

## PROPERTY UPDATE

– Ontario Harmonized Sales Tax

FALL 2009

### RESIDENTIAL RENTAL PROPERTIES – LEASES, 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 rentals and construction.

Long-term leases of residential property in Ontario will continue to be exempt from GST and will be exempt from HST.

Builders of newly constructed or substantially renovated rental housing who make a supply by way of lease, licence or similar arrangement of the house or unit are considered to have paid and collected tax under the self-supply rules. The self-supply occurs at the later of the time when the construction or renovation is at least 90% complete and the time when possession under the rental is given to an individual who is the first to occupy the housing as a place of residence.

Where that self-supply occurs prior to July 1, 2010, GST (5%) will apply on the fair value of the house, condominium unit or apartment building, as the case may be, and land reasonably necessary for the use of the housing. If the self-supply occurs after June 2010, HST (13%) will apply.

HST will generally apply to the purchase of newly constructed or substantially renovated rental housing where ownership and possession is transferred after June 2010 regardless of the date of the agreement of purchase and sale.

A new housing rebate will be available for the Ontario portion (8%) of the HST paid on the self-supply or purchase of newly constructed or substantially renovated rental housing where the conditions for claiming the GST new housing rebate for rental housing 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 per qualifying rental unit and it will

apply regardless of the purchase price or fair value of the unit. The person paying the HST will have to apply directly to the CRA for the new housing rebate for rental housing.

Exemptions under GST will generally extend to HST.

Input tax credits for registrants will generally follow existing GST treatment.

AUTHOR

**Maralynne A. Monteith**



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.

Contact Maralynne at 416-947-5089 or [mmonteith@weirfoulds.com](mailto:mmonteith@weirfoulds.com).

## ABOUT THIS NEWSLETTER

Consistently ranked among central Canada's leading law firms, WeirFoulds has a long and distinguished tradition – the firm has been providing solutions for its clients since 1860. WeirFoulds is focused on four broad areas of practice: (1) Litigation; (2) Corporate; (3) Property; and (4) Government Law. Within these core areas of practice, as well as key sub-specialties, the firm meets the most complex and sophisticated legal challenges. Our lawyers are consistently recognized as leaders in their chosen areas of practice and the profession at large.

Information contained in this publication is strictly of a general nature and readers should not act on the information without seeking specific advice on the particular matters which are of concern to them. WeirFoulds LLP will be pleased to provide additional information on request and to discuss any specific matters.

If you are interested in receiving this publication or any other WeirFoulds publication by e-mail, please let us know by sending a message to [publications@weirfoulds.com](mailto:publications@weirfoulds.com).

© WeirFoulds LLP 2009