



GST/HST Memoranda Series

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19.2 Residential Real Property

February 1998

Overview

This initial section of 19.2, *Residential Real Property*, examines terms that are key to interpreting the provisions of Part IX of the *Excise Tax Act* (the Act)—the goods and services tax (GST) and harmonized sales tax (HST)—that apply to residential real property. If a term is defined in the Act, the full definition is given in Section 1.5, *Definitions*, of the GST/HST Memoranda Series.

The remaining discussion of the application of the GST/HST to residential real property is provided in the following sections:

- 19.2.1 Residential Real Property—Sales
- 19.2.2 Residential Real Property—Rentals
- 19.2.3 Residential Real Property—Deemed Supplies
- 19.2.4 Residential Real Property—Special Issues

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.

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Builder

Criteria
ss 123(1)

1. A person is considered to be a builder of a residential complex, or an addition to a multiple unit residential complex, if:
 - (a) the person has an interest in the property on which the complex is situated and carries on or engages another person to carry on the construction of the complex or addition;
 - (b) the person has an interest in the complex and carries on or engages another person to carry on
 - (i) in the case of an addition to a multiple unit residential complex, the construction of the addition to the multiple unit residential complex,
 - (ii) in the case of a residential condominium unit, the construction of the condominium complex in which the unit is situated, and
 - (iii) in any other case, the construction or substantial renovation of the complex;
 - (c) the person supplies a mobile home or floating home before it has been used or occupied as a place of residence (includes manufacturers and dealers);
 - (d) the person acquires an interest in the residential complex for the primary purpose of selling the complex, or interest in the complex, or making one or more supplies thereof by way of lease, licence or similar arrangement to persons (other than individuals who are acquiring the complex or part thereof otherwise than in the course of a business or an adventure or concern in the nature of trade) at a time when
 - (i) in the case of a condominium complex or residential condominium unit, it is not yet registered as a condominium, or

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(ii) in any case, it has not yet been occupied by an individual as a place of residence or lodging ; or

(e) the person is deemed under subsection 190(1) (conversion to residential use) to be a builder.

Bank can be builder

2. A financial institution or other person that seizes an unoccupied residential complex from a builder who has defaulted on a financial instrument is also considered the builder of the complex if the financial institution or the person obtained an interest in the complex (prior to its occupation) for the primary purpose of supply. (The supply of the unoccupied complex in such a case is taxable.)

Mortgage holder can be builder

3. A financial institution or other person that provides financing by way of a mortgage or other security on a residential complex while it is under construction is considered a builder of the complex. (If the institution or person repossesses and sells a complex that has been previously occupied, the repossession is not subject to tax by virtue of subsection 183(10) and the sale by the institution or person is exempt under section 4 of Part I of Schedule V.)

Exclusion: no business or adventure or concern in the nature of trade

4. An individual is not considered to be a builder of a residential complex by virtue of the items (a), (b), (c) or (d) in paragraph 1 unless the individual satisfies one of those items and does so in the course of a business or adventure or concern in the nature of trade. For example, individuals who build or substantially renovate a residential complex for their own use or that of a qualifying relative are generally not considered to be builders for GST/HST purposes.

Exclusion: right to purchase only

5. A person will not be considered to be a builder of a residential complex by virtue of items (a), (b) or (c) in paragraph 1, if the person's only interest in the residential complex is a right to purchase it from a builder.

Example

For example, Jim Smith builds a single unit residential complex and intends to use it as his primary place of residence. After the complex is completed, and before he can move into it, he learns that he is being transferred from Ottawa to North Bay. Jim sells the home and moves to North Bay. Jim Smith is not a registrant and has not claimed any input tax credits (ITCs) with respect to the GST paid on the acquisition of the land or on the construction costs of the new home. In this case, Jim is not considered to be a "builder" under the Act because he built the home otherwise than in the course of a business or an adventure or concern in the nature of trade.

Condominium complex

More than one unit
ss 123(1)

6. A condominium complex means a residential complex that contains more than one residential condominium unit.

Floating home

ss 123(1)

7. A floating home is a structure consisting of a building that is:

- permanently affixed to a floating platform;

19.2 Residential Real Property (continued)

- not capable of self-propulsion; and
- designed to be occupied as a place of residence for individuals.

8. A floating home does not include pleasure craft and houseboats, even if used for residential purposes.

Mobile home

Definition
ss 123(1)

9. A “mobile home” is defined to be:

a building, the manufacture and assembly of which is completed or substantially completed, that is equipped with complete plumbing, electrical and heating facilities and that is designed to be moved to a site for installation on a foundation and connection to service facilities and to be occupied as a place of residence, but does not include any travel trailer, motor home, camping trailer or other vehicle or trailer designed for recreational use.

Coming into force
provision

10. In most cases, the effective date of this definition of mobile home is April 24, 1996. However, because certain buildings (e.g., mini-homes) that are now included under the definition of mobile home had been excluded prior to April 24, 1996, the change in the definition has different effective dates in the following circumstances:

- The new definition also applies to supplies of mobile homes made before April 24, 1996, if the consideration for the supply becomes due on or after that day or is paid on or after that day without having become due and the individual is applying for a new housing rebate for a mobile home bought from a builder (including a dealer or manufacturer).
- In cases where the mobile home (newly defined) includes a supply of land by way of lease, licence or similar arrangement, and the time period of the lease, licence or similar arrangement spans April 24, 1996, the supply of the land is treated as two supplies: one up to and including April 23, 1996, and a second that extends after that day. The Act applies to the first supply using the earlier definition of mobile home, and to the second supply using the new definition.

Prior to April 24, 1996

11. Prior to April 24, 1996, a mobile home was a unit that was:

Criteria

- not less than three metres wide and eight metres long;
- equipped with complete plumbing, electrical and heating facilities;
- designed to be towed on its own chassis on wheels to a site for installation on a foundation and connection to service facilities at that site; and
- to be occupied for residential purposes (year round occupancy was not necessarily required).

19.2 Residential Real Property (continued)

Mini-homes 12. Mini-homes are generally considered to be mobile homes if they conform to the requirements of the definition in subsection 123(1). However, prior to April 24, 1996, (see paragraph 10) a mini-home was excluded from the definition of mobile home since it did not normally meet the dimensional requirements or the requirement for it to be towed “on its own chassis” that existed at that time.

Vehicles designed for recreational use; park model trailers 13. Travel trailers, motor homes, camping trailers or other vehicles or trailers designed for recreational use are specifically excluded from the definition of “mobile home”. Park model trailers are not considered to be mobile homes within the definition of subsection 123(1) since they are not designed to be placed or installed on a foundation as required in the definition. However, park model trailers, travel trailers and motor homes may qualify as residential complexes if they are residential units and permanently affixed to the land in the same manner as a house. For further discussion, see paragraphs 42 and 43.

Multiple unit residential complex

Apartment building 14. A multiple unit residential complex is a residential complex having more than one residential unit, other than a condominium complex. The most common example is an apartment building. (A duplex is generally considered to be a multiple unit residential complex, but as noted in paragraph 48, a duplex is considered a single unit residential complex for purposes of GST/HST new housing rebates.)

Place of residence

15. “Place of residence” is a key concept in the definitions of “builder”, “residential complex”, “residential unit” and “short-term accommodation”. Also, as discussed in Section 19.2.3, *Residential Real Property—Deemed Supplies*, place of residence is a key concept in the application of the change-in-use rules under section 190 (conversion to residential use) and the self-supply rules under section 191 as GST/HST liability under these sections is triggered only if the tenant occupies the complex as a place of residence, rather than as a place of lodging.

Residence vs. lodging Policy statement P-130 16. The meaning to be attributed to a “place of residence”, as opposed to “lodging”, is based on a determination of the purpose of the stay, the amount of time of the stay, and physical presence. In considering these factors, the following principles need to be considered:

No vacation/transient purpose (a) While an individual has only one primary place of residence, it is possible for an individual to have more than one place of residence. To be considered an individual's place of residence, the place should be used for purposes of habitation or dwelling, but would not normally include an abode of a transient nature. (For example, subject to other factors considered below, short-term hotel accommodation would not normally be considered an individual's place of residence.)

Indicators of permanency (b) Factors which indicate that a place is a person's place of residence and not being used for transient purposes include:

- the place in question is the only residence of the individual;

19.2 Residential Real Property (continued)

- the individual who is the occupant owns or leases the premises, as opposed to occupying the premises under a licence (such as a hotel room);
- if leased, the lease entered into between the landlord and tenant is of a long-term nature;
- the place is furnished by the occupant;
- the occupant is responsible for payment of utilities;
- there has been a change of address for postal, municipal/school tax and other purposes (e.g., driver's licence, medical insurance);
- there is a telephone listing for the occupant at the place of residence;
- the individual has taken out an insurance contract for the home and/or its contents.

Appreciable period of time

- (c) The determination of place of residence is a separate issue from that of whether an individual is a "resident" or "non-resident" of Canada. While possibly relevant for purposes of determining whether an individual is a "resident" or "non-resident" of Canada, an intention to remain at a place for an indefinite period of time is not necessarily required for that place to be considered an individual's "place of residence" for purposes of the Act. Of importance is that one intends to stay at a place for an appreciable period of time, irrespective of whether this period of time is definite or indefinite.

Intention

- (d) The period of time an individual spends in a place need not be based on a specific number of days during the year (unless required by the Act) in order to be considered appreciable, but may be satisfied by demonstrating one's intention to use the place as a residence over a period of time. Use of the place for an appreciable period of time may, for example, include a specified number of days at a specified time of the year where such use recurs over a predetermined number of years (such as a time-share arrangement or seasonal use of a cottage). During such periods of use, the individual does not have to continuously occupy the premises on a daily basis. Evidence of the individual's physical presence (for example, personal belongings or furniture) should be sufficient.

Purpose of stay

- (e) The reasons for residing in a certain place, as well as leaving, may be important in determining whether an individual's abode is that individual's "place of residence". For example, when a person is temporarily relocated for work purposes, (and possibly staying in hotel-type premises) or where there is a sudden unforeseen departure, the abode may still be considered a person's place of residence, even though the other factors may not be present.

All factors to be considered

17. It is not possible to reduce the notion of a place of residence to definitive factors. All factors must be considered in determining whether or not a residential complex, unit or condominium unit is inhabited for the purpose of its occupancy as a place of residence.

19.2 Residential Real Property (continued)

- Other provisions 18. In addition, the legislation may dictate that additional requirements be considered when determining an individual's place of residence. In such cases, one must look at any limiting factors in the legislation which may also be required to satisfy the applicable provision. For example, the exemption in paragraph 6(a) of Part I of Schedule V with respect to residential accommodation requires that the accommodation be supplied by way of lease, licence or similar arrangement for purpose of its occupancy as a place of residence or lodging by an individual where the period throughout which continuous occupancy of the complex or unit is given to the same individual under the arrangement is at least one month. Similarly, under other provisions in the Act, the residence must be the person's "primary" place of residence or "used primarily" as a place of residence.
- Example 1 An individual leases a cottage in the country on a continuous basis over several years. The cottage is fully furnished by the individual, and the individual's personal belongings (such as most of his casual clothing and his sports equipment for fishing and skiing) are located in the cottage. The individual occupies the cottage only one weekend a month. The rest of the time, the cottage remains unoccupied or is occupied occasionally (for a weekend) by a friend or relative of the individual. This cottage qualifies as a place of residence of the individual since he has his personal belongings there and will use the cottage for an indefinite period of time. (It is not likely, however, that this is his "primary" place of residence.)
- Example 2 An individual rents a cottage in the country for a month from a co-worker. The individual brings clothing, groceries, hiking equipment and her reference guides to birds and wildflowers. She occupies the cottage for the entire month. In this situation, the cottage is not being occupied as a place of residence of this individual as the stay is of a transient and temporary nature. Rather, it would be considered to be a place of lodging.
- Example 3 An individual residing in Vancouver is seconded to work in Ottawa for one year. The person brings his clothing and some of his personal belongings with him and rents a furnished residential unit in Ottawa. This individual flies to Vancouver one weekend a month to see his family and friends. He intends to return to Vancouver at the end of his one-year secondment in Ottawa. In this case, the apartment in Ottawa is a place of residence of this individual as his personal belongings, and his dwelling place for an appreciable period of time is in Ottawa. Although the stay is for a specific period and somewhat temporary, it is not of a transient nature.

Residential complex

- Residential complex
para 123(1)(a) 19. A residential complex is that part of a building in which one or more residential units are located, together with
- that part of any common areas and other appurtenances to the building, as well as land immediately contiguous to the building that is reasonably necessary for the use and enjoyment of the building as a place of residence for individuals, and
 - that portion of the subjacent land that the residential units and related common areas represent of the entire building.

19.2 Residential Real Property (continued)

Appurtenance	<p>Note: 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. To qualify as an appurtenance, an article generally is adapted to the use of the property to which it is connected, and there is an intent that the article be permanently affixed to the land. 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.</p>
Residential complex para 123(1)(b)	<p>20. A residential complex is also that part of a building containing a residential unit that is, or is intended to be, a separately owned property (for example, a semi-detached house or condominium apartment) together with certain related land, appurtenances and common areas. This could include common areas, subjacent land, and immediately contiguous land, to the extent that such areas or land are attributable to the particular residential unit and are reasonably necessary for its use and enjoyment as a place of residence for individuals.</p>
Residential complex para 123(1)(c)	<p>21. An entire building or premises together with related land, appurtenances and common areas may be considered a residential complex where the building or premises is owned by or has been sold to an individual. The whole of the property qualifies as a residential complex under this definition only if that property is used primarily as a place of residence of the individual, a related individual, or a former spouse.</p> <p>Note: An entire property owned by an individual may qualify as a residential complex even if a portion of the property is used for the purpose of earning income from a business, as long as the property is used primarily (i.e., more than 50%) as a place of residence by the individual, a related individual or former spouse.</p>
Example	<p>A lawyer owns a building in which 40% of the floor space is used as the lawyer's office and 60% of the floor space is used as the lawyer's place of residence. Pursuant to paragraph (c) of the definition of residential complex, the entire building would constitute a residential complex. The eventual sale of this building by the lawyer would be an exempt sale of a residential complex (provided the lawyer has not taken ITCs in respect of improvements to the building) notwithstanding the fact that part of the building was used for commercial activities.</p>
Residential complex para 123(1)(d)	<p>22. In the preceding paragraphs, a building must be affixed to land to qualify as a residential complex. A mobile home on its own or together with any appurtenances to the home is also a residential complex where the mobile home is affixed to land. Land (other than a site in a residential trailer park) that is subjacent and immediately contiguous to the mobile home and that is reasonably necessary for its use and enjoyment as a place of residence also forms part of the residential complex. (Mobile homes are described further in paragraphs 9 to 13.)</p>
Residential complex para 123(1)(e)	<p>23. A floating home is a residential complex. (See paragraph 7.)</p>

19.2 Residential Real Property (continued)

- **Application of “residential complex” to hotels**

Not a residential complex

24. A building, or part of a building, and related land does not qualify as a residential complex where:

- the building or part of a building is a hotel, motel, inn, boarding house, lodging house or other similar premises; and
- all or substantially all the supplies of residential units in the building, or part thereof that are made by way of lease, licence or similar arrangement are, or are expected to be, for periods of continuous possession or use of less than 60 days.

Classifying the establishment: guidelines
Policy statement P-099
ss 123(1)

25. The following guidelines may be used to determine if a building, or part thereof, is a hotel, motel, inn, boarding house, lodging house or similar premises that provides all or substantially all of its accommodation for periods of continuous possession or use of less than 60 days. Not all of these guidelines apply in all cases since their applicability depends on the location and type of establishment. Where applicable, the conditions described should generally be present throughout the year for the establishment not to be considered a residential complex:

- the establishment usually provides temporary accommodation rather than a place of residence;
- where required by municipal or provincial regulations, the establishment is licensed for business for the purpose of providing a temporary place to stay;
- the establishment is available for rental to the public on a temporary, transient basis; (For this purpose, the public is considered to be either the community as a whole or a general subgroup, e.g., youth or seniors. Excluded from this concept of subgroup is a group that is defined by a unique characteristic not generally found in the public at large, e.g., employees or shareholders of a particular company.)
- where appropriate, there is a common registration area;
- the rooms or suites in the establishment are furnished by the supplier;
- depending on the nature of the establishment, housekeeping services and other facilities such as restaurants, meeting rooms, or stores are available.

Intention

26. It is generally a requirement that there be a clear intention to operate the facility as a hotel, motel, inn, boarding house, lodging house or similar premises.

19.2 Residential Real Property (continued)

Mixed conditions through the year

27. Where the conditions of an applicable guideline are not present throughout the year, the building, or part thereof, may not be a hotel, motel, inn, boarding house, lodging house or similar premises, but rather a residential complex, regardless of the periods of accommodation provided. For example, a person who rents cottages on a short-term, daily basis every summer in a hotel-like operation and on a long-term basis during the winter may in fact be renting residential accommodation in a residential complex throughout the year. (For further information, see Section 19.2.2, *Residential Real Property—Rentals*.)

Example 1

A students' association operates a building that provides accommodation to students who attend various colleges and universities in the area. The students may stay on a long-term or a short-term basis, depending on their course requirements. However, the majority of students stay for the academic year. The accommodation

- is available only to students;
- does not offer other facilities or services (the students share housekeeping duties);
- has no common registration area (reservations are handled by the office staff in the course of their regular office duties), and
- has no municipal or provincial regulations relating to its operation as short-term accommodation.

In these circumstances, this establishment is not a “hotel” or similar premises for the purposes of the Act; it is a residential complex.

Example 2

John and Martha Doe are a semi-retired couple who run a small tourist resort in a popular vacation area in Ontario. The resort consists of four cottages which are rented to the general public for short-term stays, i.e., less than 30 days, from the first of May to the end of September each year and which are closed for the remainder of the year. The resort provides laundry and housekeeping services. Mr. and Mrs. Doe live in the fifth cottage which serves as their year-round residence. A small room in the Doe's cottage/home serves as a registration area and office.

In this case, each of the four cottages rented to the general public for short-term stays qualifies as a “hotel” or similar premises and are thereby excluded from the definition of “residential complex”. Note that the guidelines and requirement must be applied to each cottage—the definition of “residential complex” refers to a “building”. The fifth cottage would be considered to be a residential complex.

Exclusion test: “all or substantially all”
Policy statement P-053
ss 123(1)

28. The definition of “residential complex” excludes a hotel, motel, inn, boarding house, lodging house or similar premises from being classified as a residential complex provided that “all or substantially all of the supplies of residential units in the building by way of lease, licence or similar arrangement are, or are expected to be, for periods of continuous possession or use of less than 60 days”. The expression “all or substantially all” means 90% or more.

19.2 Residential Real Property (continued)

Residential complex ss 123(1)	29. The definition of “residential complex” has been clarified to provide greater certainty that the time period of “less than 60 days” refers, as noted above, to periods of continuous possession or use.
Choice of calculation method	30. In cases where there are rental periods of varied length, some of which are 60 days or more and some of which are less than 60 days, a method must be chosen for determining if the establishment meets the 90%-or-more test. The method should be appropriate in the circumstances and be used consistently.
Acceptable methods	31. Acceptable methods include basing the calculation on revenues (either daily or total), or on identical lease periods or intervals such as number of “room nights” sold, or on the number of rooms available for rent for periods of less than 60 days and those for periods of 60 days or more.
Time period	32. The time period to be used when determining if the establishment meets the 90%-or-more test is also flexible provided the period is reasonable for the supplies in question and is used on a consistent basis. Normally, a one year period is appropriate. However, the period could differ depending on the nature of the operations (e.g., seasonal).
Calculated once	33. If the test is applied on a prospective basis and covers a reasonable period of time (a full year), the resulting determination will not need to be revised unless actual operations turn out to be materially different from those foreseen. Applying the test over a reasonable period of time allows temporary changes in use to be offset, preventing the triggering of the change-of-use rules (e.g., seasonal residences).
Examples	<p>A complex is a lodging house with two rooms for rent. One room is expected to be rented on a daily basis to varied guests for 300 days at \$50/day. The second room is expected to be rented to one customer for 200 days for \$30/day. For the remaining days of the year, the rooms are expected to be vacant. The following illustrates the use of different methods to determine the status (hotel or residential complex) of the lodging house:</p>
• Daily revenue	Daily revenue method: <div style="border: 1px solid black; padding: 10px; margin-top: 10px;">$\begin{aligned} & \text{Short-term daily revenue/total daily revenue} \\ & = \\$50/(\\$50 + \\$30) \\ & = \\$50/\\$80 \\ & = 62.5\% \end{aligned}$</div>
• Total revenue	Total revenue method: <div style="border: 1px solid black; padding: 10px; margin-top: 10px;">$\begin{aligned} & \text{Short-term total revenue/total revenue (1 yr. period)} \\ & = (300 \times \\$50)/[(300 \times \\$50) + (200 \times \\$30)] \\ & = \\$15,000/\\$21,000 \\ & = 71\% \end{aligned}$</div>

19.2 Residential Real Property (continued)

- Rooms available Number of rooms available method:

$$\begin{aligned} & \text{Short-term rooms/total rooms} \\ & = 1/(1 + 1) \\ & = 1/2 \\ & = 50\% \end{aligned}$$

- Room nights sold Number of room nights sold:

$$\begin{aligned} & \text{Short-term rentals/total rentals} \\ & = 300/(300 + 200) \\ & = 300/500 \\ & = 60\% \end{aligned}$$

Results of 90% test 34. Any of these methods may be used to apply the “all or substantially all” test as long as the method chosen is used consistently and is appropriate in the circumstances. In each of the preceding illustrations, the test is not met since the factor is less than 90%. Accordingly, the lodging house would be considered a residential complex, and not a hotel or similar premise.

Unacceptable methods 35. The following illustrates methods that the Department considers to be unacceptable. These methods result in distortions since they do not compare equivalent supplies of room rentals.

- Number of invoices Invoice Method:

$$\begin{aligned} & \text{Short-term invoices / total invoices} \\ & = 300/(300 + 1) \\ & = 99.8\% \end{aligned}$$

- Number of tenants Tenant Method:

$$\begin{aligned} & \text{Short-term tenants per night/total tenants} \\ & = 300/(300 + 1) \\ & = 99.8\% \end{aligned}$$

Further information 36. For further information on exclusions from the definition of residential complex, see the discussion of policy statement P-154, “Houses sold for removal and relocation”, in Section 19.2.4, *Residential Real Property—Special Issues*.

Residential condominium unit

19.2 Residential Real Property (continued)

Separate unit 37. A residential condominium unit (either an apartment unit or a townhouse) is a residential complex that is, or is intended to be, a bounded space in a building designated or described as a separate unit on a registered condominium or strata lot plan or description, or similar plan or description registered under the laws of a province. A residential condominium unit includes any interest in the common areas and other appurtenances as well as land that pertains to ownership of the unit.

Residential trailer park

Two sites or more ss 123(1) 38. A residential trailer park is a trailer park encompassing at least two sites, where:

Length of lease a) 90% or more of the sites in the trailer park are supplied under a lease, licence or similar arrangement, or are intended to be supplied under a lease, licence or similar arrangement under which continuous possession or use of a site is provided for a period of at least

- one month, in the case of mobile homes or other residential unit, or
- twelve months in the case of travel trailers or motor homes, or similar vehicles that are not residential units;

and

Year-round service b) the sites would be suitable for use by occupants of a mobile home (whether or not the park in fact has mobile homes) as a place of residence of individuals throughout the year. This means the sites must be serviced and accessible for use by a mobile home throughout the year.

Fixtures and appurtenances 39. Any buildings, fixtures and appurtenances to the residential trailer park that are reasonably necessary for the use and enjoyment of the sites by individuals residing in the park, or for the business of supplying such sites (for example, a rental office), are considered to be part of the residential trailer park.

40. For a discussion of exempt sales of the land that forms part of a residential trailer park, see Section 19.5, *Land*.

Residential unit

Meaning 41. The term “residential unit” includes:

- a detached house;
- a semi-detached house;
- a rowhouse unit;
- a condominium unit;
- a mobile home;

19.2 Residential Real Property (continued)

- a floating home;
- an apartment;
- a suite or room in a hotel, motel, inn, boarding house or lodging house, or in a residence for students, seniors, individuals with a disability or other individuals;
- any similar premises.

Motor homes and travel trailers
Policy statement P-104
ss 123(1)

42. If a park model trailer, travel trailer or motor home is used for residential purposes and is permanently affixed to land in the same manner as a house, i.e., set on a permanent foundation and not merely placed on the land, it may qualify as a “residential unit”.

43. Travel trailers and motor homes are not normally permanently affixed to the land in the same manner as a house (i.e., set on a permanent foundation) and, therefore, would generally not be considered to be a residential unit or residential complex. Depending on the circumstances, park model trailers may be permanently affixed to land in the same manner as a house and, therefore, if used for residential purposes, meet the requirements of a residential unit and residential complex. For additional information on motor homes and travel trailers, see paragraph 13 in this section.

Conditions

44. In addition, to be considered as a residential unit, the unit or part thereof must be either:

- occupied by an individual as a place of residence or lodging;
- supplied by way of lease, licence, or similar arrangement for occupancy as a place of residence or lodging for individuals;
- vacant, but last occupied or supplied as a place of residence or lodging for individuals; or
- intended to be used as a place of residence or lodging for individuals if it has never been previously used or occupied for any purpose.

Example: last use before vacancy

A house was used for 40 years as a home but was last used a number of years ago as an accounting firm's office. The property has stood vacant since that time. The accounting firm is now selling the property to an individual.

In this case, the house does not qualify as a residential unit for GST/HST purposes because its last use prior to vacancy was not as a place of residence or lodging for individuals but as a place of business. As such, the house does not qualify as a residential complex and is subject to GST/HST when sold. (If the last use prior to vacancy was residential, the property would qualify as a residential unit even though the house may need extensive work to make it fit for habitation.)

19.2 Residential Real Property (continued)

Example: zoned commercial

A tenant occupies a condominium unit solely for residential purposes, but because of the zoning a commercial lease exists between the landlord and tenant. In this case, the premises occupied by the tenant solely for residential purposes constitute a residential unit. (As long as the residential unit is in a residential complex and the tenant leases the premises for residential purposes for a period of continuous possession or use of one month or more, the supply of the leased premises is exempt under the provisions of paragraph 6(a) of Part I of Schedule V. For a discussion of exempt rentals, see Section 19.2.2, *Residential Real Property—Rentals*.)

Short-term accommodation

Definition ss 123(1)

45. Short-term accommodation means a period of occupancy or a right of occupancy by an individual in a residential complex or a residential unit that is supplied by way of lease, licence or similar arrangement for a period of less than one month where such occupation is for use as a place of residence or lodging. The period of occupancy is calculated as a period where the same individual is given continuous occupancy, notwithstanding that the rental may be on a daily or weekly basis.

46. Effective April 23, 1996, short-term accommodation does not include occupancy in a residential complex or residential unit if it is supplied under a timeshare arrangement or if it is included in the part of a tour package that is not the taxable portion of the tour package.

Single unit residential complex

47. A single unit residential complex is a residential complex with only one residential unit. A residential condominium unit is not considered to be a single unit residential complex.

Duplex included

48. For purposes of the GST/HST new housing rebates provided under section 254 (rebate on residential complex and land purchased from a builder), section 254.1 (rebate on residential complex purchased from a builder and the land is leased), and section 256 (rebate on owner-built unit), a single unit residential complex includes a multiple unit residential complex of not more than two residential units. This means that for housing rebate purposes, a duplex may be considered a single unit residential complex.

19.2 Residential Real Property (continued)

48.1 In addition, effective June 1, 1997, the definition of “single unit residential complex” is amended for purposes of the new housing rebates provided under sections 254, 254.1 and 256. As a result of the amendment, a multiple unit residential complex that contains one or more residential units that are for supply as short-term accommodation is no longer excluded from qualifying for a new housing rebate under one of these sections provided the residential complex is owned by an individual or has been provided by way of sale to the individual and it is used 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. These residential complexes, commonly known as bed and breakfast establishments, may qualify for a new housing rebate provided the other requirements under the appropriate section are satisfied. For further information on bed and breakfast establishments and new housing rebates, see the following GST/HST Memoranda:

- 19.3.1, *Rebate for Builder-Built Unit (Land Purchased)*,
- 19.3.2, *Rebate for Builder-Built Unit (Land Leased)*, or
- 19.3.4, *Rebate for Owner-Built Homes*.

Substantial renovations

S 123(1)

49. The definition of substantial renovation in subsection 123(1) applies to those renovations of a residential complex that are so extensive that they have changed the character of the previous complex to such an extent that one would view the renovated complex as essentially being a newly constructed residential complex. A substantial renovation is generally considered to have taken place where all of the interior of the existing building of the complex has been virtually removed or replaced (i.e., gutted) and, upon completion, the renovated or altered building is, or forms part of, a residential complex.

Status of an addition

50. The construction of an addition to an existing residential complex is not considered when determining whether or not the existing complex has been substantially renovated, but may be relevant when determining whether or not there has been the construction of a residential complex. Where the existing building has in fact been substantially renovated, the addition may form part of the residential complex which has been substantially renovated.

Further information
Technical Information
Bulletin B-092

51. Factors to consider when determining if a substantial renovation has taken place in respect of a residential complex are discussed in detail in Technical Information Bulletin B-092, *Substantial Renovations and the GST/HST New Housing Rebate*. Refer to this publication as well for a discussion of housing rebates and substantial renovations.

Trailer park

Criteria

52. A trailer park is an area of land that consists exclusively of:

- one or more sites, each of which is or is intended to be supplied by way of lease, licence or similar arrangement to a person who will place a mobile home, travel trailer or motor home (or similar vehicle or trailer) on the site;

19.2 Residential Real Property (continued)

- other land that is or is intended to be reasonably necessary for the use and enjoyment of the sites by the occupants; and
- land that is reasonably necessary for the operation of the park.