



HST Rate Increase for Nova Scotia – Questions and Answers on Housing Rebates and Transitional Rules for Housing and Other Real Property Situated in Nova Scotia

On April 6, 2010, the Government of Nova Scotia announced an increase to the provincial part of the harmonized sales tax (HST) by two percentage points from 8% to 10%, effective July 1, 2010. This results in an increase in the HST rate from 13% to 15%. The *Nova Scotia HST Regulations, 2010* provide transitional rules to determine the HST rate applicable to transactions that straddle the July 1, 2010 implementation date. This notice provides a detailed set of questions and answers that reflect the application of these rules.

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Residential real property

For purposes of this notice,

- “house” or “housing” means both the building and land portions of a residential complex, unless otherwise indicated; and
- a supply by way of lease includes a supply by way of licence or similar arrangement.

General

1. Does the HST at 15% apply to taxable sales of newly constructed or substantially renovated housing in Nova Scotia?

Effective July 1, 2010, the Province of Nova Scotia increased the provincial part of the HST from 8% to 10%. The federal part of the HST will remain at 5%. This means that the HST at 15% generally applies where a builder sells a newly constructed or substantially renovated residential complex in Nova Scotia on or after

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July 1, 2010. Special transitional rules apply where the transaction straddles the July 1, 2010 implementation date. These transitional rules are explained below.

2. I am selling my house in Nova Scotia and the sale is exempt from the GST/HST. If the closing date for the sale of my house is after June 2010, is the sale of the house still exempt under the HST at 15%?

Yes. There are no changes to the application of the GST/HST where the sale of real property is exempt. As the sale of your previously occupied house is exempt you are not required to charge or collect the GST/HST.

3. I am a builder and I am registered for GST/HST purposes. I previously claimed input tax credits (ITCs) for the HST at 13% that I paid on the lumber I purchased to build new houses. Am I able to claim ITCs for the HST at 15% paid on lumber purchased in Nova Scotia after June 2010?

Yes. Subject to the normal ITC rules, you are able to claim an ITC for the HST at the rate that was paid or became payable on the purchase of lumber and other construction materials that you use to construct new housing.

Application of the HST to new or substantially renovated housing

4. What are the transitional rules for the HST rate increase that apply to a sale of a residential complex in Nova Scotia?

Generally, the HST rate of 15% applies to a builder's taxable supply by way of sale of a newly constructed or substantially renovated residential complex where, under a written agreement of purchase and sale, both ownership and possession of the complex are transferred to the purchaser after June 2010. If either ownership or possession is transferred to the purchaser before July 2010, HST at the rate of 13% applies. This general rule applies to taxable sales of all housing types, including residential condominium units, mobile homes and floating homes.

An exception to the general rule exists for certain types of housing if a written agreement of purchase and sale was entered into on or before April 6, 2010 – see the section below on grandparented sales of housing.

5. A builder and a purchaser enter into a written agreement of purchase and sale in May 2010 for a newly constructed house in Nova Scotia. The agreement provides that ownership and possession of the house will transfer to the purchaser on August 14, 2010. Does the HST at 15% apply to the sale?

Yes. Since the written agreement of purchase and sale is entered into after April 6, 2010 and both ownership and possession of the house transfer to the purchaser after June 2010, the HST at 15% applies to the sale. The purchaser may be entitled to claim a GST/HST new housing rebate in respect of the federal part of the HST paid and a Nova Scotia new housing rebate in respect of the provincial part of the HST paid, provided that all of the conditions for each of these rebates are met – see the section below on new housing rebates.

6. When does the HST at 13%, rather than 15%, apply to a sale of a newly constructed or substantially renovated residential complex in Nova Scotia?

Generally, the HST at 13%, rather than 15%, applies to a builder's taxable supply by way of sale of a newly constructed or substantially renovated residential complex where either ownership or possession of the complex is transferred, under a written agreement of purchase and sale, to the purchaser before July 2010, regardless of when the purchase and sale agreement was entered into.

Also, the HST at 13%, rather than 15%, applies if the taxable sale of the newly constructed or substantially renovated residential complex is grandparented – see the section below on grandparented sales of housing.

7. A builder and a purchaser enter into a written agreement of purchase and sale on July 3, 2009 for a newly constructed house in Nova Scotia. The agreement provides that ownership and possession of the house will transfer to the purchaser in May 2010. Does the HST apply at 15% to the sale?

No. If ownership or possession (or both) of the house transfers, in accordance with the written agreement, to the purchaser before July 2010, the HST applies at 13% to the sale of the house.

8. I entered into a written agreement of purchase and sale for a newly constructed house with a builder on January 5, 2010. I take ownership and possession of the house in Nova Scotia, in accordance with the agreement, in June 2010. Will the HST apply at 15% to the sale?

No. If ownership or possession (or both) of the house transfers to you in accordance with the written agreement before July 2010, the HST applies at 13% to the sale of the house, regardless of when the purchase and sale agreement was entered into.

9. I entered into a written agreement of purchase and sale in December 2009 for a newly constructed residential condominium unit in Nova Scotia. The agreement provides that possession of the unit will transfer to me in June 2010 but ownership will only be transferred after July 1, 2010, following the registration of the condominium complex. Does the HST apply at 15% to the sale?

No. If ownership or possession (or both) of the residential condominium unit transfers to you in accordance with the written agreement before July 2010, the HST applies at 13% to the sale of the residential condominium unit.

Grandparented sales of housing

10. What is a grandparented sale of a house?

Where a written agreement of purchase and sale for a newly constructed or substantially renovated detached house, semi-detached house, duplex, mobile home, floating home or residential condominium unit was entered into on or before April 6, 2010, the sale is grandparented if both ownership and possession of the housing transfer to the purchaser, under the agreement, after June 2010. In this case, the HST at 13% applies to the sale.

Note: Mobile homes may include modular homes for GST/HST purposes provided they meet certain criteria including that the manufacture or assembly of the modular home is substantially completed prior to being moved to a site. For more detailed information refer to GST/HST Policy Statement P-223, *The Meaning of "Manufacture or Assembly of Which is Completed or Substantially Completed" in the Definition of Mobile Home*.

11. Does the grandparenting rule apply where a person purchases the building part of a house and leases the land part of a house from the builder?

Grandparenting does not generally apply to deemed supplies of real property by way of sale, including where builder-landlords are required to self-assess HST under the self-supply rules on newly constructed or substantially renovated housing on or after July 1, 2010.

An exception exists for certain self-supplies of housing where the builder makes an exempt sale of the building part of newly constructed or substantially renovated housing together with a supply of the underlying land by way of lease or an assignment of a lease.

Specifically, where a builder is required to self-assess HST under subsection 191(1) of the *Excise Tax Act* in respect of an exempt sale of the building part of a single unit residential complex or a residential condominium unit and a supply by way of lease, or an assignment of a lease, of the land part of the complex or unit, the rate of HST payable in respect of the deemed supply is determined by the date the agreement for the supply of the complex was entered into. Where the agreement was entered into on or before April 6, 2010, HST at the rate of

13% applies to the deemed supply made by the builder even if the deemed supply is made on or after July 1, 2010. Where the agreement was entered into after April 6, 2010 the general rule for deemed supplies of real property by way of sale applies, i.e., where the builder is deemed to have made the supply on or after July 1, 2010, HST applies at the rate of 15%.

12. Are there any exceptions to the grandparenting rule?

Yes. For example, newly constructed or substantially renovated houses built by owners for their personal use, as well as condominium complexes and traditional apartment buildings are not grandparented under the transitional rules for purchases of new housing.

As stated above, grandparenting does not apply to deemed supplies of real property by way of sale (other than a deemed sale described in the immediately preceding question).

13. I entered into a written agreement of purchase and sale for a new house with a builder on March 31, 2010. I take ownership and possession of the house, in accordance with the agreement, in August 2010. Does the HST apply at 15% to the sale?

No. The purchase of the house is grandparented since the written agreement of purchase and sale was entered into on or before April 6, 2010 and both ownership and possession of the house are transferred after June 2010. The sale of the house is subject to the HST at 13%.

14. I am a builder and I am registered for GST/HST purposes. I am constructing a house in Nova Scotia and the construction of this house straddles July 1, 2010. The sale of the house is grandparented. Am I able to claim ITCs for the HST at 15% paid on lumber and other construction materials purchased after June 30, 2010 that will be used to complete the construction of this grandparented house?

Yes. Even if the sale of the house is grandparented, you are entitled to claim ITCs for the HST paid or payable on the lumber and other construction materials used in the construction of the house, subject to the normal ITC requirements.

15. After entering into a written agreement of purchase and sale on April 1, 2010 for a newly constructed house, the purchaser requests that upgrades be made to the house. Ownership and possession of the house transfer under the agreement to the purchaser on September 10, 2010. Does the HST apply at 15% to the additional amount payable for the upgrades?

Upgrades to a house will generally result in modifications to the existing agreement such that the upgrades form part of the written agreement for the purchase and sale of the house. In such a case, the tax applicable to the purchase of the house prevails. In this case, since a written agreement of purchase and sale was entered into on or before April 6, 2010 and ownership and possession transfer to the purchaser after June 2010, the HST applies at 13% to the total amount payable for the house, including the upgrades.

Where an existing agreement of purchase and sale is modified, varied or otherwise materially altered to such an extent that it is considered to be a new agreement, the application of the transitional rules are based on the date that the new agreement is entered into. Reference should be made to GST/HST Policy Statement P-249, *Agreements and Novation*.

If a purchaser and a builder renegotiate the terms of a written agreement of purchase and sale for new housing, that was entered into on or before April 6, 2010, and enter into a new agreement after April 6, 2010, the transitional rules will apply based on the date that the parties enter into the new agreement.

16. After entering into a written agreement of purchase and sale on February 5, 2010 for a newly constructed house that is to be built on lot 22, the purchaser and the builder renegotiate the terms of the agreement on April 15, 2010, such that the house will now be built on lot 8 as opposed to lot 22. Ownership and possession of the house transfer to the purchaser under this new agreement on July 15, 2010. Does the HST apply at 15% to the sale of the house?

Yes. The HST applies at 15% to the sale of the house since the written agreement of purchase and sale for the house is entered into after April 6, 2010 and both ownership and possession of the house are transferred under the agreement after June 2010. The transitional rules are applied based on the new agreement entered into on April 15, 2010 in respect of the house to be constructed on lot 8.

17. A builder constructs a detached house on leased land. A written agreement for the sale of the building part of the house and a lease of the land on which the building is situated is entered into on February 15, 2010. Construction of the house is substantially complete on August 1, 2010 the same day that possession of the house is given to the purchaser. Does the HST apply at 13% or 15%?

Even though the builder is deemed to have made a self-supply of the house on August 1, 2010, the builder will account for the HST at 13%, calculated on the fair market value of the house (building and land) on that date, as the agreement for the sale of the building part of the house and a lease of the land part of the house was entered into on or before April 6, 2010.

New housing rebates

18. Does a new housing rebate continue to be available for the federal and provincial parts of the HST paid at 15%?

The GST/HST new housing rebate in respect of the federal part of the HST and the Nova Scotia new housing rebate in respect of the provincial part of the HST continue to be available. However, administration of the Nova Scotia new housing rebate is transferring from the Canada Revenue Agency (CRA) to Service Nova Scotia and Municipal Relations. The GST/HST new housing rebate in respect of the federal part of the HST paid on the house continues to be administered by the CRA. The remaining questions and answers in this section provide additional information with respect to when the Nova Scotia new housing rebate should be filed with Service Nova Scotia and Municipal Relations.

Rebate for owner-built homes

19. I am building a new house that I will use as my primary place of residence, and am eligible to claim the Nova Scotia new housing rebate. Who will administer my rebate application: the CRA or Service Nova Scotia and Municipal Relations?

The transitional measures in place for the administration of the Nova Scotia new housing rebate for owner-built homes are based on the date on which the rebate application is filed.

Nova Scotia new housing rebate applications for owner-built homes are to be submitted to the CRA where the application for the rebate is filed before July 1, 2010.

Where the Nova Scotia new housing rebate application for an owner-built home is filed on or after July 1, 2010, the rebate application in respect of the provincial part of the HST paid is to be submitted to Service Nova Scotia and Municipal Relations. In this case, the claimant must complete the rebate application provided by Service Nova Scotia and Municipal Relations. The GST/HST new housing rebate application in respect of the federal part of the HST paid is to be submitted to the CRA.

Administrative information for the Nova Scotia new housing rebate is available at the following link:
www.gov.ns.ca/snsmr/access/land/first-home-buyers-rebate.

20. I am eligible to file a GST/HST new housing rebate and a Nova Scotia new housing rebate in respect of an owner-built home I recently constructed. Do I file both rebate applications with the CRA, or the GST/HST new housing rebate application with the CRA and the Nova Scotia new housing rebate application with Service Nova Scotia and Municipal Relations?

Since you are filing the rebate applications after July 1, 2010, you will file Form GST191, *GST/HST New Housing Rebate Application for Owner-Built Houses*, and Form GST191-WS, *Construction Summary Worksheet*, with the CRA and the Nova Scotia new housing rebate application with Service Nova Scotia and Municipal Relations. More information with respect to the application that must be completed and sent to Service Nova Scotia and Municipal Relations is available at: www.gov.ns.ca/snsmr/access/land/first-home-buyers-rebate.

Rebate for new housing purchased from a builder

21. I am buying a new house from a builder, and will be eligible to claim the Nova Scotia new housing rebate. Who will administer my rebate application: the CRA or Service Nova Scotia and Municipal Relations?

The transitional measures for the administration of the Nova Scotia new housing rebate for the purchase of new housing are based on the date on which you and the builder enter into the written agreement of purchase and sale. (Note: If you and the builder sign the written agreement of purchase and sale on different dates, for purposes of applying the transitional rules, the agreement is considered to be entered into on the date of the last signature of a party (i.e., you or the builder) to the written agreement.)

WRITTEN AGREEMENTS OF PURCHASE AND SALE ENTERED INTO ON OR BEFORE APRIL 6, 2010

Where a written agreement of purchase and sale for the sale of new housing together with land, the sale of new housing together with leased land, or the acquisition of new housing through the purchase of qualifying shares of a housing co-operative, as the case may be, is entered into on or before April 6, 2010, Nova Scotia new housing rebate applications in respect of the provincial part of the HST, i.e., Form RC7190-NS, *GST190 Nova Scotia Rebate Schedule*, are to be submitted to the CRA together with the GST/HST new housing rebate in respect of the federal part of the HST i.e., Form GST190, *GST/HST New Housing Rebate Application for Houses Purchased from a Builder*. This is the case regardless of when ownership or possession of the housing, ownership of the share, or possession of the housing on leased land, are transferred.

WRITTEN AGREEMENTS OF PURCHASE AND SALE ENTERED INTO AFTER APRIL 6, 2010

Where the written agreement of purchase and sale for the sale of new housing together with land, the sale of new housing together with leased land, or the acquisition of new housing through the purchase of qualifying shares of a housing cooperative, as the case may be, is entered into after April 6, 2010, and ownership **or** possession of the housing, ownership of the share, or possession of the housing on leased land are **transferred before July 1, 2010**, Nova Scotia new housing rebate applications are to be submitted to the CRA. In this case, Form GST190, *GST/HST New Housing Rebate Application for Houses Purchased from a Builder*, and Form RC7190-NS, *GST190 Nova Scotia Rebate Schedule*, must be completed and submitted to the CRA.

Where the written agreement of purchase and sale for the sale of new housing together with land, the sale of new housing together with leased land, or the acquisition of new housing through the purchase of qualifying shares of a housing cooperative, as the case may be, is entered into after April 6, 2010 and **both** ownership and possession of the housing, ownership of the share, or possession of the housing on leased land are **transferred on or after July 1, 2010**, Nova Scotia new housing rebate applications in respect of the provincial part of the HST must be submitted to Service Nova Scotia and Municipal Relations. In this case, to claim the GST/HST new housing rebate in respect of the federal part of the HST, Form GST190, *GST/HST New Housing Rebate Application for Houses Purchased from a Builder*, must be completed and submitted to the CRA.

Administrative information for the Nova Scotia new housing rebate, including information with respect to the application that must be completed and sent to Service Nova Scotia and Municipal Relations is available at: www.gov.ns.ca/snsmr/access/land/first-home-buyers-rebate

22. Is a builder still able to pay or credit the amount of the Nova Scotia new housing rebate to the purchaser at the time of purchase?

Where a Nova Scotia new housing rebate application is required to be submitted to Service Nova Scotia and Municipal Relations in accordance with the rules set out above, the builder cannot pay or credit the rebate in respect of the provincial part of the HST to the purchaser at the time of purchase.

However, builders continue to have the option of paying or crediting the applicable GST/HST new housing rebate in respect of the federal part of the HST. Builders may price their sales of newly constructed or substantially renovated housing net of the applicable GST/HST new housing rebate in respect of the federal part of the HST for agreements of purchase and sale entered into after April 6, 2010. GST/HST Info Sheet GI-087, *Harmonized Sales Tax: Stated Price Net of GST/HST Rebates in Nova Scotia*, explains how to determine the consideration payable on newly constructed or substantially renovated housing in Nova Scotia where the builder's price includes the HST at 15% and is net of the GST/HST new housing rebate in respect of the federal part of the HST.

23. Are there any other changes to any of the Nova Scotia new housing rebates?

Nova Scotia new housing rebate factors for sales of new housing together with leased land and sales of qualifying shares of a housing cooperative have been adjusted from 1.39% to 1.31%, although the maximum rebate amount will remain unchanged at \$1,500.

24. A written agreement of purchase and sale for a new house is entered into with a builder in March 2010. Ownership and possession of the house transfer under the agreement on July 15, 2010. The purchaser is eligible for both the GST/HST new housing rebate and the Nova Scotia new housing rebate. Are the rebates applications to be filed with the CRA or with Service Nova Scotia and Municipal Relations? Is the builder able to pay or credit the amount of both rebates to the purchaser?

As the written agreement of purchase and sale was entered into on or before April 6, 2010, both the GST/HST new housing rebate and the Nova Scotia new housing rebate applications i.e., Form GST190, *GST/HST New Housing Rebate Application for Houses Purchased from a Builder*, and Form RC7190-NS, *GST190 Nova Scotia Rebate Schedule*, are to be filed with the CRA, regardless of when ownership and possession of the house are transferred. Subject to the normal conditions, the builder is able to pay or credit the amount of both the GST/HST new housing rebate in respect of the federal part of the HST and the Nova Scotia new housing rebate in respect of the provincial part of the HST to the purchaser. Where the builder pays or credits the total amount of the new housing rebate, the builder would submit the application, including the Nova Scotia rebate schedule, to the CRA.

25. A written agreement of purchase and sale for a new house is entered into on April 20, 2010. Ownership and possession of the house transfer under the agreement on June 30, 2010. The purchaser is eligible for both the GST/HST new housing rebate and the Nova Scotia new housing rebate. Are the rebates applications to be filed with the CRA or with Service Nova Scotia and Municipal Relations? Is the builder able to pay or credit the amount of both rebates to the purchaser?

Both the GST/HST new housing rebate and the Nova Scotia new housing rebate applications i.e., Form GST190, *GST/HST New Housing Rebate Application for Houses Purchased from a Builder*, and Form RC7190-NS, *GST190 Nova Scotia Rebate Schedule*, are to be filed with the CRA. Where the written agreement of purchase and sale is entered into after April 6, 2010, and either ownership or possession of the new housing (in this case both) transfers before July 1, 2010, both the GST/HST new housing rebate application and the Nova Scotia rebate

schedule are to be filed with the CRA. Subject to the normal conditions, the builder is able to pay or credit the amount of both the GST/HST new housing rebate in respect of the federal part of the HST and the Nova Scotia new housing rebate in respect of the provincial part of the HST to the purchaser. Where the builder pays or credits the total amount of the new housing rebate, the builder would submit the application, including the Nova Scotia rebate schedule, to the CRA.

26. A written agreement of purchase and sale for a new house is entered into on April 20, 2010. Ownership and possession of the house transfer under the agreement on July 20, 2010. The purchaser is eligible for both the GST/HST new housing rebate and the Nova Scotia new housing rebate. Are the rebate applications to be filed with the CRA or with Service Nova Scotia and Municipal Relations? Is the builder able to pay or credit the amount of both rebates to the purchaser?

As the written agreement of purchase and sale was entered into after April 6, 2010 and both ownership and possession of the house transfer on or after July 1, 2010, the GST/HST new housing rebate application in respect of the federal part of the HST is to be filed with the CRA while the Nova Scotia new housing rebate in respect of the provincial part of the HST is to be filed with Service Nova Scotia and Municipal Relations. Subject to the normal conditions, the builder is able to pay or credit only the amount of the GST/HST new housing rebate to the purchaser. The builder cannot pay or credit the amount of the Nova Scotia new housing rebate to the purchaser.

Administrative information for the Nova Scotia new housing rebate, including information with respect to the application that must be completed and sent to Service Nova Scotia and Municipal Relations is available at: www.gov.ns.ca/snsmr/access/land/first-home-buyers-rebate.

Application of the HST to new rental housing

27. What is a “self-supply” of rental housing?

A builder of newly constructed or substantially renovated rental housing, including single unit residential complexes, residential condominium units and multiple unit residential complexes (e.g., traditional apartment buildings) or additions thereto, who makes a supply by way of lease of the complex or condominium unit—or in the case of a multiple unit residential complex or addition thereto, a unit in the complex or addition—for use by an individual as a place of residence is considered for GST/HST purposes to have sold and repurchased (self-supplied) the housing.

The self-supply generally occurs at the later of the time construction or substantial renovation of the residential complex is substantially complete and the time possession or use of the complex is given under a lease to an individual who is the first to occupy it as a place of residence. In the case of a multiple unit residential complex or an addition thereto, the self-supply occurs at the later of the time construction or substantial renovation of the complex or addition is substantially completed and the time possession or use of a unit in the complex or addition is given to an individual who is the first to occupy the unit in the complex or addition as a place of residence.

The builder is considered to have paid and collected the GST/HST on the self-supply, calculated on the fair market value of the unit, complex or addition, as the case may be, including the building and the land reasonably necessary for the use of the housing as a place of residence for individuals.

For more information on the self-supply of rental housing, see GST/HST Guide RC4052, *GST/HST Information for the Home Construction Industry*.

28. How does the HST rate increase apply to the self-supply of rental housing in Nova Scotia?

If the self-supply occurs before July 2010, the builder is considered to have paid and collected the HST at 13% on the self-supply.

If the self-supply occurs after June 2010, the builder is generally considered to have paid and collected the HST at 15% on the self-supply – see the exception in the section above on grandparented sales of housing.

The HST (at 13% or 15%) is calculated on the fair market value of the housing (building and related land) at the time of the self-supply.

29. I am the builder of a traditional apartment building in Nova Scotia. Construction of the apartment building is substantially completed in June 2010, and under a lease, possession of a unit in the apartment building is given to an individual on July 1, 2010. The individual is the first to occupy a unit in the building as a place of residence. Do I account for the HST at 13% or 15% on the self-supply?

You are considered to have paid and collected the HST at 15% on the self-supply of the apartment building. As the self-supply occurs at the later of the time construction of the apartment building is substantially completed and the time possession or use of a unit in the apartment building is first given to an individual as a place of residence, the self-supply in this case occurs on July 1, 2010 at which time the HST applies at 15%. The HST is calculated on the fair market value of the apartment building (i.e., building and land) at that time.

30. I am the builder of a duplex. On June 1, 2010, under a lease agreement, I give possession of one of the units in the duplex to an individual who is the first to occupy a unit in the duplex as a place of residence. Construction of the duplex is substantially completed on June 15, 2010. Under a lease, I give possession of the other unit in the duplex on August 1, 2010, to an individual who occupies it as a place of residence. Do I account for the HST at 13% or 15% on the self-supply?

You are considered to have paid and collected the HST at 13% on a self-supply of the entire duplex (i.e., building and land). The self-supply occurs on June 15, 2010 (i.e., the later of the time construction of the duplex is substantially completed and the time possession of a unit is first given to an individual for use as a place of residence). As such, the HST applies at 13% on the self-supply.

31. I am leasing an apartment and I am not required to pay HST on my lease payments. Following the HST rate increase to 15%, am I required to pay HST on my lease payments?

No, long-term residential rents are exempt from the GST/HST.

Builders' disclosure requirements

32. What are the disclosure requirements for builders under the transitional rules for the HST rate increase in respect of sales of newly constructed or substantially renovated housing in Nova Scotia?

If a written agreement of purchase and sale for a newly constructed or substantially renovated residential complex is entered into after April 6, 2010, and before July 1, 2010, and the sale is subject to the HST at 15%, the builder is required to disclose in the written agreement the total tax payable on the sale in a manner that clearly indicates that total and whether that amount is net of the GST/HST new housing rebate amount, in respect of the federal part of the HST, that was paid or credited by the builder to the purchaser, if applicable. Alternatively, the builder can indicate that the HST at 15% is payable in respect of the supply of the complex.

If the transaction is subject to the HST at 15% and the builder is required to collect the tax payable on the sale (i.e., the purchaser is not required to account for the tax directly to the Receiver General), but the builder did not make the disclosures as outlined above, the builder is deemed to have collected the HST at the rate of 15% and

is required to remit tax on that basis. The purchaser is **not** liable to pay the additional 2% HST in addition to the price stated in the agreement.

33. I am the builder of a new house in Nova Scotia. In June 2010 I entered into a written agreement of purchase and sale with an individual. In accordance with the agreement, ownership and possession transfer to the individual on August 15, 2010. The purchaser agreed to pay me \$350,000 for the house, and this amount is identified as the sale price in the agreement. The written agreement states that the price includes the HST, but doesn't specify which HST rate applies. I was not sure that the purchaser qualifies for the GST/HST new housing rebate, so I instructed the individual to make their application directly to the CRA. If the sale is subject to HST at 15%, can I collect the additional 2% provincial part of the HST from the purchaser?

The sale of the house is not a grandparented sale, so the HST applies at 15%. However, because you are liable to collect the tax payable on the sale and the written agreement of purchase and sale does not clearly disclose the total tax payable or that the HST at 15% applies to the sale, you are considered to have collected the HST at 15% as follows:

$$\$350,000 \times 100/115 \times 15\% = \$45,652.17$$

You are required to report and remit the tax of \$45,652.17 that you are deemed to have collected. The purchaser is not liable to pay the additional 2% HST in addition to the price stated in your agreement.

For more information as to the circumstances under which the vendor is not required to collect the GST/HST payable on a taxable sale of real property, see GST/HST Memorandum 19.1, *Real Property and the GST/HST*.

Non-residential real property

Sales of non-residential real property

34. Does the HST apply at 15% to taxable sales of non-residential real property in Nova Scotia?

Effective July 1, 2010, the HST at 15%, composed of a federal part at 5% and a provincial part at 10%, applies to a taxable sale of non-residential real property in Nova Scotia.

However, transitional rules apply to determine which HST rate (13% or 15%) applies to transactions that straddle the July 1, 2010 implementation date.

35. When does the HST apply at 15% to a taxable sale of commercial real property in Nova Scotia?

The HST applies at 15% to a taxable supply of real property by way of sale where, under a written agreement for the supply, both ownership and possession of the property are transferred to the purchaser on or after July 1, 2010.

36. When does the HST apply at 13% to a taxable sale of commercial real property in Nova Scotia?

Where, under a written agreement for the supply, either ownership or possession (or both) of the real property transfers to the purchaser before July 2010, the HST applies at 13% to the sale.

37. A person that is registered for the GST/HST purchases a commercial building in Nova Scotia that is fully leased to retail tenants. The person enters into the written agreement of purchase and sale in March 2010 and, under the agreement, ownership and possession transfer to the person in August 2010. At what tax rate is the person required to report and pay the tax payable on the purchase?

Since both ownership and possession of the commercial real property transfer on or after July 1, 2010, the person is required to report and pay the HST at 15% on the purchase.

If either ownership or possession of the commercial real property transfers to the person, under the agreement, before July 1, 2010, the person would be required to report and pay the HST at 13% on the purchase.

38. I am an individual selling personal use vacant land in Nova Scotia and, prior to the rate increase, the sale was exempt from the HST. Is the purchaser required to pay HST at 15% if ownership and possession of the land are transferred after June 2010?

There are no changes to the application of the GST/HST where the sale of the property is exempt from the HST. Generally, the sale of vacant land in these circumstances is exempt pursuant to Part I of Schedule V to the *Excise Tax Act*.

39. A person that is registered for GST/HST purposes constructs and sells commercial properties in Nova Scotia in the course of its commercial activities. The person previously claimed ITCs for the HST paid at 13% on construction inputs. Is the person entitled to claim ITCs for the HST paid or payable at 15% on its construction inputs?

Generally, yes. The person is entitled to claim ITCs on its regular GST/HST return to recover the HST paid or payable (at 13% or 15% as the case may be) on operating expenses and on most purchases of construction inputs used to construct the commercial properties, subject to the normal conditions. For example, the person may claim ITCs for the HST paid or payable on:

- a lease of commercial real property for use as an office and for storage of equipment and materials;
- building materials;
- plumbing and electrical subcontracts;
- inspection services; and
- legal and accounting services.

40. A GST/HST registrant paid the HST that was payable at the rate of 13% on the purchase of a commercial building in Nova Scotia. If the return for the reporting period in which tax becomes payable is due after July 1, 2010, can the registrant claim an ITC at the 15% rate or are they restricted to the 13% rate?

The registrant's ITC entitlement is limited to the HST paid or payable on the purchase (in this case, the HST paid at 13%).

41. I am purchasing vacant land from a developer. In June 2010, I take possession under the written agreement of purchase and sale for the land, although title will not transfer to me until July 5, 2010. Does the HST apply at 15% to the sale?

No. Since possession of the land transfers to you, under the written agreement, before July 2010, the HST applies at 13 % to the sale.

42. I entered into a written agreement of purchase and sale in March 2010 for the taxable sale of commercial real property in Nova Scotia. Ownership and possession of the property do not transfer under the agreement until July 2010. Is the sale of the real property subject to the HST at 15%?

Yes. As both ownership and possession of the real property transfer, under the written agreement, after June 2010, the HST applies at 15% to the sale. For sales of real property other than housing, the date that the agreement of purchase and sale is entered into does not affect the rate at which the HST applies. In other words, there is no grandparenting provision for sales of non-residential real property as there is for certain sales of new housing.

43. I am an individual purchasing vacant land in Nova Scotia from a developer to build a home for my family. Ownership and possession of the land will transfer to me in August 2010. Does the HST apply at 15% to the sale?

Yes. Since both ownership and possession of the vacant land transfer to you after June 2010, the HST applies at 15% to the sale, regardless of when you entered into the agreement of purchase and sale for the vacant land. The fact that you are building a home on the vacant land does not affect the rate at which the HST applies. However, you may be entitled to recover some of the HST paid by way of a GST/HST new housing rebate and a Nova Scotia new housing rebate. For information on the Nova Scotia new housing rebate for owner-built houses, see the section above on new housing rebates.

44. I am making a taxable sale of commercial real property in Nova Scotia to a corporation that is registered for GST/HST purposes. Ownership and possession of the property transfer after June 2010. Do I have to collect the HST on the sale?

No. While the sale is subject to the HST at 15%, since the corporation (i.e., the recipient) is registered for the GST/HST, the corporation is required to include the amount of the HST payable on the sale of the real property in its GST/HST return if the property is to be used primarily in its commercial activities. Otherwise, the corporation is required to report the HST payable on Form GST60, *GST/HST Return for Acquisition of Real Property*.

Leases of non-residential real property

General rules

45. Does the HST at 15% apply to taxable leases of non-residential real property in Nova Scotia?

The HST at 15% generally applies to a taxable lease of non-residential real property for a lease interval, or any part of a lease interval, that occurs on or after July 1, 2010.

Transitional rules are used to determine which HST rate (13% or 15%) applies to transactions that straddle the July 1, 2010 implementation date.

46. A charity leases real property in Nova Scotia to a tenant and the lease is exempt from the GST/HST. Is the lease of the property exempt under the HST at 15%?

Yes. The lease of the real property is exempt and the charity would not be required to charge or collect the HST. There are no changes to the application of the GST/HST where the lease of the property is exempt.

47. A landlord owns a shopping mall in Nova Scotia and leases space within the mall to retailers. The landlord is registered for GST/HST purposes and previously claimed ITCs for the HST it paid at 13% on various business expenses, e.g., maintenance and repair services. Is the landlord entitled to claim ITCs for the HST paid or payable at 15% on such expenses? Is a retailer, who is registered for GST/HST purposes, entitled to claim ITCs for the HST paid or payable at 15% on the lease payments?

Generally, yes. Both the landlord and the retailer are entitled to claim ITCs to recover the HST paid or payable (at 13% or 15%, as the case may be) on the acquisition of property and services for consumption, use or supply in the course of their respective commercial activities. The landlord and the retailer claim ITCs on GST/HST returns.

Rate increase – Transitional rules for the lease of real property

The transitional rules for the application of the HST rate increase for the lease of real property are based on:

- the lease interval; and
- when consideration for the supply of the real property becomes due or is paid without having become due.

48. What is a “lease interval”?

For GST/HST purposes, a lease interval is a period of time during which a person has the right to possess or use property and to which a payment under a lease is attributable. For example, if a nightly rate is used for a hotel stay, each night is considered to be a lease interval for GST/HST purposes; if a lease requires a tenant to make monthly lease payments, each month is considered to be a lease interval.

49. When, for GST/HST purposes, does consideration for the lease become due?

For GST/HST purposes, if the supply of property by way of lease is made under a written agreement, consideration becomes due on the day the lessee is required to pay the consideration under the agreement. In this case, the day the supplier issues an invoice for the consideration payable under the written agreement is irrelevant for purposes of determining when the consideration becomes due.

In the case of a supply of property by way of lease, where the supply is **not** made under a written agreement, consideration or a part thereof for the supply becomes due on the earliest of the following days:

- the day the supplier first issues an invoice for the consideration or part;
- the date of that invoice; and
- if there is an undue delay in issuing that invoice, the day the supplier would have issued the invoice.

50. When, for GST/HST purposes, is consideration viewed as being paid without having become due?

For GST/HST purposes, in the case of a written agreement for a supply made by way of lease, consideration is paid without having become due when the lessee pays the consideration before the lessee is required to pay it under the written agreement.

51. What are the transitional rules for taxable leases of commercial real property in Nova Scotia with respect to the HST rate increase?

LEASE INTERVAL BEGINS BEFORE JULY 2010 AND ENDS BEFORE JULY 31, 2010

The HST does not apply at 15% to a taxable lease of non-residential real property if the lease interval begins before July 2010 and ends before July 31, 2010. The HST applies at 13% to the lease payment for that interval, regardless of when the payment is made or becomes due.

Otherwise, the following rules apply, based on the **earlier** of the date the consideration for the lease becomes due and the date the consideration is paid without having become due.

LEASE PAYMENT DUE OR PAID WITHOUT HAVING BECOME DUE ON OR BEFORE APRIL 6, 2010

The HST does not apply at 15% to a taxable lease of real property where the payment becomes due, or is paid without having become due, on or before April 6, 2010, even if the payment pertains to a lease interval, or portion of a lease interval, that occurs on or after July 1, 2010. The HST applies at 13% to the payment.

LEASE PAYMENT DUE OR PAID WITHOUT HAVING BECOME DUE AFTER APRIL 6, 2010 AND BEFORE MAY 2010

Persons who are not consumers – such as businesses and public service bodies – may be required to self-assess the additional 2% provincial part of the HST on consideration that becomes due, or is paid without having become due, after April 6, 2010 and before May 1, 2010 for a taxable lease of commercial real property, to the extent that the payment is attributable to a lease interval, or any part of a lease interval, that occurs on or after July 1, 2010. (This rule does **not** apply to a lease interval that begins before July 2010 and ends before July 31, 2010.)

The requirement to self-assess (i.e., account for tax themselves rather than paying tax to the supplier) the additional 2% tax on the lease of real property generally applies only to:

- non-consumers who acquire the property for consumption, use or supply otherwise than exclusively in the course of their commercial activities (e.g., a business that is making GST/HST exempt supplies, such as a dental practice or financial institution);
- non-consumers who use simplified methods to calculate their net tax (e.g., certain charities, public service bodies, and small businesses); and
- selected listed financial institutions that use a special attribution method to determine their net tax.

Persons liable to self-assess the additional 2% provincial part of the HST under this rule and who are GST/HST registrants are required to account for the tax in their GST/HST return for the reporting period in which the tax becomes payable. In any other case, the person must account for the tax on Form GST489, *Return for Self-Assessment of the Provincial Part of Harmonized Sales Tax (HST)*, which must be filed together with the payment by the end of the month following the calendar month in which the tax becomes payable.

LEASE PAYMENT DUE OR PAID WITHOUT HAVING BECOME DUE ON OR AFTER MAY 1, 2010 AND BEFORE JULY 2010

Generally, the HST applies at 15% to any lease payment that becomes due, or is paid without having become due, on or after May 1, 2010 and before July 2010, to the extent that the lease payment is attributable to a lease interval, or any part of a lease interval, that occurs on or after July 1, 2010. (This rule does **not** apply to a lease interval that begins before July 2010 and ends before July 31, 2010.) The lessor is required to account for the HST at 15% in its GST/HST return under the normal rules. If eligible, a lessee is entitled to claim any corresponding ITC in its GST/HST return for the reporting period in which the tax becomes payable (or is paid without having become payable).

LEASE PAYMENT DUE OR PAID WITHOUT HAVING BECOME DUE ON OR AFTER JULY 1, 2010

Generally, the HST applies at 15% to any lease payment that becomes due, or is paid without having become due, on or after July 1, 2010, to the extent that the lease payment is attributable to a lease interval, or any part of a lease interval, that occurs on or after July 1, 2010. However, the HST at 15% does not apply to a lease payment for a lease interval that begins before July 2010 and ends before July 31, 2010; such a payment is subject to the HST at 13%.

52. I lease warehouse space in Nova Scotia from a GST/HST registered person and the supply of the space is subject to the HST. The lease payments are due, in advance, on the first day of each month. I pay the lease payments on the same day they become due. Which monthly lease payment is the first payment on which I have to pay the HST at 15%?

The first lease payment that is subject to the HST at 15% is the lease payment that becomes due and is paid on July 1, 2010 for the lease interval July 1, 2010 to July 31, 2010. The HST also applies at 15% to all subsequent lease payments.

53. I work downtown and I rent a parking space from the operator of a parking lot that is located in Halifax near my work. The operator of the parking lot is registered for GST/HST purposes. At the beginning of each month, I pay the operator \$150.00 to park on the lot during that month. Does the HST apply at 15% to these payments?

The HST applies at 15% to the payment you make on July 1, 2010 for the month of July and on all subsequent payments for parking.

54. I have a licence to use real property in Nova Scotia for the period of June 15, 2010 to July 15, 2010. The person supplying the licence is registered for the GST/HST and the licence is taxable for GST/HST purposes. The payment for the licence is due and paid on June 15, 2010. Is any part of the payment subject to the HST at 15%?

No. As the licence period begins before July 2010 and ends before July 31, 2010, the HST at 15% does not apply to the payment. Rather, the HST at 13% applies.

55. I entered into a lease agreement in March 2010 for the taxable lease of commercial real property in Nova Scotia. The term of the lease commences July 1, 2010, and requires monthly lease payments, payable in advance, on the first of the month beginning July 1, 2010. I take possession of the property under the lease on July 1, 2010, and make the lease payment for the month of July on that date. Will the lease of the real property be subject to the HST at 15%?

Yes. Regardless of when the parties entered into the lease agreement and when possession is given, since each lease payment becomes due on or after July 1, 2010, is not paid before that date, and is wholly attributable to a lease interval after June 2010, all of the lease payments are subject to the HST at 15%.

56. I lease real property in Nova Scotia from a GST/HST registered person from June 1 to July 31, 2010. The lease is subject to the HST and the lease payment for the two-month period (the lease interval) is due and paid on June 1, 2010. Is any part of the lease payment subject to the HST at 15%?

Yes, part of the lease payment is subject to the HST at 15%. The lease payment becomes due during the period on or after May 1, 2010 and before July 2010 and part of the payment is attributable to a period that occurs on or after July 1, 2010. Although the lease interval begins before July 2010, it ends on (and not before) July 31, 2010. Accordingly, the HST applies at 15% to the portion of the lease payment that is attributable to the month of July and the HST applies at 13% to the remaining portion. The lessor must account for the HST in its GST/HST return for the reporting period that includes June 1, 2010. If eligible, you are entitled to claim any corresponding ITC in your GST/HST return for the reporting period that includes June 1, 2010.

57. A GST/HST registered landlord receives a prepayment of rent on May 10, 2010 for a taxable lease of real property in Nova Scotia. The amount of the prepayment did not become due before that date and is not a deposit. The term of the lease is from July 1, 2010 to December 31, 2010. When would the landlord be required to report the additional 2% provincial part of the HST that applies to the prepayment? If eligible, when is the tenant entitled to claim an ITC for the additional 2% provincial part of the HST?

Since the prepayment is paid without having become due during the period on or after May 1, 2010 and before July 2010 and is wholly attributable to a period beginning on July 1, 2010, the HST applies at 15% to the prepayment. The landlord is required to account for the 15% HST collectible on the prepayment in the landlord's GST/HST return for the reporting period that includes May 10, 2010 (the date the tax became payable). If eligible, the tenant is entitled to claim any corresponding ITC for the HST at 15% in its GST/HST return for the reporting period that includes May 10, 2010.

58. I am a sole proprietor who leases pasture land in Nova Scotia from a grazing association every year for six months from April 15 through October 14. The lease of the land is subject to the HST. I am engaged exclusively in commercial activities and the land is for use in those activities. One lease payment is due and made on April 15 of each year for the six-month period. Is the association required to collect the HST at 15% on the lease payment I make on April 15, 2010?

No. As the lease payment becomes due and is paid during the period after April 6, 2010, and before May 2010, the association is not required to collect HST at the rate of 15%, but is required to collect HST at the rate of 13%. As you are a non-consumer who is acquiring the land exclusively for use in your commercial activities, you are not required to self-assess the additional 2% provincial part of the HST on the lease payment made on April 15, 2010, provided you are not using a simplified method to calculate your net tax. Lease payments that become due and are paid on April 15 of subsequent years, however, are subject to the HST at 15%.

59. On April 15, 2010, the operator of a daycare centre in Nova Scotia enters into a written agreement to lease an area in a building and will use the area in the course of making exempt supplies. The lease payment of \$10,000 is payable and paid by the operator on April 15, 2010, and covers the lease interval of April 15 to September 14, 2010. The lease of the property is subject to the HST. The daycare operator is not registered for GST/HST purposes. Is the daycare operator required to self-assess the additional 2% provincial part of the HST for any portion of the lease payment?

Yes. The lease payment becomes due and is paid during the period after April 6, 2010, and before May 2010. Therefore, given that the operator of the daycare is leasing the area in the building for use in the course of making exempt supplies, the operator must self-assess the additional 2% provincial part of the HST for the part of the lease payment that is attributable to the portion of the lease interval beginning on July 1, 2010. The operator is required to self-assess the additional 2% provincial part of the HST calculated on the part of the lease payment that is attributable to the period that begins on July 1, 2010 and ends on September 14, 2010 and account for this additional tax on Form GST489, *Return for Self-Assessment of the Provincial Part of Harmonized Sales Tax (HST)*, which must be filed by May 31, 2010.

60. On April 20, 2010, a small business using the Quick Method of accounting to calculate its net tax for GST/HST purposes enters into a licence to use real property in Nova Scotia for the period May 1, 2010 to August 31, 2010. Payment for the licence is due and paid on April 20, 2010. The person supplying the licence is registered for the GST/HST and the licence is subject to the HST. The small business uses the space exclusively in the course of its commercial activities. The business files quarterly GST/HST returns. Is any part of the payment subject to the HST at 15%?

Yes, although the person supplying the licence is only required to collect the HST at the rate of 13% on the payment by the small business. The payment for the licence becomes due and is paid during the period after April 6, 2010 and before May 2010. Even though the business uses the property exclusively in commercial activities, it uses a simplified method for calculating net tax and therefore is required to self-assess the additional 2% provincial part of the HST on the part of the payment that is attributable to the portion of the lease interval beginning on July 1, 2010. The small business is required to account for the additional 2% provincial part of the HST in its GST/HST return for the quarterly reporting period that includes April 20, 2010.

61. The operator of a trailer park in Nova Scotia, who is a GST/HST registrant, leases a site in the park to an individual for the individual's personal use. The lease payment is subject to the HST and is due April 15, 2010 for the six-month period from May 1, 2010 to October 31, 2010. The lease payment is not paid before it becomes due. Is the operator required to collect HST at the rate of 13% or 15%? Is the individual required to self-assess the additional 2% provincial part of the HST?

Given that the lease payment becomes due during the period after April 6, 2010 and before May 2010, the trailer park operator is required to collect the HST at the rate of 13%, rather than 15%, on the payment. Furthermore, given that the individual is a consumer, the individual is not required to self-assess the additional 2% provincial part of the HST.

62. A supplier who is a GST/HST registrant leases a moorage site in Nova Scotia to an individual for the individual's personal use. The lease payment is subject to the HST and is due on May 1, 2010, for the six-month period from May 1, 2010 to October 31, 2010. The individual paid the amount of the lease payment on April 15, 2010. Is the supplier required to collect the HST at 13% or 15%? Is the individual required to self-assess the additional 2% provincial part of the HST?

The supplier is required to collect the HST at 13% rather than 15%, and the individual is not required to self-assess the additional 2% provincial part of the HST. The transitional rules apply based on the earlier of the date the lease payment becomes due and the date the lease payment is paid without having become due. Although the lease payment becomes due on or after May 1, 2010 and before July 2010, the payment by the individual is paid without becoming due on April 15, 2010, which is after April 6, 2010 and before May 2010. As such, the supplier is not required to collect the HST at 15% for any part of the lease payment that is attributable to a portion of the lease interval occurring on or after July 1, 2010. Nor is the individual required to self-assess

the additional 2% provincial part of the HST for any portion of the lease payment, because the individual is a consumer using the property for their personal consumption, use or enjoyment.

63. The operator of a trailer park in Nova Scotia, who is a GST/HST registrant, leases a site in the park to an individual for the individual's personal use. The lease payment is subject to the HST and is due on May 1, 2010 for the six-month period from May 1, 2010 to October 31, 2010. The individual's lease payment was not made until May 10, 2010. Is the supplier required to collect the HST at 15% on any part of the lease payment? If not, is the individual required to self-assess the additional 2% provincial part of the HST?

As the lease payment becomes due on or after May 1, 2010 and before July 2010 and is not paid before that time, the trailer park operator is required to collect the HST at 15% on that part of the lease payment that is attributable to the portion of the lease interval that occurs on or after July 1, 2010 (i.e., July 1, 2010 to October 31, 2010) and the HST at 13% on the remaining part of the payment. The trailer park operator must account for the HST in its GST/HST return for the reporting period that includes May 1, 2010 (the date the tax became payable by the individual).

Progress Payments

A contract between a supplier and a recipient for the construction, renovation, alteration or repair of real property, or a ship or other marine vessel, will often call for the recipient to make payments as work on the project progresses. These payments, referred to as progress payments, are not deposits. Usually the payments are for work completed at the time the payment is made or becomes due, although they can also be made in anticipation of work being completed.

Generally, the GST/HST becomes collectible on each progress payment on the earlier of:

- the day the purchaser pays the progress payment; and
- the day the progress payment becomes due.

See GST/HST guide RC4052, *GST/HST Information for the Home Construction Industry*, for more information on progress payments.

64. Which HST rate (13% or 15%) applies to progress payments made for the construction of real property in Nova Scotia?

The HST applies at 13% to a progress payment made under a contract to construct, renovate, alter or repair (hereafter referred to as "construct") real property or a ship or other marine vessel where the progress payment becomes due or is paid before May 1, 2010, regardless of when property is delivered or services are performed.

The HST also applies at 13% to a progress payment that becomes due or is paid on or after May 1, 2010, to the extent that the payment can reasonably be attributed to property delivered or services performed before July 2010.

The HST applies at 15% to a progress payment that becomes due or is paid on or after May 1, 2010, to the extent that the progress payment relates to property delivered, or services performed, on or after July 1, 2010.

In each case, the supplier is required to account for the applicable HST (at 13% or 15% as the case may be) in its GST/HST return for the reporting period in which the tax becomes payable. If eligible, the recipient is entitled to claim any corresponding ITC in its GST/HST return for the reporting period in which the tax becomes payable or is paid without becoming payable.

65. On January 15, 2009, a person entered into a contract to construct a six storey building in Nova Scotia. Construction began on July 1, 2009 and is expected to be completed on August 15, 2010. A progress payment is due on July 5, 2010, for the work completed up until the end of June 2010. Does the HST apply at 15% to any portion of the progress payment?

No. Although the progress payment becomes due on July 5, 2010, the payment is wholly attributable to property delivered and services performed before July 2010. As such, the HST applies at 13% to the progress payment.

66. On March 10, 2010, a person entered into a contract to construct a parking garage in Nova Scotia. Construction began on July 1, 2010, and is expected to be completed on October 1, 2010. A progress payment is due on August 1, 2010, for the work completed up until the end of July 2010. Does the HST apply at 15% to any portion of the progress payment?

Yes. The HST applies at 15% to that part of the progress payment that is attributable to property delivered and services performed on or after July 1, 2010. The HST applies at 13% to that part of the progress payment that can reasonably be attributed to property delivered or services performed before the construction actually began on July 1, 2010.

67. My company is renovating a house in Nova Scotia and the first three progress billings are due as follows: \$20,000 on April 15, 2010; \$15,000 on June 1, 2010; and \$10,000 on August 1, 2010. All payments are made on the date they become due. The agreement for the renovation was entered into on November 1, 2009. Does the HST apply at the rate of 13% or at the rate of 15% to these progress payments?

The date the agreement is entered into by the parties does not affect the application of the HST (13% or 15%) to progress payments.

The HST applies at 13% to the \$20,000 progress payment made on April 15, 2010, because the progress payment became due before May 1, 2010. This is the case regardless of when property or services to which the progress payment relates are delivered or performed.

The HST applies at 15% to the progress payments that become due on or after May 1, 2010 (i.e., to the progress payments on June 1 and August 1, 2010), to the extent that they are attributable to property delivered or services performed on or after July 1, 2010.

If 40% of the \$15,000 progress payment (i.e., \$6,000) payable on June 1, 2010 is reasonably attributable to property delivered and services performed before July 2010, HST applies at 13% to that part of the payment (HST = 13% of \$6,000 = \$780). The remaining 60% of the \$15,000 progress payment (i.e., \$9,000) payable on June 1, 2010 is reasonably attributable to property delivered and services performed on or after July 1, 2010; therefore, the HST applies at 15% to 60% of the payment (HST = 15% of \$9,000 = \$1,350).

If the \$10,000 progress payment payable on August 1, 2010 is wholly attributable to property delivered and services performed on or after July 1, 2010, the HST applies at 15% to the entire payment. Otherwise, the HST applies at 13% to the part of the progress payment that is reasonably attributable to property delivered and services performed before July 1, 2010.

Your company is required to account for the HST collectible on each progress payment in its GST/HST return for the reporting period in which the payment is paid or becomes due.

Holdbacks

In some situations, in accordance with federal or provincial law or a written agreement for the construction of real property or a ship or other marine vessel, the recipient of a supply may keep a part of a payment as a holdback pending satisfactory completion of the work. The GST/HST on the amount of the holdback becomes collectible by the contractor on the earlier of:

- the day the purchaser pays the contractor the amount of the holdback; and
- the day the holdback period expires pursuant to the written agreement or applicable legislation.

The GST/HST is collectible by the contractor on the earlier of the above dates even if the contractor has already issued an invoice for the holdback amount and charged the GST/HST on this amount.

68. How does the HST rate increase apply to holdbacks for the construction of real property or a ship or other marine vessel in Nova Scotia?

A holdback in respect of a progress payment will be treated in the same manner as the progress payment to which the holdback relates.

As a result, holdbacks from progress payments are subject to the HST at 13% to the extent that the progress payment to which the holdback relates can reasonably be attributed to property delivered or services performed before July 2010. This is the case even if the holdbacks become due or are paid on or after July 1, 2010.

The HST applies at 15% to a holdback to the extent that the progress payment to which the holdback relates can reasonably be attributed to property delivered or services performed on or after July 1, 2010.

69. On August 1, 2010, a final progress payment of \$25,000 less a holdback amount is due for the construction of a house on land owned by an individual. It is determined that 70% of the progress payment is reasonably attributable to property delivered and services performed on or after July 1, 2010. In accordance with the written contract for the construction of the house, the individual only pays \$5,000 and keeps \$20,000 (10% of the \$200,000 value of the contract) as a holdback pending satisfactory completion of the work. Does the HST apply at 15% to any part of the holdback amount?

Yes, the HST applies at 15% to a part of the holdback amount. Since 70% of the progress payment is reasonably attributable to property delivered and services performed after June 2010, 70% of the progress payment of \$5,000 is subject to the HST at 15%. The HST applies at 13% to 30% of the \$5,000 progress payment. Given that the holdback is retained from the final progress payment of \$25,000, HST applies at the rate of 15% to 70% of the holdback amount (i.e., 70% of \$20,000 = \$14,000). The HST on the holdback is \$2,880, being the total of \$780 (i.e., 13% of \$6,000) plus \$2,100 (i.e., 15% of \$14,000). The HST on the holdback is payable on the earlier of the day the purchaser pays the holdback amount and the day the holdback period expires pursuant to the written agreement or applicable legislation.

Deposits

Deposits given in respect of a supply are not consideration for a supply unless and until the supplier applies the deposit as consideration for the supply or the deposit is forfeited. Generally, a deposit is an amount, whether or not refundable, given by a recipient as security for the performance of an obligation by the recipient. A deposit is not a prepayment. An indication of whether an amount is a deposit or a prepayment of consideration for a supply may be determined by reference to how the supplier accounts for the receipt of funds in its books and records. An amount paid to a person as a deposit would generally not be recorded in the person's books and records as revenue until such time that the person applies the amount as a payment or the amount is forfeited.

70. I made a deposit before May 2010 for the use of a hotel room in Nova Scotia in August 2010. The hotel applies the deposit as a payment on my account on check out. Does the HST apply at the rate of 15% to my deposit?

The deposit is not applied as consideration for the supply until you check out of the hotel in August 2010. As a result, the HST at 15% applies to the supply calculated on the total amount paid or payable (including the amount of the deposit) for the supply. If the deposit is forfeited in August 2010, the supplier would have to account for the HST at 15%, calculated as included in the amount of the deposit.

Enquiries by telephone

Questions relating to the Nova Scotia new housing rebate that is administered by Service Nova Scotia and Municipal Relations:
1-800-670-4357

General enquiries on the GST/HST: 1-800-959-5525 (Business Enquiries)

Other questions relating to this notice or technical enquiries on the GST/HST: 1-800-959-8287

If you are located in Quebec: 1-800-567-4692 (Revenu Québec)

All technical publications on GST/HST are available on the CRA Web site at www.cra.gc.ca/gsthstech.