



Harmonized Sales Tax for British Columbia New Housing and Other Real Property - Transitional Rules

*July 2010
GST/HST Rulings*

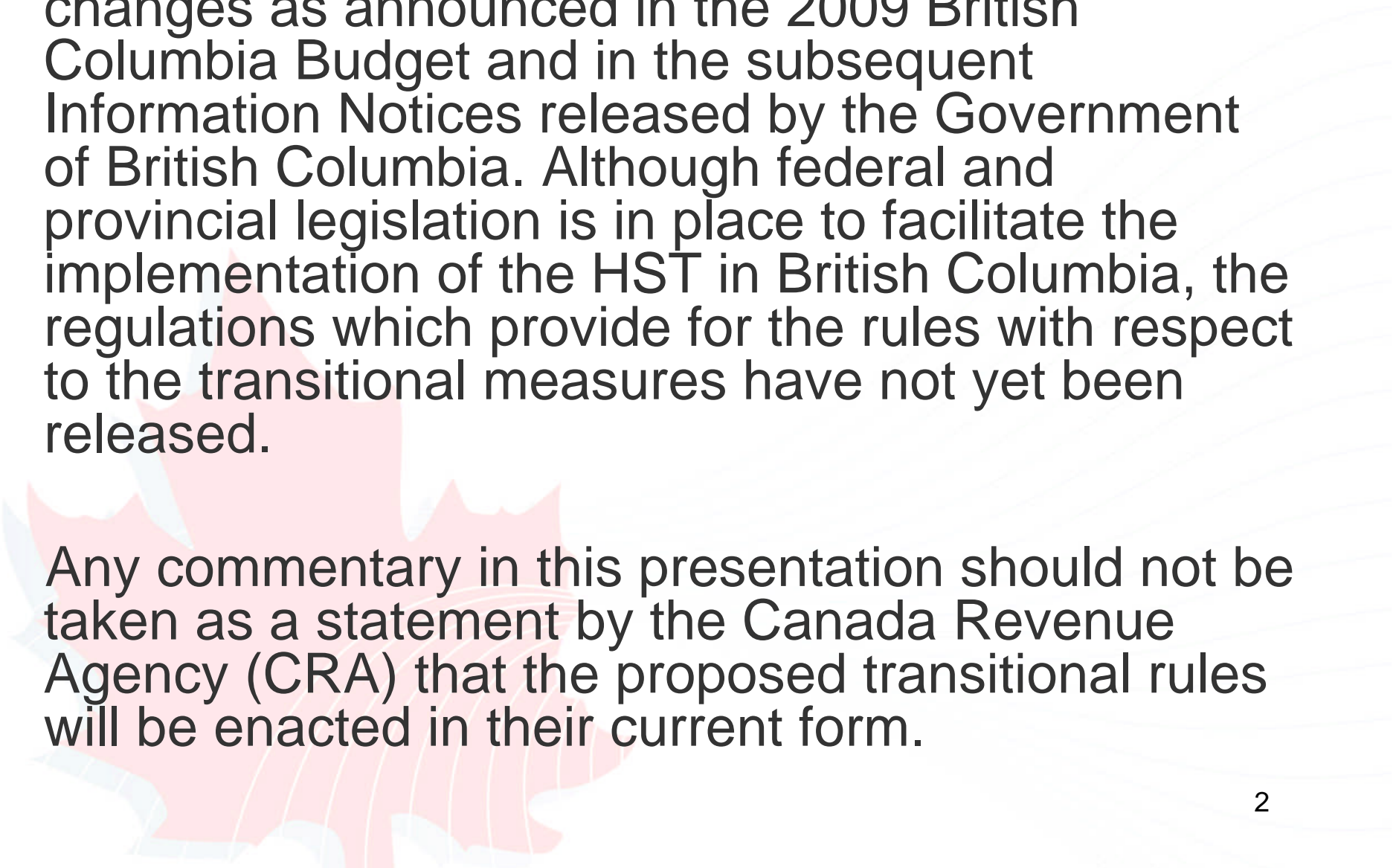
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This presentation reflects the proposed tax changes as announced in the 2009 British Columbia Budget and in the subsequent Information Notices released by the Government of British Columbia. Although federal and provincial legislation is in place to facilitate the implementation of the HST in British Columbia, the regulations which provide for the rules with respect to the transitional measures have not yet been released.

Any commentary in this presentation should not be taken as a statement by the Canada Revenue Agency (CRA) that the proposed transitional rules will be enacted in their current form.

Outline

- Application of HST to newly constructed and substantially renovated housing
- Grandparenting rule
- British Columbia new housing rebate
- B.C. new residential rental property rebate
- Transitional tax adjustment
- PST transitional new housing rebate

Outline

- British Columbia builder/reseller disclosure requirements
- Progress payments and holdbacks
- Non-residential real property
- Real estate agent commissions
- Electronic filing

Introduction

Federal part	5%
Provincial part	7%
HST rate	12%

Introduction

Important dates for the transitional rules for real property:

- **November 18, 2009:** Date the Government of British Columbia announced the real property transitional rules
- **July 1, 2010:** Implementation date for the HST in British Columbia

Introduction

What stays the same:

- Exemptions that apply for GST purposes will continue to apply for HST purposes
- Registration, elections and approvals will still be in effect



Harmonized Sales Tax

Sales of new housing

- HST would apply to sales of newly constructed or substantially renovated housing sold by a builder
- HST would apply to all types of housing – single unit houses, condominiums, multiple unit housing

Harmonized Sales Tax

Sales of new housing

- If **either** ownership **or** possession of the housing transfers before July 1, 2010, only GST applies
- Generally, HST would apply where **both** ownership **and** possession of the housing transfer on or after July 1, 2010
- Exception – grandparented sales

Grandparenting

Sales of new single unit housing (not condominium units)

No provincial part of HST where:

- Written agreement of purchase and sale entered into on or before November 18, 2009
- Ownership and possession of housing transfer on or after July 1, 2010
- Purchaser is an individual

GST still applies

Grandparenting

Sales of new condominiums

No provincial part of HST where:

- Written agreement of purchase and sale entered into on or before November 18, 2009
- Ownership and possession of condominium transfer on or after July 1, 2010
- Purchaser is a person (e.g., individual or corporation)

GST still applies

Grandparenting Exceptions

Grandparenting rules do not apply to:

- Owner-built housing
- Mobile homes, including modular homes, and floating homes
- Duplexes and traditional apartment buildings

Grandparenting

ITCs on building inputs

- Generally, GST/HST registrants would be eligible to claim input tax credits (ITCs) for the HST payable on inputs including inputs to construct housing sold on a grandparented basis
- Large businesses would be subject to a temporary recapture of ITCs
- Tax Information Notice - HST Notice #4, *Temporary Recapture of Input Tax Credits Requirement* issued by B.C. Ministry of Finance on February 19, 2010

Grandparented house

Example

- Builder and individual entered into a written agreement of purchase and sale for a detached house on October 20, 2009
- Ownership and possession of the house transfer on July 15, 2010
- HST would not apply
- GST will apply

Upgrades

- Upgrades generally form part of the agreement of purchase and sale for housing
- Where existing agreement is modified, varied or otherwise materially altered, it is considered to be a new agreement and the transitional rules will apply based on the date of the new agreement
- GST/HST Policy Statement P-249, *Agreements and Novation*

Builder disclosure requirements

- Builder required to disclose in purchase and sale agreement entered into after November 18, 2009 and before July 1, 2010:
 - whether provincial part of HST applies, and
 - if so, whether the stated price includes provincial part of the HST, the British Columbia new housing rebate and the PST transitional new housing rebate, if applicable

Builder disclosure requirements

- If disclosure requirements are not met:
 - stated price in the agreement will be considered to include the provincial part of the HST, and
 - purchaser would not be required to pay the provincial part of HST in addition to the stated price

Assignment of purchase and sale agreement

- No provincial part of HST on the sale from the original builder to the assignee if:
 - Assignee receives ownership and possession from the original builder after June 2010
 - No novation of agreement
 - Purchaser and original builder dealing at arm's length and are not associated
 - Original builder (or related party) does not acquire legal or beneficial interest in the housing
- GST still applies

Assignments

- Any amount paid to the purchaser by assignee under assignment agreement is consideration for an interest in the housing
- Supply of interest in housing is a supply of real property
- Purchaser is required to collect GST/HST if they are a builder as defined for GST/HST purposes

Example

- Individual (purchaser) and original builder enter into purchase and sale agreement on October 1, 2009 for newly constructed house
- On February 15, 2010, purchaser assigns rights under agreement to another individual (assignee) for \$10,000 and the assignee pays this amount to the purchaser on that date
- Ownership and possession of house transfer from original builder to assignee on July 15, 2010

Example (cont'd)

- No novation of agreement
- Original builder and purchaser are dealing at arm's length and are not associated
- Assignee not related to original builder
- Original builder does not re-acquire an interest in the house

Example (cont'd)

- Sale of house by original builder is grandparented
- HST does not apply and GST applies
- \$10,000 paid by assignee to purchaser is a supply of an interest in real property
- If purchaser is a builder, the supply of the interest by the purchaser to the assignee is subject to GST since ownership of the interest transfers to assignee on February 15, 2010

First Reseller

- First reseller is the first purchaser of grandparented housing from the original builder
- The sale of the housing by the first reseller would also be grandparented if:
 1. First reseller and builder are dealing at arm's length and are not associated
 2. First reseller obtained possession of the grandparented housing from the original builder after construction or substantial renovation is substantially completed

First Reseller (cont'd)

3. First reseller acquired housing for the primary purpose of sale or lease* (definition of builder for GST/HST purposes)
 4. If housing is still under construction or substantial renovation, the construction or renovation completed by first reseller is not more than 10% of total construction or substantial renovation when sold by first reseller
 5. Original builder or specified related party does not acquire any legal or beneficial interest in the housing
- GST applies to sale of housing by first reseller

First reseller

- If sale not grandparented, sale is subject to HST:
 - First reseller is entitled to claim an input tax credit (ITC) or rebate if reseller is not registered for GST/HST, unless the original builder or specified related party acquires the housing, or interest in the housing
 - ITC/rebate equal to 2% of the consideration payable by the first reseller to the original builder
 - Represents PST and/or transitional tax adjustment embedded in price of housing

Example of First Reseller

- Original builder and purchaser enter into written agreement of purchase and sale for a newly constructed condominium unit on September 30, 2009 for \$400,000
- Possession of the unit will transfer from the original builder on July 15, 2010, construction is complete at that time, ownership transfers later
- Sale of condominium unit is grandparented and purchaser pays original builder GST
- Purchaser (first reseller) is a GST/HST registrant who acquires the unit for primary purpose of resale

Example of First Reseller (cont'd)

- Original builder and first reseller are associated
- First reseller sells the unit to unrelated third party for \$435,000 on August 1, 2010
- Unit has not been occupied by an individual
- Sale of unit by first reseller is subject to HST at 12% since builder and first reseller are associated
- First reseller entitled to claim input tax credit (ITC) equal to \$8,000 (2% of \$400,000)

Subsequent Reseller

- Means any purchaser (other than the first reseller) of grandparented housing who resells the housing
- Similar rules apply to subsequent resellers
- Reseller rules only apply if reseller is a builder and the sale of the housing is taxable

Resellers' disclosure requirements

- Reseller of grandparented housing is required to disclose in the written agreement:
 - Name of original builder who constructed the housing
 - Whether housing was purchased on grandparented basis, and
 - Whether the HST applies to the sale and if so, whether price includes HST and the B.C. new housing rebate

Reseller disclosure requirements

- Where discloser requirements are not met and sale is subject to HST
- Stated price in written agreement would be considered to include HST
- Purchaser not required to pay HST in addition to stated price in written agreement

B.C. new housing rebate

- Rules and conditions for claiming the rebate generally the same as under the GST new housing rebate
- Primary place of residence of purchaser or a relation
- No B.C. new housing rebate for grandparented sales of housing

B.C. new housing rebate

- Rebate available for same types of new housing as currently qualify under the GST:
 - Newly constructed and substantially renovated housing sold by a builder,
 - owner-built housing,
 - co-op housing,
 - floating homes, mobile homes (including modular homes)
 - housing on leased land

B.C. new housing rebate

- Rebate for purchase of housing is equal to 71.43% of provincial part of HST paid, to a maximum rebate of \$26,250
- Rebate is available regardless of purchase price of housing
- Purchase of house with leased land: 4.47% of price of the building to maximum rebate of \$26,250
- Shares in a housing co-op: 4.47% of price paid for qualifying share to maximum rebate of \$26,250

B.C. new housing rebate

Example

- Written agreement of purchase and sale for a newly constructed house entered into in April 2010
- Ownership and possession transfer in August 2010
- Purchaser meets all conditions for claiming a GST new housing rebate
- Consideration for the house is \$400,000

B.C. new housing rebate

Example (cont'd)

- Provincial part of HST paid is: \$28,000
(\$400,000 x 7%)
- B.C. new housing rebate is:
\$20,000 (\$28,000 x 71.43%)
- Federal part of HST paid is: \$20,000
(\$400,000 x 5%)
- GST new housing rebate is \$3,150

B.C. new housing rebate

Owner-built housing

- Rebate for owner-built housing depends on whether HST was paid on purchase of land
 - 71.43% of provincial part of HST paid to maximum rebate of:
 - \$26,250, if HST paid on the land
 - \$17,588, if HST not paid on the land

Rentals of new housing

- HST would apply on a self-supply by a builder-landlord after June 2010

- Self-supply occurs at the later of:
 - The day possession or use of housing is first given as place of residence under lease, licence or similar arrangement, and

 - The day construction or substantial renovation of the housing is substantially complete

B.C. new residential rental property rebate

- Rebate available to builder-landlords, and purchaser-landlords who purchase rental properties, and pay the HST
- Rebate equal to 71.43% of provincial part of HST paid, to a maximum rebate of \$26,250 per rental unit
- Rebate would be available regardless of purchase price (or FMV for self-supply)

B.C. new residential rental property rebate

- Rebate would be available for same types of rental housing as under the GST
- Rules and conditions are the same as under the GST
- No B.C. new residential rental property rebate for grandparented sales of rental housing

B.C. new residential rental property rebate - leased land

- Rebate available to landlords who make an exempt rental of land for residential use, i.e., rental of residential lot or site in a residential trailer park
- Rebate equal to 71.43% of provincial part of HST to maximum rebate of \$8,663 for each lot or site

Transitional tax adjustment (TTA)

- Applies to grandparented sales of single unit housing and residential condominiums if construction or substantial renovation straddles July 1, 2010
- For single-unit housing, based on consideration payable and degree of completion of the housing as of July 1, 2010
- For condominium units and complexes, 2% of consideration payable

Transitional tax adjustment (TTA)

- Builder is required to account for TTA in its net tax calculation on its GST/HST NETFILE return for reporting period in which possession of housing is transferred
- TTA does not apply to apartment buildings, duplexes, mobile homes and floating homes

TTA – single unit housing

Degree of completion as of July 1, 2010	TTA rate as a % of consideration
< 10%	2.0%
10% ≤ and < 25%	1.5%
25% ≤ and < 50%	1.0%
50% ≤ and < 75%	0.5%
75% ≤ and < 90%	0.2%
≥ 90%	0%

Transitional tax adjustment

Example

- Builder's sale of a detached house is grandfathered
- Consideration for the sale is \$450,000
- On July 1, 2010, construction of the house is 85% complete
- What is the TTA amount that must be accounted for in the builder's net tax?

Transitional tax adjustment

Example – (cont'd)

- Since house is 85% complete, the rate of the TTA as a percentage of consideration is 0.2%.
- Consideration is \$450,000
- TTA is \$900 ($\$450,000 \times 0.2\%$)

PST transitional new housing rebate

- PST transitional new housing rebate for newly constructed or substantially renovated housing where:
 - Construction/renovation straddles July 1, 2010
 - Housing at least 10% complete as of July 1, 2010
 - Ownership and possession of housing transfer after June 2010, and
 - For sales of single unit housing, including duplexes, purchaser must be an individual who paid the HST on the purchase,
 - For grandparented sales of condominiums, builder paid transitional tax adjustment,
 - For rental housing, the builder paid HST on self-supply, or
 - For sales of multiple unit rental housing (apartment buildings), the purchaser paid HST on the purchase

PST transitional new housing rebate

- For purchases of single unit housing (e.g., detached house, semi-detached) or duplex, the individual would be the claimant and rebate may be assigned to builder
- For residential condominiums, apartment buildings and additions to multiple unit rental housing, the builder would be the claimant
- For single unit rental housing of a builder-landlord, the builder would be the claimant
- Not available for mobile homes, including modular homes, and owner-built homes

PST transitional new housing rebate

- Builder must obtain from the Province of British Columbia a letter of good standing
- Issued where builder has no outstanding provincial debts
- Valid for one year unless revoked

PST transitional new housing rebate

Degree of completion as of July 1, 2010	% of estimated PST content to be rebated
< 10%	0%
10% ≤ and < 25%	25%
25% ≤ and < 50%	50%
50% ≤ and < 75%	75%
75% ≤ and < 90%	90%
≥ 90%	100%

PST transitional new housing rebate

Estimated PST content

Choose one of the following 2 methods:

- \$60.00 per square metre of habitable floor space (floor space method), or
- 2% of the consideration payable on the sale the housing or, in certain situations, the fair market value (FMV) of the housing (consideration or FMV method)

PST transitional new housing rebate

- Floor space method – rebate must be filed after June 2010 and before July 1, 2014
- Consideration or FMV method – rebate must be filed no earlier than the day HST is payable or, in the case of self-supply, deemed collected, or the day the builder is considered to have collected the TTA and before July 1, 2014

PST transitional new housing rebate

Example

- Builder and individual enter into a written agreement of purchase and sale for a newly constructed detached house on December 11, 2009 (i.e., not a grandparented house)
- Consideration is \$500,000
- Ownership and possession transfer under the agreement in July 2010

PST transitional new housing rebate

Example (cont'd)

- Construction of house is 70% complete as of July 1, 2010
- HST applies to sale of house
- Purchaser is eligible for the PST transitional new housing rebate

PST transitional new housing rebate

Example (cont'd)

Estimated PST content using the consideration or FMV method is:

- \$10,000 (2% of \$500,000)

B.C. PST transitional new housing rebate:

- \$ 7,500 (75% of \$10,000)

Progress payments and holdbacks

- HST applies to progress payments for contracts to construct, renovate, alter or repair real property to the extent the payment is for property delivered or services performed on or after July 1, 2010
- HST applies to holdbacks to the extent that the progress payment to which the holdback relates is subject to the HST

Example

- On September 13, 2010 a final progress payment of \$20,000 less a holdback amount is due under a contract to construct a house
- 80% of the progress payment relates to property delivered and services performed on or after July 1, 2010
- \$15,000 (10% of the value of the contract) is the amount of the holdback

Example

- HST applies to 80% of the holdback amount i.e.,
80% of \$15,000 = \$12,000
- HST is \$1,440 (12% of \$12,000)
- GST applies to 20% of the holdback amount i.e.,
20% of \$15,000 = \$3,000
- GST is \$150 (5% of \$3,000)

Non-residential real property Sales

- HST applies to sales of non-residential real property where **both** ownership **and** possession transfer to the purchaser on or after July 1, 2010
- Where the sale is currently exempt under GST, the sale will also be exempt under HST (e.g., certain sales of vacant land by individuals)
- Registrants constructing commercial properties can claim input tax credits (ITCs) for HST paid on construction expenses
- No ITCs for PST paid

Non-residential real property Sales

- Date of written agreement does not affect application of HST i.e., no grandparenting provision for sale of non-residential real property
- Generally, vendor not required to collect HST on taxable sale of real property to GST/HST registered person; purchaser required to account for HST on their own GST/HST return

Non-residential real property Leases

- HST applies to leases of non-residential real property
- Where lease is currently exempt under GST, lease will also be exempt under HST (e.g., sites in a residential trailer park)

Non-residential real property Leases

- GST applies when the lease interval begins before July 2010 and ends before July 31, 2010
- HST applies when the lease interval begins on or after July 1, 2010
- Transitional rules apply where the lease interval straddles July 1, 2010 and ends after July 30, 2010, such that HST applies to a part of the lease interval

Non-residential real property Leases

When the lease interval begins before July 2010 and ends on or after July 31, 2010:

- GST applies to the consideration that becomes due or is paid before May 2010; certain non-consumers may have to self-assess the provincial part of the HST
- When the consideration becomes due or is paid without having become due on or after May 1, 2010:
 - GST applies to the consideration attributable to that part of the lease interval that occurs before July 2010
 - HST applies to the consideration attributable to that part of the lease interval that occurs on or after July 1, 2010

Example 1

- Operator of a trailer park leases a site in the park to an individual for personal use
- Lease is from May 1, 2010 to October 31, 2010
- Lease payment is due on May 1, 2010 but individual pays on April 15, 2010
- GST applies to lease payment, HST does not apply

Example 2

- Operator of a trailer park leases a site in the park to an individual for personal use
- Lease is from May 1, 2010 to October 31, 2010
- Lease payment is due on May 1, 2010 and is paid on May 15, 2010
- HST applies to 4/6 months or 67% of lease payment

Real estate agent commissions

- Commission paid to a real estate agent is in respect of a service
- General transitional rules for services apply
- GST applies when 90% or more of the service is performed before July 2010

Real estate agent commissions

When more than 10% of the service is performed on or after July 1, 2010:

- GST applies to the consideration that becomes due or is paid before May 2010.
- When the consideration becomes due or is paid without having become due on or after May 1, 2010:
 - GST applies to the consideration that relates to the portion of the service performed before July 2010
 - HST applies to the consideration that relates to the portion of the service performed on or after July 1, 2010

Example

- A purchaser enters into an agreement of purchase and sale for housing on May 15, 2010
- Ownership and possession of the house transfer to the purchaser on July 5, 2010
- Real estate agent performs more than 90% of their service before July 2010
- The agent is paid for their service on July 5, 2010
- GST applies to the real estate agent's commission

Electronic filing

- Registrants are required to file electronically for reporting periods ending on or after July 1, 2010 if they are over the \$1.5 million threshold or are required to recapture input tax credits (ITCs)
- Builders who are registrants affected by the HST transitional housing rules are required to file their GST/HST returns using GST/HST NETFILE for reporting periods ending on or after July 1, 2010
- Builders over the \$1.5 million threshold will be required to use GST/HST NETFILE or TELEFILE if they are reporting new housing rebates that they paid or credited to purchasers

GST/HST NETFILE return

- Builders must report the following information on the GST/HST NETFILE return:
 - The number of grandparented housing units sold during the reporting period where the purchaser was not entitled to claim the GST new housing rebate or new residential rental property rebate and the total sale prices for those units
 - For first resellers, the number of grandparented housing units purchased by the first reseller that were sold during the reporting period and were subject to the HST and the total purchase prices of those units

Electronic filing

- The total amount of the transitional tax adjustment that is required to be included in the builder's net tax for the reporting period
 - The amount of all PST transitional new housing rebates claimed for the reporting period, including rebates assigned to the builder
- Refer to GST/HST Notice 249, *Questions and Answers on the New Reporting Requirements for GST/HST Registrants*

Publications and resources

- GST/HST Notice No. 246, *Harmonized Sales Tax for British Columbia – Questions and Answers on Housing Rebates and Transitional Rules for Housing and Other Real Property Situated in British Columbia*
- Revised guides and GST/HST Memoranda Series
- New and revised rebate forms
- CRA Web site www.cra-arc.gc.ca
- GST/HST Rulings 1-800-959-8287

HST Rebate Reference Table

Sale of New or Substantially Renovated Properties

Agreement Date	Title Transfer Date [^]	GST/HST	BC New Housing Rebate	Transitional New Housing Rebate	Transitional Tax Adjustment (TTA)
Single Unit Homes					
Before					
Nov. 19, 2009 (Grandparented)	After June 30, 2010	5%	No	No	Yes
After Nov. 18, 2009	Before July 1, 2010	5%	No	N/A	N/A
After Nov. 18, 2009	After June 30, 2010	12%	Yes	Yes	No
Condominiums					
Before					
Nov. 19, 2009 (Grandparented)	After June 30, 2010	5%	No	Yes*	Yes
After Nov. 18, 2009	Before July 1, 2010	5%	No	N/A	N/A
After Nov. 18, 2009	After June 30, 2010	12%	Yes	Yes*	No

[^]Ownership and/or possession * Builder claims rebate

HST Rebate Reference Table

BC New Housing Rebate

Type	Rebate %	Price to pay for full rebate
New Home with Land	71.43% of the Provincial component of HST	\$525,000
New Home with Leased Land	4.47% of the price attributable to the building	\$588,000
New Mobile or Floating Home	71.43% of the Provincial component of HST	\$525,000
New Co-op Housing Unit	4.47% of the price paid for qualifying shares in the Co-op	\$588,000

Note: Maximum rebate amount \$26,250