



Information about the HST/PST new housing transitional rules

January 9, 2013 (Revised)

The province will transition back to the Provincial Sales Tax (PST), which replaces the Harmonized Sales Tax (HST) on April 1, 2013. Until then, the province has transitional rules for new homes which took effect on April 1, 2012.

Note: This information is current to January 9, 2013 and has been verified with the Canada Revenue Agency, GST/HST Rulings Branch. However, we have been advised that the information could change depending on HST rulings to come.

Enhanced New Housing Rebate

Effective April 1, 2012, your clients may be eligible for a provincial enhanced New Housing Rebate if they buy, as their primary residence, priced up to \$850,000:

- a new home together with land;
- a new home together with leased land;
- a new mobile home or float home;
- a new home bought through shares in a housing cooperative; or
- a new home constructed or substantially renovated (more than 90%) by the owner builder.

Your clients may also be eligible for a grant (BC Ministry of Finance administered rebate) if they buy or build a secondary vacation or recreational home outside the Greater Vancouver and Capital Regional Districts.

Buyers of new homes will be eligible for a rebate of 71.43% of the provincial portion of the HST paid on the new home up to a maximum rebate of \$42,500. Homes priced at more than \$850,000 will be eligible for a flat rebate of \$42,500.

The GST/HST generally becomes payable on the earlier of the day on which ownership is transferred to the recipient and the day on which possession of the property is transferred to the recipient. (This is the day the tax is payable).

Presales

Agreements signed before April 1, 2012, with possession before April 1, 2012

If your client bought a presale residential property and they had an agreement dated before April 1, 2012 and they took ownership or possession before April 1, 2012, they would have paid the 12% HST and been eligible for a rebate of up to \$26,250 on homes priced to a maximum of \$525,000. Homes priced at more than \$525,000 were eligible for a flat rebate of \$26,250.

Agreements signed before April 1, 2012, with possession before April 1, 2013

If your client buys a presale residential property and they have an agreement dated before April 1, 2012 and they take ownership or possession before April 1, 2013, they will pay the 12% HST and be eligible for a rebate of up to \$42,500 on homes priced to a maximum of \$850,000. Homes priced at more than \$850,000 are eligible for a flat rebate of \$42,500.

Agreements signed before April 1, 2012, with possession on or after April 1, 2013, but before April 1, 2015

If your client buys a presale residential property and they have an agreement dated before April 1, 2012 and they take ownership or possession on or after April 1, 2013, they will not pay the 7% provincial portion of the HST. Instead, buyers will pay both the 5% GST and the 2% BC Transition Tax on the full home price. This 2% reflects an embedded PST builders pay on materials. If ownership and possession is on or after April 1, 2015 then the 2% tax is not applicable.

Agreements signed on or after April 1, 2012 and before April 1, 2013, with possession before April 1, 2013

If your client buys a presale residential property and they have an agreement dated on or after April 1, 2012 and before April 1, 2013, and they take ownership and possession before April 1, 2013, they will pay the 12% HST and be eligible for a rebate of up to \$42,500 on homes priced to a maximum of \$850,000. Homes priced at more than \$850,000 are eligible for a flat rebate of \$42,500.

Agreements signed on or after April 1, 2012, with possession on or after April 1, 2013, but before April 1, 2015

If your client buys a presale residential property and they have an agreement dated on or after April 1, 2012, but the construction of the home commenced before April 1, 2013, and they take ownership and possession on or after April 1, 2013, they will not pay the 7% provincial portion of the HST. Instead, buyers will pay both the 5% GST and the 2% BC Transition Tax on the full home price until before April 1, 2015. This 2% reflects an embedded PST builders pay on materials. If ownership and possession is on or after April 1, 2015 then the 2% tax is not applicable.

Presales and Completed New Homes for Sale

Agreements signed on or after April 1, 2013, with possession on or after April 1, 2013, but before April 1, 2015

If your client buys a presale or completed new residential property and they have an agreement dated on or after April 1, 2013, and they take ownership and possession on or after April 1, 2013, they will have to pay the 5% GST. They will also have to pay the 2% BC Transition Tax on the full home price if the construction or substantial renovation of the new home is 10% or more completed as of April 1, 2013. If ownership and possession is on or after

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April 1, 2015 then the 2% tax is not applicable. This 2% reflects an embedded PST builders pay on materials.

The 12% HST will generally cease to apply to sales of real property (including residential real property) if ownership and possession of the property transfer on or after April 1, 2013.

The PST will not apply to sales of real property. However, the PST will apply to certain types of housing which, at the time of purchase are tangible personal property (for example a mobile home purchased without land) and where possession transfers on or after April 1, 2013. The PST will also apply to construction inputs that are used to improve real property on or after April 1, 2013.

New Addendums Required for the Contract of Purchase and Sale for New Housing

A vendor or seller of real estate (including a builder or an agent of the builder) that enters into a written agreement of purchase and sale after February 17, 2012 and before April 1, 2015 for newly constructed or substantially renovated housing in BC, or an interest in such housing, must provide specific information in writing to the purchaser. In some cases the information must be provided in the written Contract of Purchase and Sale while in other cases the information must be provided in a written addendum to the contract.

The updated Contract of Purchase and Sale for new housing and four new Addendums to the Contract of Purchase and Sale for new housing are mandatory starting December 1, 2012. This is a requirement of the *New Housing Transition Tax and Rebate Act* and the New Housing Transition Tax and Rebate Regulation.

Each of the four addendums has been added to WEBForms® for use by REALTORS® who are acting for a client or clients in new housing transactions.

To determine which of the four new addendums is applicable to a particular new housing transaction, you must examine when the transaction was entered into and whether or not the seller of the property is a “foreign supplier.” The four addendums are organized as follows:

1. Addendum for a Contract of Purchase and Sale that was signed on or after February 17, 2012 and before December 1, 2012, with ownership or possession after December 31, 2012, and the seller is not a “foreign supplier”.

2. Addendum for a Contract of Purchase and Sale that was signed on or after February 17, 2012 and before December 1, 2012, with ownership or possession after December 31, 2012, and the seller is a “foreign supplier”.

3. Addendum for a Contract of Purchase and Sale that was signed on or after December 1, 2012, and before April 1, 2015, with ownership and possession before April 1, 2015, and the seller is a not a “foreign supplier”.

4. Addendum for a Contract of Purchase and Sale that was signed on or after December 1, 2012, and before April 1, 2015, with ownership and possession before April 1, 2015, and the seller is a “foreign supplier”.

A “foreign supplier” refers to a non-resident of Canada who sells real estate in Canada. The non-resident is not required to collect tax on the transaction, and therefore the buyer is required to remit the applicable tax (either HST or GST and possibly the 2% BC Transition Tax) directly to the government.

Regarding the new addendums identified in numbers **1.** and **2.** above, the vendor or seller of real estate pursuant to a Contract of Purchase and Sale entered into on or after February 17, 2012 and before December 1, 2012, with ownership or possession transfers after December 31, 2012, has a legal obligation to deliver the applicable new addendum to the buyer **on or before January 2, 2013.** The seller must:

- sign the applicable new addendum (Note: it does not need to be signed by the buyer); and
- provide a copy of the applicable new addendum to the buyer in at least one of the following ways:
 - by giving a copy of the new addendum in person to the buyer or the real estate licensee acting for the buyer;
 - by sending a copy of the new addendum by courier or registered mail to the buyer’s address of record for delivery specified in the Contract of Purchase and Sale;
 - by sending a copy of the new addendum to the buyer’s facsimile number of record specified in the Contract of Purchase and Sale, provided that a facsimile confirmation of receipt is obtained; or
 - by sending a copy of the new addendum by any other method including, for example, electronic mail, provided that the seller obtains a written confirmation of receipt from the buyer or the real estate licensee acting for the buyer.

A vendor or seller of real estate who do not comply with these legal obligations can be fined substantial amounts.

Grandparented Agreements

Agreements signed on or before

November 18, 2009, or construction which began before July 1, 2010, with possession on or after April 1, 2013 (Double-straddling, grandparented)

Special transitional rules apply if your client has bought a presale residential property and they have an agreement dated on or before November 18, 2009, or construction began before July 1, 2010 (the HST start date in BC) and for which ownership and possession transfer on or after April 1, 2013 (the HST end date in BC). This is known as a double-straddling home sale. In this situation, your client will pay both the 5% GST and the 2% BC Transition Tax.

Agreements signed after November 18, 2009, or construction which began before July 1, 2010, with possession on or after April 1, 2013 (Double-straddling, non-grandparented)

Special transitional rules apply if your client has bought a presale residential property and they have an agreement dated after November 18, 2009, and construction began before July 1, 2010 (the HST start date in BC) and for which ownership and possession transfer on or after April 1, 2013 (the HST end date in BC). This is known as a double-straddling home sale. In this situation, your client will pay both the 5% GST and the 2% BC Transition Tax. However, the 2% tax will not apply where construction was substantially

completed before July 1, 2010 and the PST Transitional New Housing Rebate was not claimed by February 17, 2012.

New Recreational Property

All the same rules apply to recreational property that apply to other residential property. Your clients may be eligible for a provincial grant if they buy or build a secondary vacation or recreational home outside the Metro Vancouver and Capital Regional Districts.

Vacant Land

HST paid on land

For owner-built homes where the HST was paid on the land, the owner may be eligible for a rebate on qualifying construction expenses (including land), up to a maximum of \$42,500. There will be no phase-out of this rebate, such that owner-built homes with qualifying construction expenses over \$850,000 will qualify for the maximum rebate of \$42,500.

No HST paid on land

Where the HST was not paid on the land, the owner will be entitled to a new housing rebate on qualifying construction expenses only (which would not include land), up to a maximum rebate amount of \$28,475 (for example 67% of \$42,500).

Enhanced New Rental Housing Rebate

There is an enhanced provincial New Rental Housing Rebate. If your clients construct or substantially renovate a residential property to rent to tenants, your clients are eligible for a rebate up to \$42,500 on units priced up to \$850,000. There is a flat rebate of \$42,500 for units priced above \$850,000.

The first use of the home must be by a renter of the unit or as a primary residence by the owner for at least one year. Eligible units include:

- a detached, attached, condominium apartment or duplexes, with or without a legal secondary suite;
- a mobile or float home;
- units in a multiple unit building including long-term care residential facilities; or
- the land component of a single-unit or multiple-unit housing, where the land is leased or is a housing cooperative.

If your client buys a new apartment which is not their principal residence and they don't rent it, for example, if strata bylaws prohibit rentals, or your clients buy a new apartment to use on weekends, the unit is not eligible for the New Rental Housing Rebate.

But, if you have a client who buys a new rental apartment building so long as they rent all of the units, they will be eligible for a New Rental Housing Rebate for each unit up to a maximum rebate of \$42,500 per unit.

If your client builds or substantially renovates rental property, they will be required to self-assess and pay the HST on or after April 1, 2012 and before April 1, 2013.

Commissions and Fees

If a commission or fee is payable before April 1, 2013 it is subject to the 12% HST. If a commission or fee is payable on or after April 1, 2013 then it is subject to the 5% GST.

When does a commission become payable?

The standard Multiple Listing Contract provides that commission is payable on **the earlier** of the following:

- completion date under the Contract of Purchase and Sale; or
- the actual date that the sales completes.

Important Dates

- **November 18, 2009** – Date the transition rules from PST to HST came into effect.
- **July 1, 2010** – Date the HST came into effect in BC.
- **February 17, 2012** – Date the transition rules for the return from the HST to the PST were announced by the BC government.
- **April 1, 2012** – Date the HST to PST transitional rules come into effect. The enhanced HST rebate comes into effect.
- **December 1, 2012** – New Contract of Purchase and Sale for new homes, and four new Addendums to the Contract of Purchase and Sale for new homes, available for use.
- **January 2, 2013** – Deadline to delivery appropriate Addendum to the Contract of Purchase and Sale for new homes, where the contract was signed on or after February 17, 2012 and before December 1, 2012, with ownership or possession after December 31, 2012.
- **April 1, 2013** – HST end date. GST on new homes is back in effect, together with the 2% BC Transition Tax (where applicable). GST on commissions is back in effect.
- **April 1, 2015** – Date the 2% BC Transition Tax ends.

For More Information

- Visit: www.pstinbc.ca
- Read Provincial HST Notice #12: www.pstinbc.ca/media/2012_housing_rules_FEB.pdf
- Read Provincial HST Notice #13 - Recreational Property: www.rev.gov.bc.ca/documents_library/notices/HST_Notice_013.pdf
- Read Provincial *New Housing Transition Tax and Rebate Act*: http://leg.bc.ca/39th4th/1st_read/gov56-1.htm
- Read Provincial *New Housing Transition Tax and Rebate Regulation*: [www.pstinbc.ca/media/OIC%20757-2012\(1\).pdf](http://www.pstinbc.ca/media/OIC%20757-2012(1).pdf)
- Read Federal GST/HST Notice #276: www.cra-arc.gc.ca/E/pub/gi/notice276/notice276-e.pdf
- Read Federal GST/HST Info Sheet GI-132 for builder information requirements: www.cra-arc.gc.ca/E/pub/gi/gi-132/gi-132-e.html
- Visit BCREA's web site for HST/PST information at: www.bcrea.bc.ca/government-relations/hst-pst-resources
- Phone the Canada Revenue Agency GST/HST ruling line at: [1.800.959.8287](tel:18009598287)
- Phone the BC Ministry of Finance with questions about the 2% BC Transition Tax at: [1.877.388.4440](tel:18773884440)

If you have questions, please contact Harriet Permut, Manager, Government Relations at: hpermut@rebgv.org

Sources

- BC Ministry of Finance, *Tax Information Notice. HST Notice #12*, February 17, 2012.
- BC Ministry of Finance, *Tax Information Notice. HST Notice #13*, June 2012.
- Canada Revenue Agency GST/HST Notice, *Elimination of the HST in British Columbia in 2013 - Transitional Rules for Real Property Including New Housing No. 276*, November 2012
- *New Housing Transition Tax and Rebate Act*
- *New Housing Transition Tax and Rebate Regulation*
- Canada Revenue Agency, HST ruling line at [1.800.959.8287](tel:18009598287)