



GST/HST Memoranda Series

NOTICE OF CHANGE: January 16, 2002
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19.3.1 Rebate For Builder-Built Unit (Land Purchased)

July 1998

Overview

The new housing rebate provided under section 254 of the Act generally applies to the purchase of a qualifying unit from a builder together with the related land. Where the related land is leased, section 254.1 may provide a housing rebate if it is a long-term lease (at least 20 years) or if there is an option to purchase the land. That rebate is discussed in detail in Section 19.3.2, *Rebates for Builder-Built Unit (Land Leased)*.

The new housing rebate under section 254 applies to the federal portion of the HST on new or substantially renovated housing in the participating provinces in the same manner as it applies to the GST in the rest of Canada. While eligibility for rebates under the HST follows the rules for rebates under the GST, there are particular considerations that are specific to rebates in the participating provinces. These considerations are discussed in Section 19.3.8, *New Housing Rebates and the HST*.

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 supersedes paragraphs 8 to 21 in GST Memorandum 500-4-5, *Housing and Other Real Property Rebates*. Sidebarring indicates significant changes.

Rebate for units purchased from a builder

Single unit residential complex or residential condominium unit ss 254(2)

1. An individual may qualify for a GST/HST new housing rebate if the individual purchases a new single unit residential complex or a residential condominium unit, i.e., a qualifying unit, from the builder together with the related land. (See the discussion of “qualifying unit” in Section 19.3 of this chapter. For a discussion of the amount of land that is considered related land, see paragraph 11.)

19.3.1 Rebate for builder-built unit (land purchased) (continued)

2. For purposes of GST/HST new housing rebates, a builder is a person who constructs or substantially renovates a qualifying unit on land owned or leased by that builder. A builder may also include:

- a manufacturer or vendor of a mobile home or floating home;
- a person who buys unoccupied new units for resale; or
- a person who acquires an interest in a qualifying unit while the unit is under construction or substantial renovation.

3. An individual who constructs, substantially renovates or acquires an interest in a unit that is under construction or substantial renovation otherwise than in the course of a business or an adventure or concern in the nature of trade is not considered to be a builder. Similarly, a person who manufactures or sells a mobile home or floating home otherwise than in the course of a business or an adventure or concern in the nature of trade is not considered to be a builder.

New construction
Policy statement P-154

4. The movement and installation of a building (other than a mobile home or a floating home) to a new site, i.e., a site that has a different legal description, is considered to be the construction of a new unit on the new site, even if the building had been occupied prior to its move. Accordingly, if the person moved the house with the intention of reselling the property, the person placing the home on the person's land is a "builder". Such a sale is taxable and the purchaser is entitled to a new housing rebate under section 254, if the other eligibility requirements of that section are met (see paragraphs 6 and 7).

5. The relocation of a previously occupied residential building on the same land that once formed part of the unit, i.e., within the same legal description (see paragraph 11), is not considered to be either new construction or a substantial renovation. Accordingly, the subsequent sale of such a unit is an exempt supply of used residential housing and no new housing rebate is available, unless the building has been substantially renovated. (For further information on the GST/HST treatment of relocated homes, see Section 19.2.4, *Residential Real Property—Special Issues*.)

Eligibility requirements

Rebate for individuals

6. An individual qualifies under section 254 of the Act for a rebate of part of the GST/HST paid on a unit if all of the following conditions are met:

Bought from builder

(a) the individual purchases the qualifying unit from a builder (see paragraph 2);

Primary place of residence

(b) at the time the individual becomes liable under an agreement of purchase and sale, the individual is acquiring the unit as the primary place of residence of the individual, or a relation of the individual; (For a discussion of "primary place of residence" and "relation", see Section 19.3.)

19.3.1 Rebate for builder-built unit (land purchased) (continued)

- Less than \$450,000 (c) total consideration paid to the builder for the unit is less than \$450,000, before tax; (For information on items to include or exclude when computing total consideration, see paragraphs 8 to 12.)
- Tax paid (d) the tax was paid by the individual;
- Ownership timing (e) ownership is transferred to the individual after construction or substantial renovation of the unit is substantially completed¹;
- Occupancy timing (f) no one occupies the unit as a place of residence or lodging between the time construction or substantial renovation is substantially completed and the time possession is transferred to the individual;
- First occupant (g) the individual or relation is the first person to occupy the unit as a place of residence after construction or substantial renovation is substantially completed²;
- and
- Time limit (h) the rebate application is filed in the required form and within the required time. That is:
- ss 254(3) • if an individual files a rebate application with the Department in respect of a residential complex purchased from a builder, and the ownership of the residential complex is transferred after June 1996, the individual must file the application with the Department within two years after ownership of the residential complex is transferred; and
- para 254(4)(c) • in cases where the builder has paid or credited the rebate amount directly to the purchaser and the ownership of the residential complex is transferred after June 1996, the individual must submit the application to the builder within two years after ownership of the residential complex is transferred.
- Prior to amendments 7. Prior to July 1996, a rebate application was to be filed within four years after the transfer of ownership.

Footnote ¹

If ownership is transferred while construction is under way, the rebate may be available under section 256 in respect of an owner-built home although certain exceptions may apply. See the discussion of certain home purchase agreements in Alberta in Section 19.3.7, *Real Property Rebates—Special Issues*. See Section 19.1 for a discussion of “ownership”.

Footnote ²

If the unit is resold by the individual prior to anyone occupying the unit, the individual may still apply for the rebate and the resale is exempt from tax; if the individual rents the unit, the rebate is not available. In a situation where the individual resells the unit, the individual must be able to demonstrate that the intent to move into the unit as the primary place of residence of the individual or relation was genuine.

19.3.1 Rebate for builder-built unit (land purchased) (continued)

Transitional rules – bed and breakfast establishments

7.1 Effective June 1, 1997, the definition of a single unit residential complex in section 254 is extended to include a bed and breakfast establishment that meets certain conditions. (See the discussion of “bed and breakfast establishment” in GST/HST Memorandum 19.3, *Real Property Rebates*.) 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 254 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”.

Total consideration

Limit
paragraph 254(2)(c)

8. For a GST/HST new housing rebate to be paid under section 254, “total consideration” for a qualifying unit must be less than \$450,000.

“Total consideration”
Policy statement P-052

9. The total consideration for a qualifying unit is the total of amounts paid or payable, plus the value of things done or given in exchange for the supply by way of sale of the unit or for the supply by way of sale of an interest in the unit. The items that were supplied for each of these amounts must have been included as part of the agreement between the parties prior to closing.

10. In addition to amounts paid or payable in respect of the purchase of the unit (e.g., the housing rebate when the purchaser and builder agree to include it as part of the consideration for the unit), total consideration includes payment to the builder for:

Goods and services

(a) goods and services that form part of the unit, such as built-in appliances, landscaping, a finished basement, wall-to-wall carpeting, in-ground pool or an attached garage;

Appurtenances

(b) appurtenances to the home, such as a detached garage, permanently affixed shed or above-ground swimming pool;

Other supplies

(c) other supplies (for example, free-standing appliances) if they:

- (i) form part of an all-inclusive single consideration made at the time of signing the agreement of purchase and sale for the unit and for which there is no separate identification in the agreement for the consideration paid or payable for the supplies,
- (ii) are of the type normally supplied by the builder for similar residences, that is, they were not custom ordered (as opposed to simple colour changes or normal upgrades), are offered generally by others in the construction industry, and relate to the use and enjoyment of the unit by the purchaser, and

19.3.1 Rebate for builder-built unit (land purchased) (continued)

(iii) the purchaser did not have a choice of taking a cash discount or other supply instead of the supply in question;

Equitable interest

(d) the supply by the builder of an interest in the unit prior to the sale of the actual unit³;

and

If residential
condominium unit

(e) an interest in the common areas of a residential condominium unit and, as well, the consideration for the purchase of a parking space in the condominium complex, provided that the ownership or possession of the parking space was transferred at the same time that ownership or possession of the condominium unit was transferred.

Land allowance
Policy statement P-069

11. The amount of subjacent and immediately contiguous land that forms part of a qualifying unit is the land that is reasonably necessary for the use and enjoyment of the unit as a place of residence for individuals. If the unit includes land that is not reasonably necessary for the use and enjoyment of the unit as a place of residence, the individual must exclude the value of such excess land to determine whether or not the total consideration of the property (building and land) falls within the threshold amounts that qualify for a housing rebate. The value of the excess land must also be excluded when computing the housing rebate. Normally, up to a half hectare of land would be considered reasonably necessary for the use and enjoyment of the unit as a place of residence for individuals. For a discussion of this half-hectare rule and examples, see Section 19.2.1, *Residential Real Property—Sales*.

Exclusions

12. “Total consideration” excludes:

Taxes
s 154

(a) GST/HST and applicable provincial taxes (such as provincial land transfer taxes and sales taxes) payable in respect of the sale of the unit;

Fees

(b) fees charged by persons other than the builder such as lawyer's fees, survey costs paid to appraisers, etc.; and

Payments to others

(c) payments for goods and services paid directly to trade contractors other than the builder, even if these goods and services relate directly to the unit.

Calculating the rebate

General rule
para 254(2)(h)

13. The housing rebate under section 254 is structured to provide the maximum benefit to purchasers of units where the total consideration for the unit is \$350,000 or less. In these cases, the rebate is 36% of the total GST paid (or the federal component of the HST) to a maximum of \$8,750.

Footnote ³

For example, an individual pays \$25,000 to the builder for an option to purchase a unit for an additional \$200,000. The purchaser would be entitled to claim a rebate based on \$225,000 when the ownership of the unit is acquired.

19.3.1 Rebate for builder-built unit (land purchased) (continued)

14. The housing rebate is gradually reduced for units where the total consideration is \$350,000 to \$450,000. There is no new housing rebate for units where the total consideration is \$450,000 or more⁴.

Purchaser claims from
Revenue Canada

15. Table 1, below, shows how to calculate the housing rebate for a unit (building and land) purchased from a builder where the rebate does not form part of the value of consideration for the unit. Tables 1 and 2, below, do not relate to cooperative housing units or to buildings purchased from a builder on qualifying leased land. For information on how to calculate the housing rebate when the unit purchased is on qualifying leased land, see Section 19.3.2, *Rebate for Builder-Built Unit (Land Leased)*.

16. For information on:

- how to calculate the rebate when the GST rebate is transferred to the builder as part of the consideration for the unit, see Section 19.3.1.1, *Rebate Forms Part Of The Value Of Consideration*.
- how to calculate the rebate when the HST forms part of the value of consideration, see Section 19.3.8, *New Housing Rebates and the HST*.

Footnote ⁴

Nova Scotia's rebate of part of the provincial component of the HST has no threshold. See Section 19.3.8, *New Housing Rebates and the HST*.

19.3.1 Rebate for builder-built unit (land purchased) (continued)

Table 1: *New Housing Rebate Calculations* 254

Table 1: New Housing Rebate Calculation where

- unit purchased from builder
- purchase includes associated land
- rebate does not form part of the value of consideration for the unit

Total Consideration	Rebate Formula	Example
unit selling for \$350,000 or less	36% of the GST* paid by the purchaser to a maximum of \$8,750	If the total consideration were \$100,000: $(7\% \text{ of } \$100,000) \times 36\% = \$2,520$
unit selling for 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 total consideration	If the total consideration were \$400,000: Rebate = $\$8,750 \times \frac{(\$450,000 - \$400,000)}{\$100,000}$ Rebate = \$4,375
unit selling for \$450,000 or more	no rebate	

* also refers to the federal component of the HST. For examples showing the calculation of the rebate on the federal component of the HST and on the provincial component of the HST in Nova Scotia, see Section 19.3.8, *New Housing Rebates and the HST*.

19.3.1 Rebate for builder-built unit (land purchased) (continued)

Table 2: *Sample GST New Housing Rebates* s 254

Table 2: Sample GST New Housing Rebates where

- unit purchased from builder
- purchase includes associated land
- rebate not paid or credited by builder

Total Consideration	GST Paid	GST New Housing Rebate
\$100,000	\$7,000	\$2,520
\$150,000	\$10,500	\$3,780
\$200,000	\$14,000	\$5,040
\$250,000	\$17,500	\$6,300
\$300,000	\$21,000	\$7,560
\$350,000	\$24,500	\$8,750
\$400,000	\$28,000	\$4,375
\$450,000	\$31,000	no rebate

Time rebate available ss 254(3)

17. While GST/HST is generally payable on the day when ownership of the unit is transferred or the day when possession of the unit is transferred under an agreement to transfer ownership, whichever is earlier, the housing rebate is not available until the day ownership of the unit is transferred.