



## Sale of a Residence by a Builder Who is an Individual

This Info Sheet replaces the version dated September 2004.

This info sheet explains the application of the GST/HST to the sale of a house or residential condominium unit (condo unit) by a builder who lives in the house or condo unit before selling it.

An individual does not have to be involved in the home construction industry to be considered a “builder” for GST/HST purposes. The definition of builder covers a broad range of activities, the more common of which are explained in this info sheet.

Individual builds, or has someone build, a house on land owned by the individual

An individual is considered to be a builder for GST/HST purposes if, in the course of a business or adventure or concern in the nature of trade, the individual builds or substantially renovates a house (or hires someone else to build or substantially renovate it) on land owned by the individual for the purpose of selling the house or renting it to someone else as a place of residence.

### Factors

The following factors may indicate that, for GST/HST purposes, you are a builder of a house you constructed or hired someone to construct for you. The factors are not listed in any particular order and there is no intent to weigh one more heavily than another.

- You co-own the house with others who have contributed to the costs of purchasing the land or building the house, but who do not intend to live in the house.
- Your primary or secondary intention in buying the land and building the house is the prospect of selling the house. This may be inferred, for example, where the financing of the house is

beyond your means and may depend on the increased value and saleability of the house in a rising housing market.

- Your private documents (driver’s licence, health card) or public records (telephone book, child’s school records) do not list the address of the house.
- Your pattern of activity is such that your occupancy of the house does not have the qualities or characteristics of being permanent. For example, you may purchase more than one lot or build (or have built) more than one house in the same time period. However, under certain circumstances, you may also be considered a builder if you build and sell a single house. You may arrange short-term financing or financing without balance repayment penalties. You may own and live in the house for a short period of time and then sell the house for a profit. You may put the house up for sale or take other actions to attract buyers before or at the same time that you use it as a place of residence.
- The house is not treated as your principal residence for income tax purposes.

Individual purchases a house or condo unit

An individual can also be a builder for GST/HST purposes where the individual buys a newly constructed or substantially renovated house or condo unit from someone else. In this case, the individual’s status as a builder will depend in part on the timing of their purchase and in part on their intentions at the time.

La version française du présent document est intitulée *Vente d'une résidence par un constructeur qui est un particulier*.



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## Housing is under construction

An individual would be a builder if, in the course of a business or adventure or concern in the nature of trade, the individual enters into a written agreement of purchase and sale for a house or condo unit while it is under construction. Typically, these individuals plan to resell the property or rent it out and would be considered a builder for GST/HST purposes.

### Individual buys previously unoccupied housing for primary purpose of selling it

An individual may also be a builder for GST/HST purposes if, in the course of a business or adventure or concern in the nature of trade, the individual enters into a written agreement of purchase and sale for a house or a condo unit, before the condominium complex has been registered as a condominium, and before the house or unit has been occupied as a place of residence or lodging for the primary purpose of selling the house or unit.

### Individual buys previously unoccupied housing for primary purpose of renting it

If an individual's primary purpose in entering into a written agreement of purchase and sale for a house or condo unit, before the condominium complex has been registered as a condominium, and before the house or unit has been occupied as a place of residence or lodging is to rent the house or condo unit, the individual would be a builder unless the house or unit is rented to another individual who will use it otherwise than in the course of a business or adventure or concern in the nature of trade.

For example, if a particular individual entered into a purchase and sale agreement for a newly constructed house or condo unit for the primary purpose of renting the house or condo unit to a corporation or partnership, the individual would be a builder. However, that same individual would not be a builder if the house or unit is to be rented to another individual who would occupy it as a place of residence, unless the individual purchased the house or condo unit while it was under construction.

## Factors

The following factors may indicate that, for GST/HST purposes, you are a builder of a house or condo unit you purchased for the primary purpose of selling it or leasing it out in certain circumstances. The factors are not listed in any particular order and there is no intent to weigh one more heavily than another.

- You offer to sell your right to buy the house or condo unit or take other actions to attract buyers while it is under construction.
- You finance the purchase by a short-term mortgage, or an open mortgage that can be paid off without penalty, rather than by a long-term or closed mortgage.
- Your financing is beyond your means and may depend on the increased value and saleability of the house or condo unit in a rising housing market.
- Your pattern of activity is such that your occupancy of the house or condo unit does not have the qualities or characteristics of being permanent. For example, you may purchase more than one house or condo unit at or around the same time (although multiple purchases are not necessary to be a builder). Or you own and live in the house or condo unit for a short period of time and sell it for a profit. This factor may be given extra weight where you have done it previously.
- There are no outward indicators to support a contrary primary intention (i.e., an intention contrary to an intention of resale). For example, you are selling a condo unit, one or more of the above factors is present, and there are no physical actions or evidence that your primary intention was to live in the condo unit, use it as a vacation home, or rent it to another individual for use as their place of residence, and no evidence that the sale of the condo unit was triggered by some unforeseen event.

<p>If you are not considered a builder for GST/HST purposes, there is no additional GST/HST liability triggered when you or your relation moves into your house or condo unit (i.e., no taxable self-supply) or when you sell your house or condo unit (i.e., the subsequent sale of your house or condo unit will generally be exempt from the GST/HST). The rest of this info sheet does not apply to you.</p>
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## Self-supply

If, for GST/HST purposes, you are a builder of a house or condo unit, you may be considered to have made a taxable self-supply of the house or condo unit (i.e., you may be considered to have sold and repurchased the house or condo unit) if you move into it or rent it to someone who is the first to occupy it as a place of residence.

A self-supply occurs at the later of the time the construction or substantial renovation of the house or condo unit is substantially complete and the time you give possession or use of the house or condo unit to a person under a lease, licence or similar arrangement. Under the self-supply rule, you are considered to have paid and collected the GST/HST calculated on the fair market value of the house or condo unit at the time of the self-supply and you are required to remit that amount. For more details on the self-supply rules, refer to the GST/HST Guide RC4052, *GST/HST Information for the Home Construction Industry*.

**Note: Exception** - This self-supply rule may not apply to a house or condo unit that is a builder's, or a relation's<sup>1</sup>, place of residence. Additional information on this exception is provided below.

If your only commercial activity is the taxable sale of your house or condo unit, including a taxable sale you are considered to have made under the self-supply rule, and you are not in the business of selling houses, you are not required to register for GST/HST purposes. However, you may choose to register. For more information on registration refer to the GST/HST Guide RC4022, *General Information for GST/HST Registrants*.

If you are a GST/HST registrant, you have to report the tax you are considered to have collected on the self-supply in your GST/HST return for the reporting period during which the self-supply occurred. You are also entitled to claim input tax credits (ITCs) for the GST/HST you paid or owe on the land and construction costs or on the purchase of the house or condo unit.

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<sup>1</sup> "Relation" generally means another individual related to the builder by blood, marriage, common-law partnership, or adoption, and includes a former spouse or common-law partner of the builder. For more information, refer to GST/HST Memorandum 19.3, *Real Property Rebates*.

If you are not a GST/HST registrant, you have to report the tax you are considered to have collected on a self-supply on Form GST62, *Goods and Services Tax/Harmonized Sales Tax (GST/HST) Return (non-personalized)*. You must file this return by the end of the month following the month during which the self-supply occurred. For example, if the self-supply is triggered because you moved into your substantially completed house in February, you must file your return and pay the tax owing by March 31<sup>st</sup>. You may be entitled to claim a rebate for the tax you paid on the land and construction costs, or on the purchase of the house or condo unit, if the conditions for claiming this rebate are met. For more information, refer to GST/HST Memorandum 19.3.6, *Rebate on Non-registrant's Sale of Real Property*.

You may also be entitled to claim a GST/HST new housing rebate for some of the GST/HST you are considered to have paid as a result of the self-supply, whether or not you are registered for the GST/HST, if the conditions for claiming this rebate are met. For more information on this rebate refer to the GST/HST Guide RC4028, *GST/HST New Housing Rebate*.

If you are considered to have paid and collected the GST/HST on a self-supply of a house or condo unit, your subsequent sale of the house or condo unit is generally exempt from the GST/HST.

### Exception to the self-supply rule

The self supply rule may not apply to a builder who is an individual where the individual or a relation uses the new house or condo unit primarily as the individual's or relation's place of residence. However, for the builder to qualify for this exception, three conditions must be met.

First, the individual's, or relation's, residency in the house or condo unit cannot be temporary in nature. Any qualities or characteristics of temporary residency would indicate that the builder has the intention of selling the house or condo unit and is holding it as inventory, stock or a disposable asset.

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Second, residency by the individual or relation must have been the primary intention from the time the house or condo unit was substantially completed (i.e., permanent residency of the builder or relation cannot be a use that was chosen at a later time). The individual can have no other primary intention for the house or unit between the time of substantial completion and the time the individual or relation occupies the house or unit as a place of residence. For example, if, after substantial completion of the house or condo unit, the builder was trying to sell the house for a period of time, but was unable to do so and instead occupied the house or unit as a place of residence, this condition would not be met.

Finally, the builder cannot have claimed any ITCs for the GST/HST paid or payable on the land and construction costs incurred to build the house or condo unit or to purchase the house or condo unit.

Where all three conditions are met, the self-supply rule does not apply and the individual who is a builder is not considered to have paid and collected GST/HST on the fair market value of the house or condo unit when the individual or relation moves into the house or condo unit. In addition, a subsequent sale of the house or condo unit by the builder will generally be exempt from the GST/HST.

In this case, the builder may be entitled to claim a GST/HST new housing rebate for some of the GST/HST paid to construct or purchase the house or condo unit if the conditions for claiming this rebate are met.

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#### Question no. 1

Recently I had a house built on a lot that I own. Although I had intended to live in the house on a permanent basis, I lived in it for only two months. Then my employer transferred me to another city. Consequently, I have to sell my new house. Does the GST/HST apply to the sale?

#### Answer

No, the GST/HST does not apply to the sale of the house. Since you built the house for your personal use and not in the course of a business or an adventure or concern in the nature of trade, you are not considered to be a builder for GST/HST purposes.

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#### Question no. 2

My main source of income is from building and selling new houses. I usually build a new house for my own temporary use with the intention of selling it and building another house that I will move into as soon as I find a purchaser for the house I currently occupy. Does the GST/HST apply to the sale of the houses that I have built, lived in and then sold?

#### Answer

You are considered to be a builder for GST/HST purposes. Consequently, you are considered to have made a taxable self-supply when you move into a house or when the construction of the house is substantially completed, whichever is later. As a result, you are considered to have paid and collected the GST/HST calculated on the fair market value of each house (building and land). When you later sell the house, the sale would be exempt from the GST/HST.

Depending on your registration status for GST/HST purposes, you would be entitled to claim either ITCs or a rebate for the tax you paid (or owe, in the case of ITCs) to build the house, subject to the time limitation for claiming the ITCs or rebate.

You may also be entitled to claim a GST/HST new housing rebate for some of the GST/HST paid on the self-supply (whether or not you are registered for the GST/HST) if the conditions for claiming this rebate are met and the rebate application is filed within the time limit.

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#### Question no. 3

I am the same individual as in the previous question. When I started building a house I had the intention of selling it to make a profit. However, before I substantially completed the house, I changed my mind and decided to live in the house on a permanent basis. Since the time I decided to live in the house instead of selling it, I have had no intentions other than to live in it on a permanent basis. Does the self-supply rule apply when I move into the house?

#### Answer

Although you are a builder for GST/HST purposes, the exception to the self-supply rule may apply in this case. Provided that you did not claim any ITCs for the GST/HST paid or payable on construction, land or other costs related to the house, you are not considered to have made a taxable self-supply when you moved into the house. The self-supply rule does not apply since you decided, before the house was substantially completed, to instead use it primarily as your place of residence and have had no other primary use for the house between substantial completion and the time you occupied it on a permanent basis.

If you did claim an ITC for any of the GST/HST paid or payable on the construction, land or other costs, the self-supply rule will apply. In this case, you are considered to have paid and collected the GST/HST calculated on the fair market value of the house when you moved into it or when the construction of the house was substantially completed, whichever is later.

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#### Question no. 4

I am employed as an electrician with ABC Construction (ABC Inc.). I purchased three vacant lots from a developer and hired ABC Inc. to build a house on one of the lots. My wife and I planned to live in this house for six months, during which time we would have our permanent residence (a larger house) built on another of the lots. The first house was listed with a real estate agent after substantial completion and before we moved into it. We lived in the first house for six months, then sold it at a profit and moved into the second, larger, house. After having lived in the second house for five months my wife and I realized that the house was too small because her parents had moved in with us due to unforeseen personal circumstances. We have put a conditional offer on an already constructed house that is twice the size of our second house. I am now selling the second house. I did not claim any ITCs for the GST/HST that I paid or owe on construction, land or other costs related to the houses.

Was I considered to have made a taxable self-supply in respect of the houses when they were substantially completed or when I moved into the houses? Does the GST/HST apply to the sale of the first and second house?

#### Answer

For GST/HST purposes, you are considered to be a builder of the first house even though you do not generally earn your living by building and selling houses. The exception to the self-supply rule does not apply because the house was not used primarily as your place of residence after its construction was substantially completed. The primary purpose for building this house was to sell it, given that it was only meant to be a temporary residence and was listed for sale prior to occupancy.

Consequently, even though you did not claim any ITCs for the GST/HST paid or payable on your costs, you are considered to have paid and collected the GST/HST calculated on the fair market value of the first house when you moved into this house.

Depending on your registration status for GST/HST purposes, you would be entitled to claim either ITCs or a rebate for the tax you paid to build the house, subject to the time limitation for claiming the ITCs or rebate.

You may also be entitled to claim a GST/HST new housing rebate in respect of the GST/HST paid on the self-supply if the conditions for claiming this rebate are met and the rebate application is filed within the time limit.

When you sold the first house, the sale was exempt from the GST/HST.

However, you are not considered to be a builder of the second house since the house was constructed for use primarily as your place of residence and there was never another intended use of the house between the time construction was substantially completed and when you occupied the house. Even though you abandoned your plans to live in this house and sold it soon after you had moved into it, your sole motivation for doing so arose out of unforeseen personal circumstances. The house was not sold in

the course of a business or an adventure or concern in the nature of trade. In this case, the sale of the second house would also be exempt from the GST/HST.

You may be entitled to claim a GST/HST new housing rebate in respect of the GST/HST you paid on your construction and other costs related to the second house, if the conditions for claiming this rebate are met and a rebate application is filed within the time limit.

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#### Question no. 5

In June 2009, I finished building a house on a lot that I own and moved into it shortly thereafter. My main purpose for building the house was to sell it and use the proceeds to build a larger house. In August 2009, I listed the house with a real estate agent with the intention of selling it at a profit. With this in mind, I obtained short-term financing and purchased a second lot in October 2009. I began construction of a second, larger house on that lot at that time. My first house was sold in February 2010 around the same time that the second house was completed. At that same time I listed the second house with a real estate agent. Shortly thereafter I moved into it advertising that I was willing to vacate the house at the convenience of the purchaser. In April 2010, I sold the second house and repaid the balance of the financing without incurring penalties. I moved into an apartment where I will live until I finish building my third house, which is currently under construction. I intend to live in this house permanently.

I paid GST/HST on the construction costs I incurred when I built these houses. Did I have to pay more GST/HST when I moved into them? Were the sales of the first two houses subject to the GST/HST?

#### Answer

For GST/HST purposes, you are considered to be a builder of the first and second houses since you built them primarily for the purpose of selling them, and as such sold them in the course of a business or an adventure or concern in the nature of trade. This is supported by the fact that you built and sold the houses over a short period of time. Also, you obtained short-term financing with no balance repayment penalties and you were willing to vacate the houses (and in fact, did vacate the second house) when you received a suitable offer. The exception to the self-supply rule does not apply because you did not use the first and second houses primarily as your place of residence after their construction was substantially completed.

Consequently, you are considered to have paid and collected the GST/HST calculated on the fair market value of each of the first two houses when you moved into the house or when the construction of the house was substantially completed, whichever was later. However, depending on your registration status for GST/HST purposes, you would be entitled to claim either ITCs or a rebate for the tax you paid to build the houses, subject to the time limitation for claiming the ITCs or rebate.

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Because you are considered to have paid and collected GST/HST on the self-supply of the houses, you may be entitled to claim a GST/HST new housing rebate if the conditions for claiming this rebate are met and the rebate application is filed within the time limit.

Your subsequent sales of these houses were exempt from the GST/HST.

Provided the third house is used primarily as your place of residence, you are not considered to be a builder of this house for GST/HST purposes

You may be entitled to claim a GST/HST new housing rebate in respect of the GST/HST you paid on your construction and other costs related to the third house, if the conditions for claiming this rebate are met and a rebate application is filed within the time limit.

#### Question no. 6

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The developer of a condo project listed the condo units for sale before construction had even begun. The housing market had been rising steadily for a while, so I entered into an agreement of purchase and sale for one of the condo units with the intention of selling it at a profit when the project was finished. Unfortunately, by the time the developer completed construction and transferred title to me, the market conditions were not as good. Although I listed the condo unit for sale right away, I could not get my asking price. It became too expensive for me to pay for both my rental apartment and the mortgage on the condo unit and, after six months, I had to move into the condo unit. This is the first time I have ever been involved in buying and selling property and I have no plans to do it again.

I did not actually build the condo unit and I am not a GST/HST registrant so I did not claim any ITCs for the GST/HST I paid when I purchased the condo unit. Was I considered to have made a self-

supply of the condo unit when I moved in? Can I still charge GST/HST on the sale?

#### Answer

You are considered to be a builder of the condo unit for GST/HST purposes because the primary purpose for purchasing the unit was to sell the unit. The exception for the self-supply rule does not apply because although you are living in the condo unit now, you did not use it primarily as your place of residence after its construction was substantially completed. Rather, your primary purpose was to sell it before it was occupied. As a result, even though you did not claim ITCs for any GST/HST you paid or owe to purchase the condo unit, you are considered to have paid and collected the GST/HST calculated on the fair market value of the condo unit when you moved into it (as this date was later than the date it was substantially completed). Because you are considered to have paid and collected the GST/HST on the self-supply of the condo unit, your subsequent sale of the condo unit will be exempt from the GST/HST.

You may be entitled to claim a rebate for the GST/HST you paid to the developer to purchase the condo unit. You may also be entitled to claim a GST/HST new housing rebate in respect of the GST/HST you are considered to have paid on the self-supply of the condo unit. You must meet all of the conditions for claiming these rebates and file your rebate applications within the respective time limits.

For more information on who is considered to be a builder for GST/HST purposes refer to the GST/HST Memorandum 19.2, *Residential Real Property*. For more information on sales of houses refer to the GST/HST Memorandum 19.2.1, *Residential Real Property—Sales*.

This info sheet does not replace the law found in *the Excise Tax Act* (the Act) and its regulations. It is provided for your reference. As it may not completely address your particular operation, you may wish to refer to the Act or appropriate regulation, or contact any CRA GST/HST rulings office for additional information. A ruling should be requested for certainty in respect of any particular GST/HST matter. Pamphlet RC4405, *GST/HST Rulings – Experts in GST/HST Legislation*, explains how to obtain a ruling and lists the GST/HST rulings offices. If you wish to make a technical enquiry on the GST/HST by telephone, please call 1-800-959-8287.

If you are located in Quebec and wish to make a technical enquiry or request a ruling related to the GST/HST, please contact Revenu Québec by calling 1-800-567-4692. You may also visit their Web site at [www.revenu.gouv.qc.ca](http://www.revenu.gouv.qc.ca) to obtain general information.

All technical publications related to GST/HST are available on the CRA Web site at [www.cra.gc.ca/gsthstech](http://www.cra.gc.ca/gsthstech).