (see paragraph 10)
- interest or option (see paragraph 11)
- architectural fees
- rentals of equipment directly related to the construction of the home
- legal fees related to the purchase of the land and the construction of the home
- building materials
- contractors' and subcontractors' services for constructing the home
- drilling of water well
- connection and installation of electrical power
- installation and supply of a septic system
- hook-up of natural gas
- purchase and installation of a built-in air conditioner and a built-in water purifier
- levelling, sodding and landscaping
- purchase and installation of wall to wall carpeting (not area carpeting)
- construction of a patio and an open deck
- purchase and installation of drapery hardware affixed to the complex
- construction of a detached garage
- purchase and installation of light and bathroom fixtures

19.3.4 Rebate for owner-built homes (continued)

- paving the driveway
- purchase and installation of a pre-wired security system
- purchase and installation of a built-in vacuum cleaner
- purchase and installation of an in-ground swimming pool.

Not included in total tax paid

15. The following property and services are not included in the total tax paid by the particular individual for purposes of the section 256 rebate because they are not considered improvements within the meaning of the Act:

- purchase of power tools to be used in the construction of the home
- legal fees related to financing
- purchase of area rugs
- purchase of custom-made draperies and blinds
- moving expenses
- pesticides and weed spraying
- purchase and installation of free-standing appliances and furniture
- purchase of a television and a sound system
- purchase of art work and home decorations which are not fixtures
- purchase of linen.

16. Property and services such as those listed in paragraph 15 are either considered current expenses or are included in a separate class of property from that of the residential complex for income tax purposes and, therefore, are not considered qualifying improvements.

Tax on imports para 256(2)(c)

17. Effective April 1, 1997, total tax paid also includes tax paid for improvements that are imported, as well as tax paid on the importation of mobile homes and floating homes.

Time limit after occupancy ss 256(2.01)

18. Effective April 23, 1996, the tax to include when calculating total tax paid is limited to the tax that becomes payable no later than two years from the day the complex is first occupied by the individual or a relation of the individual after construction or substantial renovation began.

19. These timing provisions apply to rebate applications which are filed on or after April 23, 1996, except where before that day:

19.3.4 Rebate for owner-built homes (continued)

- the construction or substantial renovation had started and the residential complex had been occupied as a place of residence or lodging;
- the construction or substantial renovation of the residential complex was substantially completed; or
- the applicant had transferred ownership pursuant to a sale of the residential complex.

20. If a condition listed in paragraph 19 exists, then the tax to include when calculating total tax paid would be qualifying tax that has been paid before the rebate claim is filed. (Time limits for submitting the rebate application are discussed in paragraphs 23 to 27.)

Calculating the rebate

Fair market value

21. The formula for calculating the housing rebate for owner-built homes is the same as the formula for calculating the housing rebate for homes purchased from a builder. The threshold at which the rebate is reduced is based on the fair market value of the unit at the time the construction or substantial renovation is substantially completed. This fair market value includes the value of the land that forms part of the complex, excluding GST/HST and provincial taxes. (For a discussion of how much land is part of the unit, see Section 19.3.1, *Rebate for Builder-Built Unit (Land Purchased)*).

22. For owner-built homes with a fair market value of more than \$350,000, but less than \$450,000, the housing rebate gradually decreases by way of the formula given in the following table. There is no housing rebate for owner-built homes with a fair market value of \$450,000 or more, except in Nova Scotia where a rebate of part of the provincial component of the HST may be available. Note, however, that there is no Nova Scotia rebate, i.e., no rebate of part of the provincial component of the HST, where the owner carries out a substantial renovation or hires another person to do so. For further information on the Nova Scotia rebate, see Section 19.3.8, *New Housing Rebates and the HST*.

19.3.4 Rebate for owner-built homes (continued)

Formulas 256

Calculating the Rebate for Owner-Built Homes

para 256(2)(e)

para 256(2)(f)

para 256(2)(b)

Fair Market Value	Rebate Formula	Example
\$350,000 or less	36% of the total tax paid* by the individual to a maximum of \$8,750	If total tax paid = \$7,000: $\$7,000 \times 36\% = \$2,520$
more than \$350,000, but less than \$450,000	$A \times \frac{(\$450,000 - B)}{\$100,000}$ where: A is the maximum rebate amount: \$8,750, and B is the fair market value	If the fair market value were \$400,000: $\text{Rebate} = \$8,750 \times \frac{(\$450,000 - \$400,000)}{\$100,000}$ Rebate = \$4,375
\$450,000 or more	no rebate	

* For an explanation of “total tax paid”, see paragraphs 9 to 20. Note the tax must have been paid before the rebate claim is filed.

Time limit for filing rebate application

Two years 256

23. The rules affecting the time limits for filing a rebate application have changed for applications filed on or after April 23, 1996. For these applications, the time limit for claiming a rebate for an owner-built single unit residential complex or residential condominium unit, is the day that is two years after the earliest of:

- the day that is two years after the day the complex is first occupied by the individual or a relation of that individual after the construction or substantial renovation began;
- the day ownership is transferred under an exempt sale before the complex is ever occupied; or
- the day construction or substantial renovation is substantially completed.

19.3.4 Rebate for owner-built homes (continued)

24. In the case of a residential complex that is occupied while it is being constructed or substantially renovated, the owner may apply for the rebate up to two years after the construction or substantial renovation is substantially completed, provided that the construction or substantial renovation is substantially completed within two years of the date of occupation. If the owner takes longer to substantially complete the work, the time limit for filing the application is still a maximum of four years from the date of occupation, but only tax that has been paid and which became payable up to two years after the date that the unit was occupied may be included in calculating the rebate amount.

25. These timing provisions apply to rebate applications which are filed on or after April 23, 1996, except where before that day:

- the construction or substantial renovation had started and the residential complex had been occupied as a place of residence or lodging;
- the construction or substantial renovation of the residential complex was substantially completed; or
- the applicant had transferred ownership pursuant to a sale of the residential complex.

26. Prior to April 23, 1996, if an individual was occupying a residential complex that was undergoing a substantial renovation, the owner had two years to apply for the rebate after starting the work.

Two year limit

27. If a condition listed in paragraph 25 exists, the timing rules that apply to applications filed before April 23, 1996, apply. Under these timing rules, the rebate application was to be filed within two years from the earliest of:

- the date the individual or a relation first occupies the complex after construction or substantial renovation had begun;
- the date ownership is transferred under an exempt sale before the complex is ever occupied; or
- the date construction or substantial renovation of the complex is substantially completed.

19.3.4 Rebate for owner-built homes (continued)

Transitional rules – bed
and breakfast
establishments

28. As noted in paragraph 3.1 of this Memorandum, effective June 1, 1997, the definition of a single unit residential complex in section 256 is extended to include a bed and breakfast establishment that meets certain conditions. A special transitional rule is provided to address circumstances in which all or part of the normal two-year limitation period for claiming the new housing rebate under section 256 has expired. A special rule is also provided in cases where a person had previously filed a rebate claim that was assessed based on the pre-amended definition, since the Act generally does not permit more than one rebate application to be filed with respect to the same matter. The transitional rules provide that a person has until March 31, 2003, to file an original or second application for a rebate in respect of a residential complex newly covered by the extended definition of “single unit residential complex”.