

## REAL ESTATE & CONSTRUCTION

# Don't Flip Out

## Understanding GST/HST Housing Rebates

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There's no question about it, seasoned real estate investors and those new to the scene must consider many factors prior to purchasing a property, ranging from the type of investment (personal purchase, flip/assignment, rental, etc.) to location. Of all considerations, the most influential is often the cost of the acquisition which includes much more than the price of the asset itself. Legal, accounting, land transfer tax, realtor and bridging fees add up quickly, but the largest contributor is likely GST/HST. With rates ranging between five and 15% depending on the province, it should come as no surprise that GST/HST is among the highest additional costs associated with acquiring new and substantially renovated homes and condos.

To relieve some of the GST/HST burden of such purchases, the Canada Revenue Agency (CRA) introduced rebates that can substantially reduce the amount of tax paid.

### GST/HST housing rebates from 30,000 feet

For the uninitiated, a brief overview of GST/HST and housing may be helpful. In the world of GST/HST, real estate is referred to as "real property" and, where certain conditions are met, houses and condos are referred to as "residential complexes". Used residential complexes are often exempt of GST/HST, that is, the vendor does not collect GST/HST on the sale to the purchaser and the purchaser is not required to self-assess. However, new or substantially renovated residential complexes are taxable for GST/HST purposes. If you are buying a new residential complex from a builder, the builder will collect the GST/HST at the time of sale. The CRA provides relief of a portion of the tax collected by the builder in the form of rebates; namely the New Housing Rebate (NHR) and the New Residential Rental Property Rebate (NRRPR). The rebates are divided into two components, federal and provincial. If the property is in a GST province (Alberta, BC, etc.), you concern yourself only with the federal rebate typically calculated as 36% of the 5% GST on properties valued \$350,000 or less. The federal component of the rebate is phased out on a sliding scale for properties valued between \$350,000 and \$450,000. If the residential complex exceeds \$450,000, there is no federal rebate available. If the property is in an HST province (Ontario, New Brunswick, etc.), there is an additional rebate of the provincial component equal to 75% of the tax that is capped depending on the province (e.g., in Ontario the provincial portion of the rebate is capped at \$24,000). Unlike the federal component, the provincial component is not subject to the phase out rule.

Examples are always helpful. If I buy a new residential complex in Ontario that is correctly valued at \$340,000 and I meet the criteria that allow me to claim the NHR, I would be eligible for a federal rebate of \$6,120 and a provincial rebate of \$20,400; a recovery of \$26,520 of the \$44,200 HST owed on the purchase. Hardly chump change. In the case of an NHR, most purchasers sign over the rebate to the builder and only pay the net amount of GST/HST.

### NHR vs NRRPR

So which rebate, if any, applies to your purchase, the NHR or the NRRPR? Subject to other conditions, the NHR applies to an individual that acquires a new residential complex as a primary residence of that individual or a relative of that individual. If you are buying an investment property, this rebate does not apply to you.

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The NRRPR is generally available to buyers that intend to rent out the residential complex on a long-term basis (periods of greater than 30 days). Like the NHR, there are additional conditions. Most notably, the property must be rented out for more than one year and the rebate cannot be signed over to the builder, it must be claimed by the purchaser. For builders, ensuring your purchasers confirm in writing how they intend to use the home or condo is critical to avoiding future issues with CRA. Having an NHR assigned to a builder where the purchaser intends to rent the property has many potential consequences to all parties.

Regardless of which rebate you claim, there is a two year window in which you can make the claim. However, the CRA is not restricted to that two year limit for assessing errors related to rebate claims. Therefore, if an NHR is incorrectly claimed in place of an NRRPR and the error is identified following the close of the rebate claim period, in my example above, I have now lost \$26,520 plus interest and penalties with no means of applying for the correct rebate as the filing period has elapsed. Knowing which rebate applies and when is essential as, by the time you find out your error, the CRA may be in a position to demand repayment of the rebate plus interest and penalties.

### Planning to flip?

Flipping also has significant GST/HST consequences. If you have been purchasing new homes and/or condos for years or are a first-time investor note that you are not eligible for the rebates discussed above and likely have GST/HST collection responsibilities. To the extent that you assign the property to another purchaser prior to close, it is the CRA's view that both the markup and deposit originally paid to the builder are taxable for GST/HST purposes. Alternatively, where you sell the new home or condo subsequent to close without occupying it, you may now be considered the builder of the property in the CRA's view and you must collect GST/HST on the sale. In such a circumstance, your purchaser may still be eligible for one of the rebates discussed earlier.

Where you flip a residential complex using one of the above methods, registering for GST/HST must be addressed prior to entering into the transactions to allow for refunds of GST/HST on your inputs and to avoid costly assessments by the CRA or voluntary disclosures.

### Getting it right

Ensuring the GST/HST on your real estate investment is handled correctly can prevent a lot of heartache later. Taking the time to understand the workings of your transaction and how GST/HST applies can help keep the thrill of investing in real estate alive and the frustration of large dollar assessments at bay.

**To learn more about how BDO can help your real estate and construction company with these and other challenges, contact your local BDO office.**



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