

## PROPERTY UPDATE

– Ontario Harmonized Sales Tax

FALL 2009

## RESIDENTIAL HOUSING – SALES AND CONSTRUCTION HST Transitional Rules

*By Maralynne A. Monteith*

The following is a summary of the Ontario HST transitional rules affecting residential real property sales.

GST (5%) will continue to apply as usual to sales of residential property in Ontario, subject to available exceptions. GST will be included in HST as it commences to apply. The existing GST new housing rebate will continue to apply in accordance with its terms. GST registration will automatically extend to HST.

HST (13%) will apply to a builder's sale of newly constructed or substantially renovated residential premises including multiple unit buildings and upgrades if both ownership and possession are transferred after June 2010. However, where there is a written agreement of purchase and sale entered into prior to June 18, 2009, grandparenting rules may apply to exclude the provincial portion (8%) of the HST.

Registered builders may claim input tax credits for HST paid on goods and services acquired after June 30, 2010, and used in the construction of new or substantially renovated residential premises, subject to a transitional tax adjustment for grandparented sales if the construction is less than 90% complete on July 1, 2010. The transitional tax adjustment will be treated as collected tax and will be based on the degree of completion and the total consideration payable for the grandparented premises.

Where construction straddles the July 1, 2010, implementation date and is at least 10% completed on that date, a registrant builder and/or the purchaser may be eligible for an RST transitional housing rebate to provide relief for old retail sales tax cost embedded in the housing. Purchasers required to pay HST may be eligible for the RST transitional housing rebate. Builders required to self-assess HST, to collect HST or to pay the transitional tax adjustment may be eligible for the RST transitional housing rebate.

A new housing rebate will be available for the Ontario portion (8%) of the HST where the conditions for claiming the existing GST new housing rebate are met. The Ontario new housing rebate will be calculated as 75% of the Ontario portion of the HST up to a maximum of \$24,000 and it will apply regardless of the purchase price.

A single HST new housing rebate form will be available on the CRA website by July 1, 2010.

Written agreements for the sale of newly constructed or substantially renovated housing entered into after June 18, 2009 and before July 1, 2010, must disclose whether the Ontario portion (8%) of the HST applies to the sale and, if so, whether the stated price includes the Ontario portion of the HST and the Ontario new housing rebate. Failure to make this disclosure will cause the Ontario portion of the HST to be deemed to be included in the stated price so that the purchaser will not be required to pay any additional amount on account of HST.

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Maralynne is a senior tax practitioner with a diverse practice founded on her in-depth experience in both income tax and commodity tax matters servicing domestic and international clients. Maralynne has a broad-based tax practice in the areas of income and commodity taxes, both federal and provincial, including domestic and international taxation, GST, financing, transfer pricing and other cross-border issues, both corporate and personal and both in-bound and out-bound Canada.

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