

# THE NEW HOME HST REBATE – BEWARE THE TRAPS FOR THE UNWARY

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## **The New Home HST Rebate**

In Ontario, the purchase of a new (or substantially renovated) house or condominium (collectively a "**Home**") is subject to Harmonized Sales Tax ("**HST**"). However, a new Home buyer may be entitled to claim a rebate in respect of some portion of the federal and provincial portions of the HST (the "**New Home Rebate**"), which rebate will often be worth tens of thousands of dollars for new Home buyers.

Generally, an eligible new Home buyer can claim a rebate for 36% of the federal portion (5%) of the HST paid on a new Home with a pre-tax price less than or equal to \$350,000. Where the pre-tax price is more than \$350,000, but less than \$450,000, the rebate for the federal portion of the HST is gradually clawed back and no rebate is available where the purchase price is more than \$450,000. The maximum rebate for the federal portion of the HST is \$6,300.

In addition, an eligible new Home buyer can also claim a rebate of 75% of the Ontario portion (8%) of the HST. Although this rebate is available for all Homes, regardless of their purchase price, it is capped at a maximum rebate of \$24,000.

Typically, the New Home Rebate is assigned to the builder of the new Home, who credits the buyer with the amount of the rebate, if available, so that the buyer does not need to pay the full amount of HST at closing.

## **Potential Traps for the Unwary**

While the New Home Rebate provides significant HST relief to many new Home buyers, buyers need to be aware that the New Home Rebate is not always available to them. Furthermore, unless they satisfy the detailed eligibility criteria, they may not be entitled to claim the New Home Rebate, resulting in a surprise HST bill at closing if the builder refuses to credit the buyer with the amount of the rebate. Otherwise, if the buyer's rebate claim is subsequently challenged by the CRA, they could be assessed by the Canada Revenue Agency not only for the amount of the disallowed rebate, but also for potential interest and penalties thereon.

Although a detailed review of the eligibility criteria for the New Home Rebate is beyond the scope of this article,

the following are common situations where a new Home buyer may not be eligible for the New Home rebate:

- a. The buyer has purchased the Home with the intention of flipping it;<sup>[1]</sup>
- b. The buyer purchases the Home to use as a rental property;
- c. Someone other than the buyer, or a "relation" of the buyer (including parents, grandparents, children, grandchildren, spouses and siblings, but not uncles, aunts nieces, nephews and cousins), first occupies the Home; and
- d. Title to the home is put in the name of someone other than the buyer (often where a lender requires a third-party co-signer for a mortgage, they will also insist that such third party be added to the title of the Home).

In some cases, where the New Home Rebate is not available, the buyer may be entitled to claim a different rebate. For example, a buyer who buys a Home as a rental property may be entitled to claim a similar landlord rebate for new residential properties, although they will typically be required to pay the full amount of the HST at closing and claim a rebate directly from the CRA.

In any event, before buying a new Home, buyers should consult with their advisors to ensure that they will be eligible for the New Home Rebate.

by Carl Irvine and Jamie Wilks

<sup>1</sup> In this case, buyers should also be alert to the income tax implications of the purchase and sale of their Home. [ps2id id='1' target='']

### **A Cautionary Note**

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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