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notes from the desk of... Dianne Moscrip

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The GST and Real Estate – what we need to know government relations

On July 1, 2006, the GST rate decreased to 6%. What are the implications for the sale of real property? Members learned details from Ian Torgerson and Mel Bellefontaine of the Canada Revenue Agency (CRA), guest speakers at the Vancouver Westside division seminar on the GST and real estate, June 27, 2006. Guest speakers explained that the 6% GST applies to real property including: bare land; residential real property such as single family, duplex, townhouse and residential condominium units, cottages, mobile, modular and floating homes; and commercial buildings, mixed commercial/residential, farmland.

New residential property

GST is charged on the sale of all new residential property except property that has been: previously occupied as a place of residence; or sold by an owner-builder.

Substantially renovated housing

The CRA treats property that has been substantially renovated - 90% or more of the original structure must be replaced - as new property under the GST. If you or your client are unsure, the CRA can review your case.

New Housing Rebate

Your client may qualify for a GST rebate if the market value of the new home is less than \$450,000 and purchased from a builder. Only one rebate per property is allowed and the rebate must be claimed within two years from the date of purchase. The rebate is 36% of the tax paid on the first \$350,000 and is phased out for new houses priced \$350,000 to \$450,000. For transactions closed before July 1, 2006 the maximum New Housing Rebate is \$8,750. On or after July 1, 2006, the maximum is \$7,560.

FOR YOUR INFORMATION..



Four rules to remember

Pre-May 3, 2006 contract / Pre-July 1, 2006 possession and ownership: where a written agreement to purchase a new home was signed before May 3, 2006 and either possession or ownership transfers to the purchaser before July 1, 2006, the 7% GST rate applies.

Pre-May 3, 2006 contract / Post-June 30, 2006 possession and ownership: when a written agreement to purchase a new home was signed before May 3, 2006 and possession and ownership transfer after June 30, 2006, the purchaser will pay 6% GST, after claiming the Transitional Rebate.

Post-May 2, 2006 contract / Pre-July 1, 2006 possession and ownership: when a written agreement to purchase a new home was signed after May 2, 2006 and either possession or ownership transfers before July 1, 2006, the 7% GST rate applies.

Post May 3, 2006 contract / Post June 30, 2006 possession and ownership: when a written agreement to purchase •••• **1. 2. 3. 4.** a new home was signed after May 2, 2006 and possession and ownership transfer after June 30, 2006, the 6% GST rate applies.

Transitional Rebate

The Transitional Rebate applies to contracts entered into before May 3, 2006 and when possession and ownership transfer is on or after July 1, 2006. The purchaser still pays the 7% GST under the contract, but can separately claim the Transitional Rebate which will be 1% of the purchase price. The purchaser claiming a Transitional Rebate can also claim a New Housing Rebate on homes priced \$450,000 or less. After receiving the New Housing Rebate, the purchaser's net GST burden is less than 7% on the property and an adjustment is made to the Transitional Rebate. Therefore, when the purchaser receives a New Housing Rebate, the Transitional Rebate is actually less than 1% of the purchase price of the new property.

Assignment of contracts

The assignment of a contract to purchase new housing to a second purchaser is considered to be a new agreement. Where a purchase agreement is assigned on or after May 3, 2006 and possession and ownership under the new agreement transfer on or after July 1, 2006, the 6% GST rate applies.

Renegotiated contracts

You may not renegotiate a contract only to take advantage of the GST rate reduction from 7% to 6%. Where contracts are legitimately renegotiated after May 2, 2006, the contract is not considered to be a new contract and therefore the purchaser can still claim the Transitional Rebate if possession and ownership is on or after July 1, 2006.

Commissions

The GST chargeable on the real estate commission follows the GST rate that applies to the property transaction. This is because the commission is earned at the time the deal closes, which typically coincides with the transfer of possession or ownership of the property. Transfer date before July 1, 2006, the GST on the commission is 7%. Transfer date on or after July 1, 2006, the GST on the commission is 6%. If you are unsure about any issues or details pertaining to the GST and you want personal advice, phone the Canada Revenue Agency at **1-800-959-8287** for a GST ruling.

Sources: Darren Taylor, CA, BDO Dunwoody LLP, *REBGV Fact Sheet: 1% GST Rate Reduction: Residential Property Highlights for Realtors*. Ian Torgerson and Mel Bellefontaine, Canada Revenue Agency, *GST Rulings, Welcome to the GST Real Estate Board Seminar* (June 27, 2006) You can download the above sources and *CREA's Revised GST Guide* from the REBGV homepage on www.realtorlink.ca. ••