

GST/HST Information for the Construction Industry

As of November 1, 1999, Revenue Canada became the Canada Customs and Revenue Agency.

Before you start

Is this guide for you?

This guide explains how the goods and services tax/harmonized sales tax (GST/HST) applies to sales and services supplied by residential and non-residential builders, land developers, renovators, contractors, and other businesses involved in the construction industry. It deals with when to pay GST/HST on real property transactions and related fees, and the special rules that apply to collecting and remitting GST/HST when you sell real property.

This guide replaces and updates the guides called *Information for Residential Builders and Land Developers* and *Information for the Non-Residential Construction Industry*.

This guide uses plain language to explain the most common tax situations. If you need more help after reading the guide, contact your tax services office. You can find the address and telephone numbers listed in the Government of Canada section of your telephone book.

If you are registered for GST/HST, you should also see the guide called *General Information for GST/HST Registrants*. It provides basic information to help you comply with GST/HST, such as how to collect, record, calculate, and remit the tax. It also includes line-by-line instructions to help you complete your GST/HST return. When referring to a GST/HST registrant, we mean an individual or an organization that is registered or is required to be registered for GST/HST.

Forms and publications

Throughout this guide, we refer to forms and other publications. If you want to get copies of any of these, call or visit your tax services office. If you have access to the Internet, you can find many of our publications at: www.ccr-aadrc.gc.ca

GST/HST and Quebec

In Quebec, the ministère du Revenu du Québec (MRQ) administers GST/HST for us. If you have business operations in Quebec, you can contact the MRQ toll-free at **1-800-567-4692**.

TTY users

If you have a teletypewriter (TTY) attached to your telephone, you can call our toll-free bilingual enquiry service at **1-800-665-0354** during regular hours of service.

GST/HST electronic filing and remitting

You can now file your GST/HST return and remit your payment electronically. More information on electronic filing and remitting is available in the booklet called *GST/HST Electronic Filing and Remitting – Information and Application Forms for Registrants*.

Your opinion counts!

We review our publications each year. If you have any comments or suggestions that would help us improve the explanations they contain, we would like to hear from you. Please send your comments to:

Client Services Directorate
Canada Customs and Revenue Agency
400 Cumberland Street
Ottawa ON K1A 0L5

Visually impaired persons can get information on services available to them, and can order publications in braille or large print, or on audio cassette or computer diskette, by calling **1-800-267-1267 weekdays from 8:15 a.m. to 5:00 p.m. (Eastern Time).**

La version française de cette publication est intitulée *Renseignements sur la TPS/TVH à l'intention de l'industrie de la construction*.

RC4052(E) replaces R3086(E) and R3108(E)

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Terms used in this guide

This section explains some of the terms we use in this guide.

For the purposes of this guide, a **builder** is a person who constructs or substantially renovates housing on land owned or leased by a person. A builder may also include one of the following:

- a manufacturer or vendor of a previously unoccupied mobile home or floating home;
- a person who buys unoccupied new housing to resell or rent to persons who are acquiring the housing in the course of a business or trading venture; or
- a person who acquires an interest in housing as part of that person's business or trading venture while the housing is under construction or substantial renovation.

A builder does not include an individual who constructs or substantially renovates a residential complex otherwise than in the course of a business or an adventure or concern in the nature of trade.

Capital property for GST/HST purposes is based on the meaning of the term for income tax purposes. It is:

- any depreciable property (that is, property that is eligible or would be eligible for a capital cost allowance deduction in calculating your income for income tax purposes); and
- any property, other than depreciable property, from which any gain or loss, if you disposed of the property, would be a capital gain or capital loss for income tax purposes.

Capital property is property that you buy for investment purposes or to earn income from its use rather than its sale. It may include real property, such as land or a building, or personal property, such as equipment or machinery that a business uses in its commercial or exempt activities.

Exempt supplies are goods and services that are not subject to GST/HST. You cannot claim input tax credits for the goods and services acquired to make exempt supplies. Some examples of exempt supplies related to real property include:

- sales of previously occupied residential housing;
- long-term residential rents (of one month or more) and residential condominium fees;
- most services provided by financial institutions (for example, arrangements for a loan or mortgage); and
- most services provided by insurance companies, agents, and brokers (for example, arrangement for insurance policies).

Input tax credit (ITC) is a credit GST/HST registrants can claim to recover GST/HST they paid or owe to their suppliers for goods or services they acquired, imported, or brought into a participating province for consumption, use or supply in their commercial activities (that is, to provide taxable goods and services).

For example, this might include GST/HST for:

- rental of construction equipment, computers, and cellular phones;
- office supplies;
- building rentals; and
- most utilities.

Participating province means the province of Nova Scotia, New Brunswick, or Newfoundland for purposes of the harmonized sales tax (HST).

Primary place of residence means a residential unit, owned jointly or otherwise, that is intended to be inhabited by an individual on a permanent basis. It may be located in or outside Canada. A person may have more than one place of residence, but is considered to have only one primary place of residence. For rebate purposes, if a person has more than one place of residence, the following factors may be considered to determine if the residence qualifies as the primary place of residence:

- whether the individual intends to use the home as his or her main residence;
- the length of time the premises are inhabited; and
- the designation of the address on personal and public records.

Public service body (PSB) means a non-profit organization, charity, municipality, school authority, hospital authority, public college, or university. For purposes of certain exemptions, including supplies of real property, a PSB does not include a charity.

Real property includes:

- a mobile home or floating home and any leasehold or proprietary interest therein;
- in Quebec, immovable property and every lease thereof; and
- in any other place in Canada, all land, buildings of a permanent nature and any interest in real property.

A **residential complex** includes a building or part of a building in which one or more residential units are located, along with

- part of any common areas and other appurtenances to the building,
- the land on which the building is situated, and
- the part of the land immediately adjoining the building

that are reasonably necessary for the use and enjoyment of the building as a place of residence for individuals.

A residential complex includes a floating home, a mobile home, and a residential condominium unit, but generally does not include a building or that part of a building that is a hotel, a motel, an inn, a boarding house or similar place.

Residential unit means

- a detached house, semi-detached house, rowhouse unit, condominium unit, mobile home, floating home, or apartment,

- 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
- any other similar premises,

or that part thereof that

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

Substantial renovation requires the renovation or alteration of 90% or more of the interior of an existing building that is a residential complex. Renovations to the foundation, external walls, interior supporting walls, floors, roof, and staircases are not included in the calculation to determine whether 90% or more of the existing house has been removed or replaced.

Supply means the provision of property or a service in any way, including (but not limited to) a sale, transfer, barter, exchange, licence, rental, lease, gift, or disposition.

Note

When we refer to **sales of goods or services** in this guide, we mean the supply of property or services. Property includes any real or personal property, tangible or intangible property, such as rights or goodwill.

Taxable supplies refer to goods and services that are provided in the course of a commercial activity and are taxable under GST at 7% or HST at 15%, or at the rate of 0% (zero-rated). Examples of taxable supplies are:

- sales of commercial real property and previously unoccupied residential housing;
- self-supplies of housing when first leased by a builder for residential use (refer to page 9 of this guide)
- rentals of commercial real property;
- used goods sold by registrants in the course of a commercial activity;
- advertising services; and
- legal, accounting, and other professional fees.

Zero-rated supplies refer to a limited number of goods and services that are taxable at the rate of 0%. This means that there is no GST/HST charged on the sale of these goods and services, but GST/HST registrants can claim an input tax credit for GST/HST they pay or owe on purchases and expenses made to provide them. Examples are basic groceries and prescription drugs.

What is GST/HST?

GST is a 7% tax on the supply of most goods and services in Canada. Three participating provinces harmonized their provincial sales tax with GST to create harmonized sales tax (HST). HST applies to the same base of goods and services as GST, but at the rate of 15%. Of this, 7% is the federal part, and 8% is the provincial part.

All GST/HST registrants who make taxable (other than zero-rated) sales of goods and services in the three participating provinces (Nova Scotia, New Brunswick, and Newfoundland) collect tax at the 15% HST rate. They collect tax at the 7% GST rate on taxable (other than zero-rated) sales that are made in the rest of Canada.

Who pays GST/HST?

Almost everyone has to pay GST at 7% or HST at 15% on taxable sales of goods and services (other than zero-rated) made in Canada. However, there are a limited number of situations where the buyer does not have to pay GST/HST. We describe these on page 14, in the section called “Construction work for public service bodies and government.”

How does GST/HST work?

Most goods and services supplied in Canada are taxable under GST at 7% or HST at 15% when they are sold, leased, transferred, or otherwise provided throughout the production and distribution process. For instance, most sales of vacant land, as well as leases, licences, and similar arrangements for the right to use land are taxable at a rate of 7%, or at a rate of 15% if the land is situated in a participating province. Land sold or leased by the federal government and its crown corporations is also taxable.

Registering for GST/HST

Generally, businesses have to register for GST/HST if they sell or otherwise provide taxable goods or services in Canada, and if their total worldwide revenues from taxable supplies, including such revenues of all their associates, over the past four consecutive calendar quarters or during any one calendar quarter, are more than \$30,000. This amount includes revenues from supplies of zero-rated goods and services. If you are not sure whether you are associated with another person, contact your tax services office.

If you are required to be registered, you have to charge GST/HST on your sales of goods and services taxable at 7%, or 15% in a participating province.

Although you do not have to register for GST/HST if your taxable revenues are less than \$30,000 in the past four consecutive calendar quarters, you may want to register voluntarily, since GST/HST registrants can claim ITCs. As explained on page 4, an ITC lets you recover GST/HST you paid or owe on your business purchases and operating expenses. If you do register voluntarily, you have to charge

and collect GST/HST on any taxable sales of goods and services you make in Canada.

To register for GST/HST, contact your tax services office.

Special rules under HST

HST applies to taxable sales of real property in a participating province where ownership and possession were transferred on or after April 1, 1997. HST also applies to taxable supplies of real property made in a participating province by way of lease, licence, or similar arrangement where all or part of the consideration for the supply becomes due, is paid, is considered to have become due or considered to have been paid, on or after April 1, 1997.

Place of supply

Because of the different tax rates for GST and HST, it is important to determine if a supply is made in a participating province or in the rest of Canada. Generally, a supply of real property is considered to be made in the province in which the real property is situated.

In some situations, real property may be situated partly in a participating province and partly in a non-participating province, or outside Canada. In such cases, for purposes of determining the provincial component of HST payable, if any, the provision of each part of the property is considered to be a separate supply, and each is considered to be made for separate consideration. The amount of consideration for each part is equal to the portion of the total consideration that can reasonably be attributed to each part.

All parts supplied in Canada are subject to 7% federal tax, either as GST or the federal part of HST. The part or parts of the property that are supplied in the participating provinces will be subject to the 8% provincial part of HST in addition to the 7% federal part. Parts of the property that lie outside the participating provinces may be subject to the provincial taxes of the particular non-participating province as well as 7% GST.

Example

A farmer in New Brunswick sells his farm. The land is situated 65% in New Brunswick and 35% in Quebec. In this situation, 15% HST is calculated on the value of the consideration that can reasonably be attributed to the property in New Brunswick. The property in Quebec is subject to 7% GST and may be subject to provincial taxes.

Supply of services related to real property

A taxable supply of a service in respect of real property (for example, an appraisal or legal service) that is 90% or more situated in a participating province is subject to 15% HST, regardless of the supplier's business location.

Example

An Ontario firm that owns commercial real property in Newfoundland hires building inspection services for that property from a firm in Prince Edward Island, a non-participating province. Since the property is entirely located in a participating province, the services are subject to 15% HST.

If the previous rule does not apply, services supplied for real property are considered to be made in a particular province if the place of negotiation for the supply is in the province, unless 90% or more of the real property is situated outside that province. Generally, "place of negotiation" refers to the location of the supplier's permanent establishment.

Example

A property management firm has its headquarters in New Brunswick and offices in other provinces. It provides services to a client that owns two commercial buildings in New Brunswick and another in Quebec. The agreement is negotiated by an employee of the firm working out of the New Brunswick office. The property management services are considered to be supplied in New Brunswick, because the place of negotiation is in New Brunswick and all or substantially all of the real property to which the service relates is not situated outside New Brunswick. The firm has to collect HST for the supply of its services to this client.

Where neither of the above conditions are met (for example, the property is situated all or substantially all in the rest of Canada), the services that relate to such real property are subject to tax at the 7% GST rate.

If you are uncertain where your place of supply or place of negotiation is considered to be, contact your tax services office.

Real property sales and purchases

The following rules apply, regardless of whether a supply is made in a participating province or the rest of Canada.

Rules for vendors

As a vendor, there are special rules to follow if you sell **taxable** real property. Generally, it is the GST/HST registration status of the buyer that determines who collects and remits GST/HST.

As the vendor, you **collect** GST/HST if:

- you sell taxable real property to a non-registered person, such as a consumer; or
- you sell a taxable residential complex to an individual, whether the individual is registered for GST/HST or not.

If you are registered for GST/HST, remit the GST/HST you collected with your regular GST/HST return. If you are not

registered for GST/HST, complete Form GST62, *Goods and Services Tax / Harmonized Sales Tax (GST/HST) Return (Non-Personalized)*.

As the vendor, you **do not collect** GST/HST if:

- the buyer is registered for GST/HST and the property is not a residential complex being supplied to an individual; or
- you are a non-resident vendor who sells taxable real property (even if you are considered to be a resident only in respect of activities carried on through a permanent establishment in Canada).

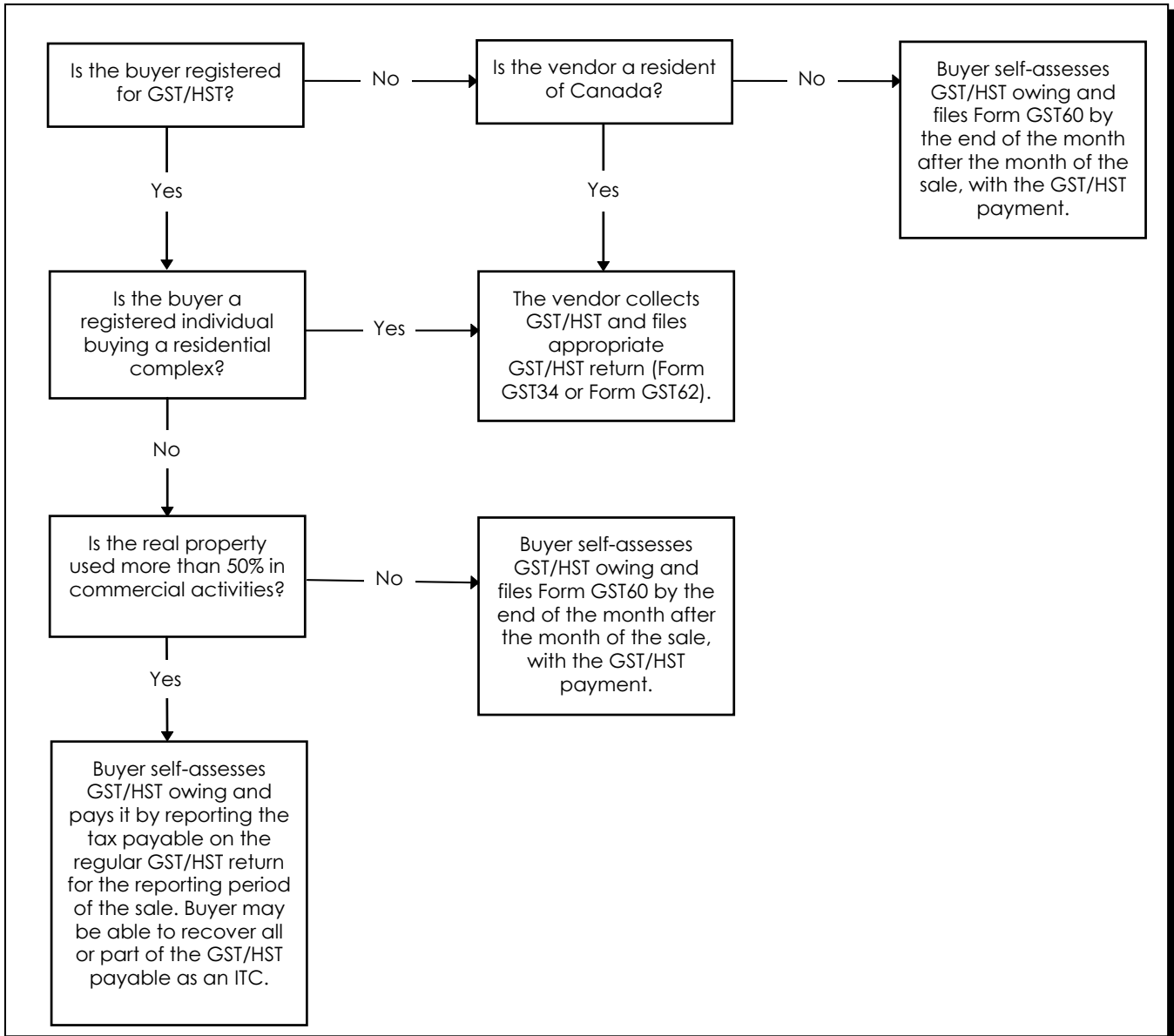
Under these conditions, the buyer has to self-assess the GST/HST owing, and pay it to us directly.

Rules for registered buyers

Generally, GST/HST registrants who buy taxable real property do not pay GST/HST to the vendor. As a GST/HST-registered buyer, you have to self-assess the GST/HST owing and pay it to us directly.

If you are a GST/HST registrant and you intend to use the real property you purchased more than 50% in your commercial activities, you have to report the GST/HST owing on your regular return for the reporting period in which the tax is payable.

The following chart shows who has to remit GST/HST on the sale of real property.



In all other cases, you have to complete a special return, Form GST60, *Goods and Services Tax / Harmonized Sales Tax Return for Acquisition of Real Property*. If you intend to use the real property 50% or more in exempt activities (for example, providing exempt health care services), or 50% or more for personal use, or a combination of both, you have to file Form GST60 by the end of the month following the month in which you acquired ownership or possession of the property under the sales agreement, regardless of when your regular GST/HST return is due. For example, if you buy the property on October 3, you have to file Form GST60 by November 30. See the chart on page 7.

Whether or not you have to complete Form GST60, if you are a registered buyer and you use the real property at least 10% in commercial activities, you may be able to claim an ITC on your regular GST/HST return.

For information on the special rules for ITCs on purchases of capital real property, see the guide called *General Information for GST/HST Registrants*.

Rules for specific types of transactions

Sales by individuals and personal trusts

Generally, sales of personal-use land by individuals or personal trusts are exempt from GST/HST.

Examples of personal-use land include a country property and a non-commercial hobby farm.

Real property sales by individuals or personal trusts are taxable at 7%, or 15% in a participating province, if:

- they use the real property as capital property primarily (more than 50%) for business purposes they carry on with a reasonable expectation of profit;
- they sell real property in the course of a business they operate;
- they sell real property in the course of an adventure or concern in the nature of trade and they have filed an election using Form GST22, *Election to Treat the Tax Exempt Supply of Real Property by Way of Sale by an Individual or Trust as a Taxable Supply* (see below);
- they sell land that they have subdivided or severed, **except** where:
 - the original parcel was only subdivided or severed into two parts and they did not subdivide or sever that parcel from another parcel of land; or
 - the recipient of the supply is a related individual or former spouse who is acquiring the land for personal use; or
 - the recipient of the supply is a person who has the authority to expropriate that part; or
- the sale of real property is a deemed sale caused by certain change-in-use rules.

Form GST22 allows a normally exempt sale of real property by an individual or personal trust to be treated as a taxable sale. Individuals and trusts can make this election if they sell real property in the course of an adventure or concern in the nature of trade. The election makes it possible to treat an otherwise exempt sale of property as taxable and may

allow the individual or personal trust to claim ITCs or a rebate.

This election cannot be used to override other specific exemptions relating to real property, such as sales of previously occupied housing.

Example

A vacant lot is sold by a corporation to an unregistered individual who intends to use the land as an “adventure or concern in the nature of trade.” The sale to the individual is subject to GST/HST and the unregistered individual cannot claim ITCs.

If the individual resells the land to a registered developer, GST/HST paid by the individual on acquisition of the property can be passed on to the developer in the exempt selling price.

However, the individual can elect to file Form GST22 to make the sale taxable. If so, the developer is responsible for self-assessing the amount of GST/HST payable. The developer can then claim ITCs for the GST/HST paid on the acquisition. The individual could claim a GST/HST rebate by filing Form GST189, *General Application for Rebate of Goods and Services Tax (GST)/Harmonized Sales Tax (HST)*, for GST/HST paid to buy the lot and on improvements made to the lot, such as development costs.

Sales by public service bodies

Most sales and long-term leases of real property made by a public service body (PSB) are considered to be exempt from GST/HST.

In some instances, a PSB can elect on a property-by-property basis to make certain sales and leases of real property subject to GST/HST by filing Form GST26, *Election or Revocation of an Election by a Public Service Body to have an Exempt Supply of Real Property Treated as a Taxable Supply*. For example, when vacant land is sold to a developer, even if the sale is exempt from GST/HST, there are usually GST/HST costs incorporated in the selling price. By filing Form GST26, the PSB (if registered) would be eligible to recover these GST/HST costs through an ITC. As well, the developer could claim an ITC when buying the land if the PSB elects to treat the sale as taxable.

This election applies to capital real property and to real property the PSB is holding as inventory for resale, or that the PSB acquires by way of lease, licence, or similar arrangement for the purpose of subleasing.

The election cannot be used to override other specific exemptions relating to real property, such as long-term residential rentals or sales of previously occupied housing.

If you want more information about PSBs, see the following guides:

- *GST/HST Information for Municipalities*;
- *GST/HST Information for Charities*; and
- *GST/HST Information for Non-Profit Organizations*.

Residential property

Generally, GST/HST applies to the selling price of newly constructed or substantially renovated housing.

Newly constructed or substantially renovated housing usually means a home that has never been occupied as a place of residence or lodging after its construction or substantial renovation.

If the buyer is an individual who will use the home as a primary place of residence, and the purchase price paid is less than \$450,000, the buyer may be entitled to the **GST/HST new housing rebate**, as described on page 13 of this guide.

Occasionally, a new or substantially renovated home can be sold exempt of GST/HST. For example, if an individual builds or substantially renovates a residential complex for his or her own use and not in the course of a business or an adventure or concern in the nature of trade and then sells it due to extenuating circumstances, the sale would be exempt from GST/HST.

Other exempt sales of residential property include:

- the sale of residential housing by someone other than the builder;
- the sale of previously occupied residential housing by a builder who is an individual where the residential housing is the builder's personal residence and no ITCs have been claimed for the home;
- the sale of previously occupied residential housing by the builder where the builder has previously paid GST/HST because of the self-supply rules; and
- the sale of a house and the lease of land to a person where the house and land are parts of a residential complex and are both supplied by the builder.

If you are not certain whether GST/HST applies to the sale of a residential complex, contact your tax services office.

Substantial renovations

Sales of substantially renovated homes are treated in the same way as sales of new homes. A definition of substantial renovation can be found on page 5 of this guide.

Example

You are a GST/HST-registered builder in the renovation business and you buy an older home (GST/HST does not apply to previously occupied homes). You completely gut and replace the interior with new walls, ceilings, floors, kitchen, wiring, and plumbing. When you sell this substantially renovated home, you will charge the buyer GST/HST. Since you are registered for GST/HST, you can claim ITCs to recover the GST/HST you paid on the goods and services you used in the renovation.

We do not consider renovations or improvements made by homeowners, such as replacing a kitchen, to be substantial renovations. If homeowners only partly renovate a home, they pay GST/HST on the materials and services they use in the renovation. However, when they later sell the home, the sale is exempt from GST/HST.

Special rules apply when a person, such as a contractor or a real estate developer, buys a residential complex that he or she renovates in the course of a business of reselling or leasing the complex or units in the complex. If the renovation is **not** considered a substantial renovation, the person has to remit GST/HST on certain untaxed costs (other than financial services), such as employee labour costs involved in renovating a residential complex. However, this would not apply to other input costs (for example, material or contracted services), on which GST/HST has already been paid. The vendor calculates GST/HST based on the value of the consideration paid or payable on such untaxed costs.

Self-supply rules

In some special instances, builders have to pay GST/HST on the fair market value of a residential property they have constructed or substantially renovated. You will need to calculate the GST/HST owing if:

- you are a builder;
- you have built or substantially renovated a residential complex, a residential condominium unit, or a multiple-unit residential complex, or built an addition to a multiple-unit residential complex; and
- you rent or occupy the property as a place of residence.

If you meet the above conditions, you are considered to have sold and at once bought back the residential property at the time of substantial completion of the building or when the first unit is leased to an individual, whichever is later. You will calculate GST/HST you owe based on the fair market value of the real property at that time.

The self-supply rules ensure that GST/HST is charged on newly constructed or substantially renovated premises that you rent or occupy as places of residence before you sell them. The later sale of these used properties will usually be exempt from GST/HST.

Self-supply rules also apply to residential condominium sales agreements that are terminated after the buyer has occupied the unit and before you register the condominium. You pay GST/HST on the fair market value of the unit when the agreement terminates.

The self-supply rules do **not** apply when all of the following conditions are met:

- the builder is an individual;
- no ITCs have been claimed for the construction or renovation of the complex, or acquisition of the land;
- after substantial completion, the builder or a relative of the builder occupies the residence for use primarily as a place of residence; and
- the residence has not been used primarily for any other purpose prior to being occupied by the builder.

Self-supply rules also do not apply to certain communal organizations when they construct or substantially renovate residences for their members. Nor do they apply to universities, school authorities, or public colleges when they construct or substantially renovate student residences.

Subsidized housing

There are special self-supply rules for government-funded residential buildings designed to be occupied by individuals having special needs or limited financial resources. In these cases, the builder has to calculate and remit GST/HST based on the **greater** of the following amounts:

- 7% GST or 15% HST of the fair market value of the building; and
- the tax paid on the acquisition of the land, on the construction of the building, and on any improvement to the property.

Remote work sites

A remote work site usually means that the nearest established community of 1,000 people or more is at least 80 kilometres away. There are special exclusions from the self-supply rules for remote work sites. A builder can make an election to opt out of the self-supply rules on a residential complex that is to be inhabited by certain construction workers if the following conditions are met:

- the builder is a registrant;
- the employees, contractors, subcontractors or their employees are at the work location to carry out their duties; and
- such persons cannot reasonably be expected to establish their own living quarters, because the work location is remote from any permanent community.

If you choose to opt out of the self-supply rules, you can claim ITCs for any GST/HST you pay or owe that is related to purchasing, constructing, or substantially renovating the residential complex at the remote work site. You can also claim ITCs for any GST/HST you pay or owe that relates to operating and maintaining the complex. When you sell or lease the residential complex more than 50% to persons other than your employees, contractors, subcontractors or their employees, the election no longer applies and either the sale will be taxable or the self-supply rules may apply.

If you do not opt out of the self-supply rules and you already paid GST/HST, the later sale of the residential complex is **exempt** from GST/HST. In this case, the property is considered to be used residential housing. You cannot claim ITCs for GST/HST you paid to operate or maintain this residential complex.

Special situations

Provincial sales tax and construction contracts

In the construction industry, the prices contractors charge their customers for services usually include all the direct costs the contractor incurred to fulfill the terms of the contract. This may include all applicable taxes, duties, and fees that contractors pay on construction or building materials.

Contractors may include the provincial sales tax they paid on the materials in the price they charge to their customers. In these circumstances, contractors do not exclude any part that represents the provincial sales tax they paid when determining the value of their goods and services for GST/HST purposes. They calculate GST/HST on the full selling price for their goods and services, regardless of the provincial sales tax content of that selling price.

Example

A structural steel contractor located in Ontario enters into a contract to supply and install structural steel for a building project. The value of the fabricated steel the contractor buys, for provincial sales tax purposes, is \$80,000. The provincial sales tax rate is 8%. The structural steel contractor pays \$6,400 in provincial sales tax ($\$80,000 \times 8\%$) and includes this amount in the contract selling price to the customer. In addition, the contractor includes \$10,000 for on-site labour and adds a mark-up of 20% for overhead and profit that the contractor calculates on the cost excluding the provincial sales tax.

	Cost	Cumulative costs
Fabricated steel	\$80,000	\$ 80,000
Provincial sales tax (8%)	\$ 6,400	\$ 86,400
On-site labour	\$10,000	\$ 96,400
Mark-up of 20% on \$90,000 (\$80,000 + \$10,000)	\$18,000	
Contract selling price		\$114,400
GST (\$114,400 × 7%)	\$ 8,008	
Total payable by customer		<u>\$122,408</u>

The \$6,400 provincial sales tax is part of the steel contractor's costs to provide and install the fabricated steel under the contract terms. As indicated above, the contractor includes the provincial sales tax in the contract selling price of \$114,400, and calculates GST on this amount ($\$114,400 \times 7\%$).

When you are required to charge your customer both GST and provincial sales tax, calculate the GST on the price of the item before provincial sales tax is added. Check with provincial officials for details on how to calculate the provincial sales tax in relation to GST. Remember that in participating provinces there is no provincial sales tax, and HST applies.

Transfers of security interest

You do not charge or pay GST/HST when you transfer property to someone else under an arrangement to secure payment of a debt. In addition, you do not charge or pay GST/HST when that person retransfers the property to you to discharge the security interest according to the law or the agreement. For example, no GST/HST applies to transfers

of legal ownership between a mortgagor and a mortgagee for purposes of securing the mortgagor's debt.

Seizure and repossession

As a GST/HST registrant, you do not pay or charge GST/HST when you seize or repossess property to satisfy a debt or obligation. You have to charge GST/HST when you later sell or lease this property, unless the supply of the property is otherwise exempt from GST/HST.

If you decide to keep the property instead of selling it, you have to self-assess GST/HST on the property's fair market value, unless the sale of the property is exempt. You may also be entitled to claim an ITC for the GST/HST you paid.

Joint ventures

In general, a joint venture is an agreement in writing between two or more parties to contribute resources, such as money, property, or skills, to a specific business undertaking, usually over the course of a set period of time. A joint venture does not include a partnership and the joint venture cannot register for GST/HST separately from its participants. Generally, each of the joint venture participants has to register and account separately for GST/HST as if the participant was carrying on his or her own commercial activity.

The written joint venture agreement will usually identify one of the participants as the operator. This person is responsible for managerial or operational control of the joint venture. In certain situations, the operator of a joint venture can jointly elect with the participant(s) to have the operator account for all GST/HST on purchases and sales made on behalf of the joint venture.

This election applies to the following real estate joint ventures:

- constructing or developing real property, including feasibility studies, design work, and the tendering of bids; and
- the ownership and operation of real property with a view to earning revenue from the sale or rental of that property.

There must be a written agreement between the operator and the participant(s). Use Form GST21, *Joint Venture Election – Election to Have Joint Venture Operator Account for GST*, for this purpose. You do not have to return this form to us, but you should keep it for audit purposes.

Certain activities of joint ventures can result in an ineligibility to file the election noted above. Contact your tax services office for more information.

Timing of GST/HST liability

There are specific liability rules concerning when GST/HST becomes payable for sales of real property. Generally, GST/HST becomes payable on the day ownership of the property is transferred or the day on which possession is transferred to the recipient, whichever is earlier. However, if a residential condominium unit is not

registered as a condominium when possession is transferred to the buyer, GST/HST is not payable until the earlier of:

- the day that ownership of the unit transfers to the buyer; or
- the day that is 60 days after the unit is registered as a condominium.

For goods and services other than real property, you are liable for GST/HST that becomes collectible either on the day you receive payment for the goods or services you sell or provide, or on the day payment is due, whichever date is earlier. Include the amount of GST/HST collectible on both the paid and unpaid invoices on line 103 of the GST/HST return for the reporting period in which you either issue the invoices or receive payment prior to issuing the invoices.

Following are some exceptions to the general liability rules.

Progress payments

When a construction contract extends over a period of time, the written contract often calls for the customer to make progress payments as the work on a project proceeds. These payments are usually for work completed, but can also be made in anticipation of work being completed.

The terms of a progress payment contract will determine the timing of liability for GST/HST payments.

Predetermined amounts

When a contract states that payments are due on specific dates for predetermined amounts, GST/HST becomes payable by your customer based on the amount to be paid on the day the payment becomes due or the day you receive payment, whichever day is earlier. This rule applies even if the customer does not make a payment or makes less than the full payment.

A contract may state that payments are due when you complete certain parts of the contract (for example, pouring a foundation) or when certain events have occurred (for example, preliminary inspection of a building). In this case, GST/HST becomes payable by your customer when you have completed the work or when the specific event has occurred, as specified in the contract.

Value of work completed

Your contract may state that payments can be requested based on the value of work completed. In this case, another person, usually a consultant, engineer, or architect, has to produce a certificate stating the value of work completed and materials delivered as of the date of your request. The customer (or person who receives the certificate) has to pay the amount shown on the certificate within a certain number of days after the consultant, engineer, or architect has issued the certificate.

In this situation, your request or application for payment is not considered to be an invoice, since it is only a request that a certificate for payment be issued according to the contract. Therefore, GST/HST does not become payable at that time.

GST/HST becomes payable by your customer on the amount shown on the certificate on the day the customer pays the amount, or on the day the customer has to pay the amount under the terms of the contract, whichever day is earlier.

For more information on progress payments, see GST/HST Memoranda Series, Section 19.1, *Real Property and the GST/HST*.

Holdbacks

For GST/HST purposes, a holdback occurs when a person buys and receives taxable goods or services and keeps part of the payment for those goods and services until the person is satisfied with the condition of the goods or the performance of the service. GST/HST becomes payable by your customer on the amount held back when the customer pays you the amount held back, or on the day the holdback period expires, whichever day is earlier, if the holdback is:

- in accordance with federal or provincial laws; or
- required under the terms of a written agreement for constructing, renovating, altering, or repairing any real property.

A holdback that federal or provincial laws do not require, or that is not stipulated in a written contract, does not defer the time when GST/HST becomes payable by your customer. In such cases, GST/HST becomes payable when your customer pays for the goods or services, or when payment becomes due, whichever day is earlier.

Builder lien holdbacks

GST/HST is payable on a builder lien holdback only when the holdback is released. When a lien is actually filed on the construction of a real property project, part of the holdback that is enough to satisfy the lien will not be released. If the contractors involved cannot settle their differences, the owner can pay the holdback into court. In this instance, GST/HST is payable on the amount held back on the day that the holdback is paid out, or the day the holdback expires under the written agreement or applicable legislation, whichever day is earlier.

When a lien is filed and the holdback is paid into court, there must be a legal decision before GST/HST becomes payable for the holdback.

Leases, licences, or similar arrangements

When you provide taxable real property to a customer under a lease, licence or similar arrangement, GST/HST becomes payable by the customer on the earliest of:

- the day the customer makes a lease payment; and
- the day payment is due under the terms of the agreement.

Partial payments

When you receive payment for goods and services over several dates, specific rules apply. GST/HST becomes payable by your customer on the earlier of the day:

- the customer makes each partial payment; or
- each partial payment becomes due.

GST/HST due is calculated on the amount of the individual payment.

Conditional and instalment sales

A conditional sale occurs when you transfer possession of a property to the buyer, but keep the title to the property until the buyer meets certain conditions, such as when the buyer pays the full purchase price for the property.

In an instalment sale, the legal title to the property passes at once to the buyer, but the buyer pays for the property in instalments.

In both of these situations (except for sales of real property), GST/HST becomes payable by the buyer on any amount the buyer has not paid or any amount that has not become due by the end of the month after the month in which you transferred title or possession of the property.

Completed construction contracts

A special GST/HST provision applies to written contracts to construct, renovate, alter, or repair real property when the billing or invoice has been unduly delayed. If you have substantially completed the work specified in the contract and the customer has not paid for the work, or the payment has not become due by the end of the month after the month in which you completed most of the work, GST/HST becomes payable at that time by your customer.

Example

You finish most of the construction of an office tower on October 20, but you have not billed the developer by the end of November and the developer has not paid by this time. GST/HST on this supply becomes payable by your customer on November 30. You have to account for the GST/HST that is payable on the full consideration (price) for the construction on your GST/HST return that applies to the reporting period that includes November 30.

When you cannot establish the value

When it is not possible to establish the amount of all or part of a payment due, GST/HST becomes payable by your customer only on that part of the payment for which the value or amount can be determined. As soon as you can establish the amount, GST/HST becomes payable by your customer.

Deposits

For GST/HST purposes, a deposit is an amount given by a recipient as security for the performance of a future obligation. The deposit may or may not be refundable.

We do not consider a deposit to be a payment until the supplier (that is, the vendor) applies that deposit against a payment on a purchase, or until the customer forfeits the deposit. If the customer forfeits a deposit because of a modification, violation, or cancellation of an agreement, as a registrant, you are considered to have collected GST/HST

on the deposit. Depending on whether the place of supply was in a participating province or another place in Canada, you will have to remit 15/115ths or 7/107ths of the forfeited amount.

You will have to include this amount on your GST/HST return for the reporting period in which the forfeiture took place. We will consider the person who forfeited the deposit as having paid GST/HST and, if a registrant, the person may be able to claim an ITC. Again, depending on whether the place of supply was in a participating province or in the rest of Canada, the ITC will equal 15/115ths or 7/107ths of the forfeited amount.

Combined supplies

If you are selling a combination of goods, services, and real property for an all-inclusive price, the time when GST/HST becomes payable by the buyer may vary.

If the value of the consideration attributable to one part of the entire sale is more than each of the other parts, the entire sale is considered to be made up of that one item for purposes of determining when GST/HST becomes payable by the buyer.

If the value of the consideration of each part is equal and one of these parts is real property, we consider the entire sale to be a supply of real property.

If the value of each part is equal and does not include real property, we consider the entire sale to be a supply of a service.

Example

On February 1, 1998, an individual and a builder enter into an agreement of purchase and sale for a newly constructed single unit residential complex and furnishings for the price of \$200,000. The value of the real property is greater than the value of the furnishings. The possession and title to the furniture are transferred on February 15, while ownership and possession of the home are transferred on June 30. In this example, if no amount is paid before June 30 (other than a deposit), liability for GST/HST for the sale of the furniture is triggered on June 30, even though possession and title to the furniture were transferred earlier. The entire transaction is treated for timing purposes as a sale of real property.

Combined supply of real property

When a building that consists of both residential and commercial units is sold, two separate transactions are considered to take place: GST/HST is charged on the commercial part of the building, while the residential part may be exempt from GST/HST. This ensures that a residential complex that would otherwise be exempt from GST/HST when bought on its own, is still exempt when bought with taxable real property.

Example

A 10-story building has apartments on nine floors, and several businesses on the main floor. The owner sells the property. GST/HST will apply on the sale of the commercial portion of the property, but not on the portion of the property that is used as a residential complex. If the building were new, GST/HST would apply on the sale of both the residential and commercial parts of the building.

GST/HST new housing rebate

A GST/HST rebate is available to buyers of new homes and homeowners who construct or substantially renovate their own homes. A definition of “substantial renovation” can be found on page 5 of this guide. This rebate also applies to the purchase of shares of the capital stock of co-operative housing corporations, condominium units, mobile homes, and floating homes. Buyers and homeowners qualify for the rebate if they use the home as a primary place of residence for themselves or for a relative (includes a former spouse), and they or their relative are the first occupants of the new or substantially renovated home.

Generally, where the fair market value of a home is \$350,000 or less, the GST/HST new housing rebate is 36% of GST and the federal portion of HST paid on the purchase price, up to a maximum of \$8,750. For homes valued at more than \$350,000, but less than \$450,000, the rebate is gradually reduced to zero. Use the formula in section E of Form GST190, *GST/HST New Housing Rebate Application*, to calculate the rebate. There is no rebate for homes valued at \$450,000 or more.

In cases where the builder sells the building part of the residential complex and leases the land part under a long-term lease, the GST/HST new housing rebate equals the lesser of \$8,750 and 2.34% of the total consideration for the sale of the building part (excluding any amounts paid as rent) where the fair market value of the entire complex does not exceed \$374,500. The rebate is gradually reduced for homes valued at more than \$374,500, but less than \$481,500. Use the formula in section E of Form GST190 to calculate the rebate. There is no rebate for complexes valued at \$481,500 or more.

Applicants can claim the rebate using Form GST190. For more information, or a copy of the application, see the guide called *GST/HST New Housing Rebate*.

In certain cases, a builder can credit or pay the rebate to the buyer at the time of purchase. Both the builder and the buyer have to complete the rebate application and indicate on the application whether the builder paid or credited the rebate to the buyer. Before sending us the application, the builder should complete the builder identification section. The builder enters the amount paid or credited on line 107 of the GST/HST return in the reporting period in which the rebate was paid or credited. Interest does not apply to the amount paid or credited. The builder has to file Form GST190 with the regular GST/HST return for the reporting period when the sale occurs.

New housing rebate in participating provinces

In participating provinces, new housing rebates are available for the **federal** part of HST charged on sales of new housing in these provinces, in the same way as new housing rebates are available for GST in the rest of Canada. In addition, in Nova Scotia, a new housing rebate is available for the provincial part of HST for newly constructed homes (not for substantially renovated homes).

The Nova Scotia rebate has most of the same requirements as mentioned for the GST rebate (except for substantial renovations). The buyer or a relative of the buyer has to be the first occupant of the home, and the home must be used by the buyer or relative as their primary place of residence. To qualify for this rebate, the following conditions have to be met:

- the home has to be situated in Nova Scotia;
- the buyer has to qualify for the rebate on the federal part of HST, or would qualify, if the purchase price of the home was less than \$450,000; and
- possession of the home has to have been transferred to the buyer after March 31, 1997, under an agreement entered into after October 23, 1996.

A buyer who meets all the above conditions is entitled to a rebate of 18.75% of the provincial part of HST, up to a maximum of \$2,250. The builder can credit or pay the rebate to the buyer at the time of purchase.

More information on the Nova Scotia rebate is available in the guide called *GST/HST New Housing Rebate*.

Construction work for public service bodies and government

Construction work for a public service body

A public service body (PSB), as defined on page 4, includes municipalities, school authorities, hospital authorities, charities, non-profit organizations, public colleges, and universities. Like most other buyers, PSBs have to pay GST/HST on purchases of taxable goods and services. If they are not entitled to an ITC, they can apply for a GST/HST rebate to recover part of the GST/HST they have paid. If you do construction work for a PSB, you still charge GST/HST on your taxable sales and, as a result, can claim ITCs in the usual manner.

For more information on PSBs, see the guide called *GST/HST Public Service Bodies' Rebate*.

For purposes of certain exemptions, including supplies of real property, a PSB does not include a charity. If you do construction work for a charity, see the guide called *GST/HST Information for Charities*, or contact your tax services office.

Construction work for a provincial or territorial government

The provincial governments of the three participating provinces have to pay the GST/HST on their purchases of taxable goods and services. All other provincial and territorial governments, including all of their government departments or ministries and some of their Crown corporations, boards, commissions, and agencies, do **not** have to pay GST/HST on their taxable purchases. Therefore, when a provincial or territorial entity provides sufficient documentation to support its entitlement to purchase goods and services on a tax-free basis, you do not charge GST/HST on taxable sales you make to the entity. For audit purposes, you have to keep a record of the supporting documentation, including a certification clause, for any contracts you enter into with a provincial government.

You can claim ITCs for any GST/HST you paid or owe on purchases you used to sell or provide taxable goods and services to provincial or territorial governments.

Any tax services office can provide a list of government departments, ministries, Crown corporations, etc., that are part of a provincial or territorial government for GST/HST purposes, and that qualify for this treatment.

This exception to the normal rules does not apply to contracts with the federal government.

Supplies involving a municipality

Municipalities provide a number of services. Some of these are taxable under GST/HST and others are exempt. These services include issuing licences, registering documents, and renting property. This section will examine the tax status of certain services and fees that might affect the construction industry.

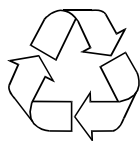
Building permits issued by a municipality are exempt from GST/HST. If an inspection service, which is usually taxable, is provided with the permit at an all-inclusive price, the whole transaction is exempt from GST/HST. This rule applies regardless of which supply makes up the greater part of the fee. If provided separately, the inspection service is taxable under GST/HST, while the charge for the building permit remains exempt.

Municipalities may also charge a development fee, sometimes referred to as a lot levy. This fee is charged to developers of new housing or other new land developments in the municipality to offset the extra costs the development will create for the municipality. That is, extra costs, both present and future, will arise as a result of the need to provide water, sewerage, drainage, roads, and recreational facilities. These development fees are not subject to GST/HST.

For more information on municipalities and the tax status of services they provide, see the guide called *GST/HST Information for Municipalities*, or contact your tax services office.

Notes

Think recycling!



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