

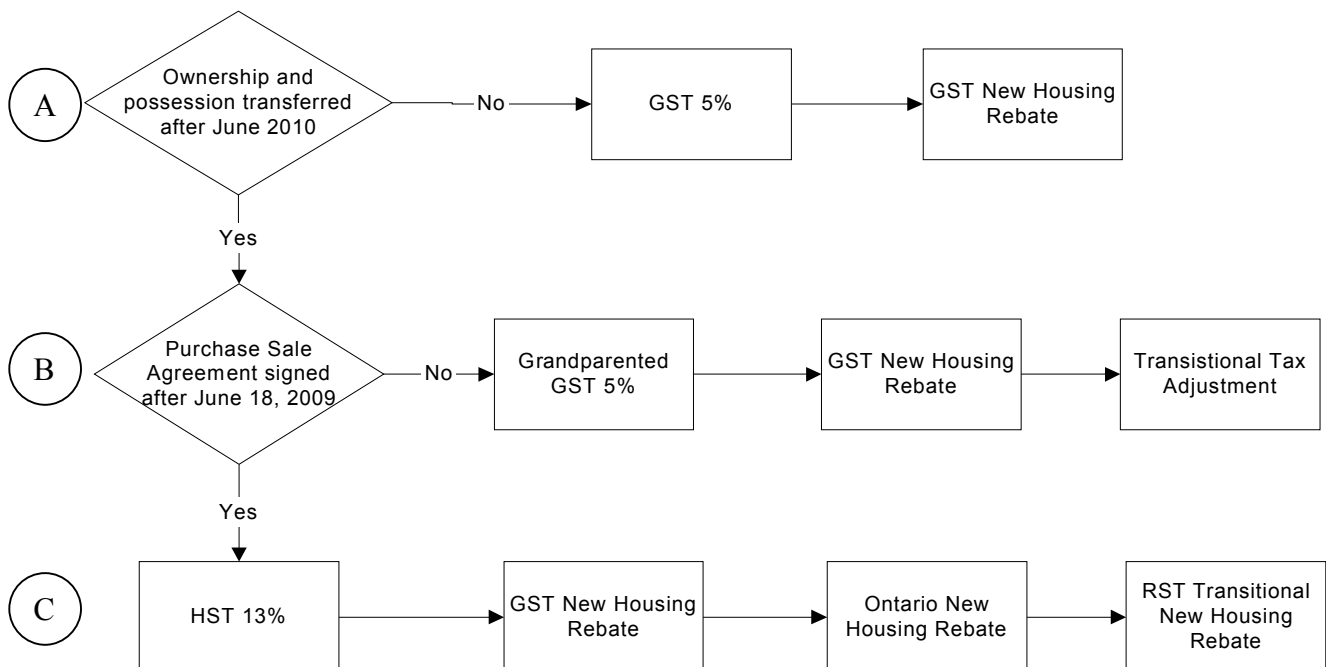
Implementation of the New Harmonized Sales Tax (HST) in Ontario New Housing Rebate and Transitional Rules Applicable to Homebuyers and the Housing Industry

General Overview

Home builders have specific implementation rules relating to the HST. Whether the new HST rules, the old GST rules or certain transitional provisions apply is determined based on the date of the Purchase and Sale agreement and the date that ownership and possession occurs. Any agreements entered into after June 18, 2009 have certain disclosure requirements that all builders should be aware of.

When Does HST Apply?

If ownership and possession is transferred after June 2010, and the purchase and sale agreement was signed after June 18, 2009, then HST of 13% will apply to the sale. Otherwise, the following chart will point to which tax application applies



A Old Rules

In all cases where ownership and possession transfer prior to July 1, 2010 the existing GST rules are applicable.

B Grandparented Homes

Where a written agreement of purchase and sale for a newly constructed or substantially renovated detached house, semi-detached house, attached house, residential condominium unit or condominium complex was entered into on or before June 18, 2009, only the GST would apply, regardless of when ownership is transferred.

Exceptions to the grandparenting rules include:

- detached house, semi-detached house or attached house that was not purchased by an individual
- houses built by owners for their personal use
- duplexes
- traditional apartment buildings
- mobile homes (modular homes are considered to be mobile homes for GST/HST purposes)
- floating homes

Transitional Tax Adjustment

The builder is required to remit a transitional tax adjustment if construction straddles July 1, 2010. The transitional tax adjustment applies to grandparented sales only. It is intended to approximate the Ontario portion of the HST paid by the builder and the ITC's claimed after July 1, 2010. The amount is calculated as a percentage of the total consideration payable for the house. The percentage ranges from 0.0% to 2.0% depending on the degree of completion of the construction as of July 1, 2010. It is considered collected by the builder and would be included by the builder in the net tax calculation on its GST/HST return.

C Ontario New Housing Rebate

Where the construction occurs after June 2010, the purchaser of a newly constructed or substantially renovated house would be entitled to claim an Ontario new housing rebate of 75% of the provincial part of the HST subject to a maximum

of \$24,000. The maximum is reduced to \$16,080 if the land was not included in the purchase.

RST Transitional New Housing Rebate

An individual who purchases a newly constructed or substantially renovated house would be entitled to claim an RST transitional new housing rebate where the construction or substantial renovation of the house straddles the July 1, 2010 implementation date and HST is payable on the purchase. For the purchaser to be eligible to claim this rebate, the construction or substantial renovation of the house must be at least 10% complete as of July 1, 2010 and the builder must certify the degree of completion of the construction or substantial renovation as of July 1, 2010.

The individual would be able to obtain the rebate from the builder or from the Canada Revenue Agency (CRA). Where the rebate application is submitted to the builder, the builder is required to attach a valid provincial certificate to the rebate application when the builder submits the application to CRA. A provincial certificate is a letter of good standing, obtained from the Ontario Ministry of Revenue if the builder has no outstanding provincial debts. It is generally valid for one year from the date of issuance unless revoked by the province.

Builders' Disclosure Requirement

It is important to disclose in all written agreements of purchase and sale for newly constructed or substantially renovated homes or rental homes entered into after June 18, 2009 and before July 1, 2010:

- a) whether the HST at 13% or GST at 5% will apply to the sale,
- b) whether the stated price includes the applicable tax, and
- c) whether it is net of the GST New Housing Rebate and/or the Ontario New Housing Rebate.

If the transaction would be subject to HST at 13% and the builder did not make a disclosure as outlined above, the stated price in the written agreement would be deemed under the transitional rules to include the provincial portion of the HST. In such a case, the purchaser would not be required to pay the provincial portion of the HST in addition to the stated price in the agreement.

HST Electronic Filing Requirements

The federal government has announced that most builders will be required to file their returns for reporting periods ending on or after July 1, 2010 using the online GST/HST Netfile service. This electronic method of filing will effectively be required where annual taxable sales exceed \$1.5 million or where any of the above transitional provisions apply.

Summary

This guide provides only a general overview of the HST implementation as it relates to homebuyers and the housing industry. Should you be in doubt about the application or relevance of any of the above to your specific situation, please be sure to seek further advice.

The Ontario Ministry of Revenue has two publications that fully outline the above. These can be found at the following links:

<http://www.rev.gov.on.ca/en/notices/hst/02.html>

<http://www.rev.gov.on.ca/en/notices/hst/04.html>