



HST to PST: Transition Rules for Real Property

A printable version of information found online at:

www.bcrea.bc.ca/government-relations/hst-pst-resources/pst-transition-rules

Last update: April 10, 2014

On April 1, 2013, the Harmonized Sales Tax (HST) was replaced by the federal Goods and Services Tax (GST) and the BC Provincial Sales Tax (PST).

The following questions and answers are intended to provide clarity regarding sales of **new housing** at a high level. For advice about specific transactions and situations, BCREA suggests individuals seek legal and/or accounting advice, as appropriate.

For more information, see:

- Canada Revenue Agency GST/HST Notices:
 - 270, "Elimination of the HST in British Columbia in 2013 – Questions and Answers" (February 2012): www.cra-arc.gc.ca/E/pub/gi/notice270/notice270-e.html
 - 272, "Proposed Enhancements to the British Columbia New Housing Rebates and New Residential Rental Property Rebates" (March 2012): www.cra-arc.gc.ca/E/pub/gi/notice272/notice272-e.html
 - 276, "Elimination of the HST in British Columbia in 2013 – Transitional Rules for Real Property Including New Housing" (May 2013): www.cra-arc.gc.ca/E/pub/gi/notice276/notice276-e.html
 - Canada Revenue Agency GST/HST Info Sheet GI-156, "Elimination of the Harmonized Sales Tax in British Columbia: British Columbia Transition Tax on New Housing" (March 2013): www.cra-arc.gc.ca/E/pub/gi/gi-156/gi-156-e.pdf

As details are finalized, this page will be updated with the latest information.

Frequently Asked Questions - PST Transition Rules

1. Why are transition rules necessary?

Transition rules determine whether 12% HST or 5% GST will apply to new housing contracts that start before April 1, 2013, but conclude on or after this date. Both the federal and provincial governments administer their own set of transition rules.

2. When does HST apply, and when does GST apply?

HST applies if tax becomes payable before April 1, 2013.

GST applies where tax becomes payable after March 31, 2013. In addition, the BC transition tax may then apply where construction or substantial renovation is at least 10% complete on April 1, 2013.

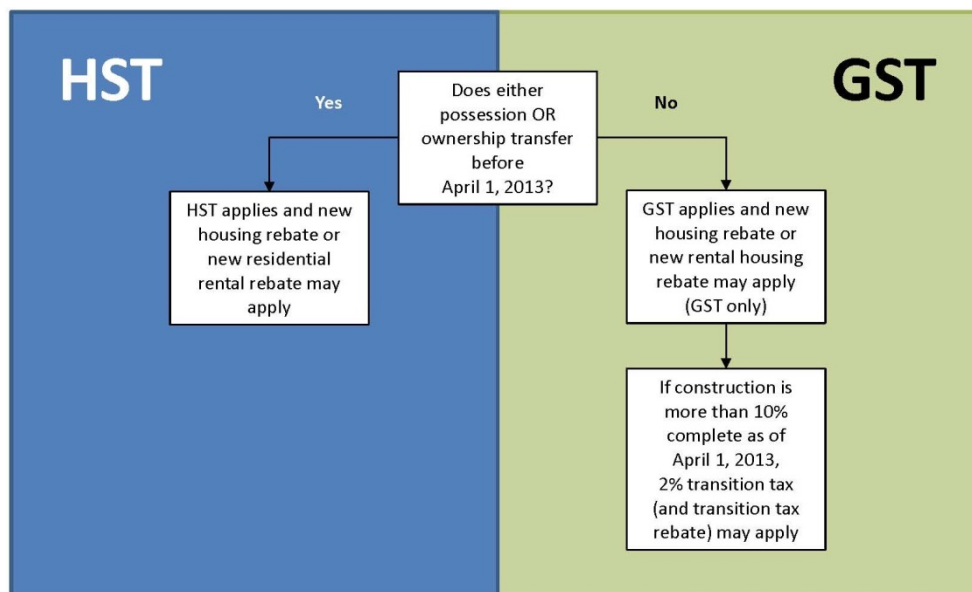
3. Generally, when does the tax become payable?

Except for the sale of certain residential strata units, the tax is payable on the earlier of the following dates:

- when the seller transfers ownership (also known as the completion date) of the new home to the buyer, **OR**
- when the seller transfers possession of the new home to the buyer under the Contract of Purchase and Sale.

In summary:

The 12% HST applies if the seller transfers either possession or ownership of a new home to the buyer <u>before April 1, 2013</u> .	The 5% GST applies if the seller transfers both possession and ownership of a new home <u>on, or after, April 1, 2013</u> .
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4. Generally, when does the tax become payable when the transaction involves a strata unit?

The general tax payable rule will apply for stratas except where the strata plan hasn't been registered as a condominium by the date possession is transferred. The tax payable is then based on the earlier of the following dates:

- when the seller transfers ownership (also known as the completion date), **OR**
- 60 days following the date the strata plan is registered.

5. Who will be responsible for paying the GST?

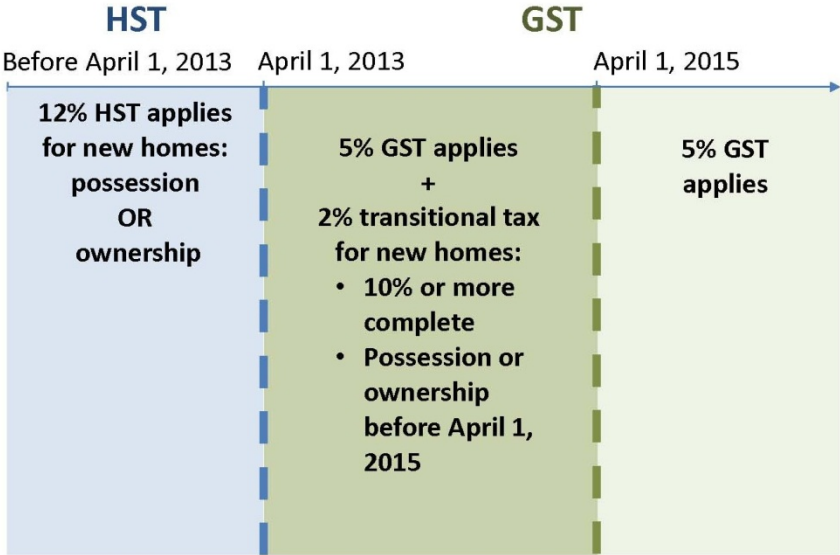
As was the case prior to the implementation of the HST, the seller is responsible for charging GST on the sale to the buyer, and must then collect and remit the tax to the Canada Revenue Agency (CRA).

6. Does the PST apply to real property?

No. HST will generally cease to apply on the purchase of new housing as of April 1, 2013, even if the Contract of Purchase and Sale was signed or new home construction started before April 1, 2013, provided neither possession nor ownership transfer before April 1, 2013. However, the provincial government may collect a temporary transition tax of 2% if certain conditions are met.

7. How does the temporary transition tax work?

- A temporary transition tax of 2% may apply on the purchase price of a new home where:
- o HST does not apply to the sale (that is, GST applies because tax is payable on or after April 1, 2013), the construction or substantial renovation of the new housing is at least 10% complete before April 1, 2013, and
 - o either ownership or possession of the new housing transfers, or a deemed sale of the new housing (for example, a self-supply of an owner-built rental unit) transfers before April 1, 2015.



The temporary transition tax does not apply to vacant land, mobile homes that aren't affixed to land, floating homes, or to sales of new commercial units.

8. How can I determine the percentage of completion of a new home?

See the following Canada Revenue Agency GST/HST Info Sheet: GI-105, "How to Determine the Percentage of Completion for Purposes of the Provincial Transitional New Housing Rebates and the Transitional Tax Adjustment in Ontario and British Columbia" (July 2010): www.cra-arc.gc.ca/E/pub/gi/gi-105/gi-105-e.html.

Note that the determination of the percentage of completion of the construction or substantial renovation doesn't take into consideration the cost of the land upon which the complex is situated, because land is generally not regarded as being constructed or renovated.

9. Will the transition tax apply more than once to a particular property?

No. The BC transition tax applies only once to the sale of new housing or to the sale of a particular interest in the new housing, and not to subsequent sales.

10. Who pays the temporary transition tax?

The BC transition tax is payable by the buyer and collected by the seller on the same date the GST becomes payable. The seller is responsible to collect and remit the tax to the CRA. Buyers may wish to ensure that an appropriate allocation of the BC transition tax and BC transition rebate is factored into negotiations between the buyer and seller.

11. How does the temporary transition tax work when the transaction involves a strata unit?

The general temporary transition tax conditions are applicable to sales of strata units; that is, HST doesn't apply, construction is 10% or more complete before April 1, 2013 and possession or ownership transfers before April 1, 2015.

Again, if the strata plan is not registered by the date possession is transferred, the temporary transition tax is payable on the earlier of the following dates:

- o when the seller transfers ownership (also known as the completion date), **OR**
- o 60 days following the date the strata plan is registered.

12. Are there any rebates for sellers related to the temporary transition tax?

Yes, a transition rebate is available to recognize that a seller will not be able to claim input tax credits on PST paid on construction materials acquired after March 31, 2013. The rebate is available where the following conditions are met:

- o the BC transition tax applies to the sale of new housing,
- o the PST has been paid on 90% or more of the PST-taxable materials incorporated into the housing after March 2013,
- o the BC transition tax has been reported and remitted, **AND**
- o construction or substantial renovation is 90% or less complete, before April 1, 2013.

The transition tax rebate for new housing will be calculated on the degree of completion of the housing as of April 1, 2013:

Degree of construction complete as of April 1, 2013	Transition tax rebate as a percentage of consideration or fair market value
Less than 25 per cent	1.5 per cent
Equal to or greater than 25 per cent and less than 50 per cent	1.0 per cent
Equal to or greater than 50 per cent and less than 75 per cent	0.5 per cent
Equal to or greater than 75 per cent and not more than 90 per cent	0.2 per cent
Greater than 90 per cent	0.0 per cent

For more information, see the Canada Revenue Agency’s GST/HST Info Sheet GI-157, “Elimination of the Harmonized Sales Tax in British Columbia: British Columbia Transition Rebate for Builders of New Housing” (March 2013): www.cra-arc.gc.ca/E/pub/gi/gi-157/gi-157-e.html.

13. How will the transition affect the way I prepare or counter a standard form Contract of Purchase and Sale?

The BC government has introduced disclosure requirements for builders (i.e., sellers) during the transition period to clarify the taxes and rebates that are included in the sale price stated in the Contract of Purchase and Sale.

Agreements entered into from December 1, 2012 to March 31, 2015 must contain the following prescribed information:

- the value of consideration (i.e., purchase price), disclosure of whether tax is inclusive or exclusive of the price, and a breakdown identifying the amount and rate of each tax and/or rebate where applicable;
- a statement that discloses whether or not the seller is a foreign supplier (essentially, a “foreign supplier” is not resident of Canada); and
- if the seller is not a foreign supplier, then the following Notice to Purchaser “If (a) both ownership and possession of newly constructed or substantially renovated housing transfer on or after April 1, 2013 and (b) either ownership or possession of the housing transfer before April 1, 2015, then
 - the 7% provincial component of the HST and the BC HST new housing rebate for primary places of residences will not apply,
 - the 2% BC transition tax may be payable by the buyer, and
 - the supplier may be eligible for a BC transition rebate in respect of the housing.

NOTE: An alternate Notice to Purchaser is required where the seller is a foreign supplier.

Buyers may wish to ensure that an appropriate allocation of the temporary transition tax and transition tax rebate is factored into negotiations between the buyer and seller.

To facilitate the disclosure of this required information, REALTORS® have available through WEBForms® the following addendums for use with the Contract of Purchase and Sale (CPS) during the transition period:

- BC2064 Rev. 5 Apr 2013 - CPS New Home Addendum (Seller is a Foreign Supplier) before April 1, 2015
- BC2061 Rev. 5 Apr 2013 - CPS New Home Addendum (Seller is Not a Foreign Supplier) before April 1, 2015

Two guides, "Contracts of Purchase and Sale - New Home Addendums" and "Contracts of Purchase and Sale - New Home Addendums - BC Transition Tax," are also available on WEBForms® to help REALTORS®.

For examples of builder information requirements, see the Canada Revenue Agency GST/HST Info Sheet GI-132: Elimination of the HST in British Columbia: Builder Information Requirements for the Transition Period" (December 2012): www.cra-arc.gc.ca/E/pub/gi/gi-132/gi-132-e.html.

NOTE: Special rules apply where agreements were entered into prior to November 18, 2009 and/or construction/substantial renovation of homes began before July 2010 and ownership and possession will transfer after April 1, 2013.

14. What methods can be used to provide the buyer with the addendum?

There are four acceptable delivery methods:

- in person,
- courier or registered mail,
- fax, or
- any other means, including email, if written confirmation of receipt by the buyer or the buyer's agent is obtained.

15. Is there a penalty for builders who don't make the required disclosures during the transition period?

Yes. A penalty of up to \$10,000 per home (or one per cent of the purchase price) can be imposed on a builder who fails to fully and accurately disclose the required information. In the case of a builder who knowingly makes a false statement, a penalty of up to four per cent of the purchase price may be imposed, to a maximum of \$40,000 per home.

16. Does the PST apply to real estate commissions?

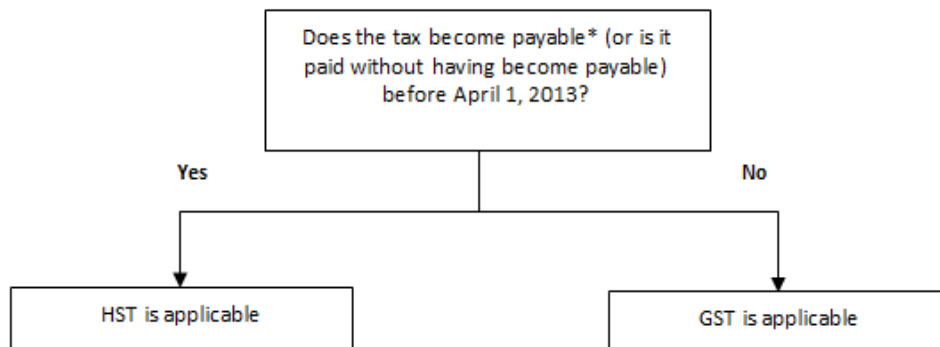
No. If the commission is payable before April 1, 2013, then it is subject to 12% HST. Conversely, if the commission is payable on or after April 1, 2013, then the 5% GST applies.

This change to the sales tax applicable to real estate commissions affects all real estate commissions, whether earned in connection with the sale of new homes, bare land or previously occupied residential property.

17. When does commission become payable?

The standard Multiple Listing Contract provides that a commission is payable on the earlier of the following:

- o completion date under the Contract of Purchase and Sale, **OR**
- o the actual date that the sale completes.



18. For pre-sales, where 50% of the commission (and 50% of the applicable tax on commission) has already been paid by the developer to the REALTOR®, but the sale won't complete until April 1, 2013 or later, what tax rate applies on the remaining commission?

Assuming the developer who paid the first 50% of the commission before April 1, 2013 specifically identified the HST when the payment was made, the REALTOR® must submit the tax that was paid in their GST/HST return that covers the date in which the payment was made. When the developer pays the remaining 50% commission on or after April 1, 2013, only 5% GST applies on that portion.

If no tax was paid by the developer (that is, the payment was a deposit) on the first 50% of the commission, which was paid to the REALTOR® before April 1, 2013, and the remaining commission is payable on or after April 1, 2013, then 5% GST is payable on the entire amount of commission.

If a particular situation differs from the scenarios outlined above, then BCREA recommends an individual or company seek specific tax or legal advice.

19. Are there any special rules for commercial property?

No, though the PST will not apply to commercial leases (that is, on and after April 1, 2013, only 5% GST will apply to commercial leases). For general application of the GST/HST to commercial real property sales and rentals, see this document: www.cra-arc.gc.ca/E/pub/gm/19-4-1/19-4-1-e.pdf.