Canada's enhanced GST Rental Rebate for new rental construction projects

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On Sept. 14, 2023, the federal government announced that it will introduce an enhanced Goods and Services Tax (GST) Rental Rebate on new rental construction projects. The Department of Finance released a backgrounder providing policy details on the newly proposed GST Rental Rebate for new purpose-built rental construction projects. Draft legislation released on Sept. 21, 2023, confirms that the GST relief measure will be available for purpose-built rental projects if "construction begins" after Sept. 13, 2023, and on or before Dec. 31, 2030, and is substantially completed by or on Dec. 31, 2035.

What you need to know

- Government announced an enhanced 100 per cent GST Rental Rebate for new residential rental developments projects with a minimum of four apartments. Enhanced GST rebate also applies to conversions from non-residential to residential use properties but is not available to renovations of existing residential complexes.
- Available to new projects beginning Sept. 14, 2023, to Dec. 31, 2030, and completed before Dec. 31, 2035.
- Enhanced GST rental rebate only applies to the 5 per cent federal GST. The provincial component of the HST (*e.g.*, 8 per cent in Ontario) continues as is. To be determined whether the harmonized provinces (*e.g.*, Ontario) will match the federal government's enhanced GST rental rebate with an enhanced rental rebate on the provincial portion of the HST.

Existing GST rental rebate

Builders of residential rental buildings are currently required to "self-assess" and pay GST/HST on the fair market value of new or substantially renovated units. The GST/HST paid on self-assessment is a significant cost to a developer of new residential rental housing as it must be paid upfront with no entitlement to input tax credits (ITCs) which are generally available to other commercial operators.

Residential rental rebate

Rather than claim ITCs, a qualifying residential landlord may claim a rebate equal to 36 per cent of the GST (or the federal component of the HST) self-assessed on qualifying residential units, up to a maximum rebate amount of $6,300 for each qualifying residential unit. Generally, a residential unit is a qualifying residential unit if its first use is as the primary place of residence of an individual. Under the current rules, the amount of the NRRP Rebate is phased out progressively when the fair market value of the qualifying residential unit exceeds $350,000. No NRRP Rebate is available for qualifying residential units with a fair market value exceeding $450,000. The NRRP Rebate available based on the fair market value of a qualifying residential unit is illustrated as follows:

- if the fair market value is $350,000 or less, a full NRRP Rebate of $6,300 is available.
- if the fair market value is $450,000 or more, no NRRP Rebate is available.
- if the fair market value is between $350,000 and $450,000, for example $420,000, a NRRP Rebate amount equal to $1,890 or 30 per cent of the full $6,300 rebate is available.

Enhanced GST rental rebate for new residential rental constructions

Enhanced GST rental rebates will increase the rebate and broaden its application on new rental construction projects by:

- Increasing of the existing NRRP Rebate from 36 per cent to 100 per cent, and
- Eliminating the existing GST phase-out thresholds for qualifying purpose-built rental housing projects. Currently, as mentioned above, no NRRP Rebate is available for any new residential rental property units exceeding $450,000.

The enhanced GST Rental Rebate is proposed to apply to projects that begin construction on or after Sept. 14, 2023, and before Dec. 31, 2030, and are completed before Dec. 31, 2035, in addition to satisfying other conditions.

The enhanced GST Rental Rebate will apply only to those new residential units that qualify for the existing NRRP Rebate and are in complexes with at least:

1. Four private apartment units (*i.e.*, a unit with a private kitchen, bathroom, and living areas) or at least 10 private rooms or suites (*e.g.*, a 10-unit residence for students, seniors, or people with disabilities); and,
2. Ninety per cent of residential units designated for long-term rental.

The new relief is also proposed to be available to conversions of non-residential real estate into residential complexes that meet the above conditions. However, the enhanced GST Rental Rebate will not apply to substantial renovations of existing residential complexes.

Provincial component of HST and provincial sales taxes

In its announcement, the federal government called on provinces that apply provincial sales taxes (PST) or the provincial component of the Harmonized Sales Tax (HST) to offer relief in line with the federal GST relief. Ontario currently provides a residential rental rebate up 75 per cent of the provincial component of the HST, up to $24,000. There is no claw back of the rebate based on the purchase price of the property. It is with great anticipation that we await the provinces response and whether they match the enhanced rental rebate.

Let BLG help you

The federal government's announcement does not provide any further guidance on the intended meaning of "projects that begin construction" as provided in the backgrounder and whether the enhanced GST Rental Rebate is intended to be available to projects with multiple phases, some of which may have begun construction prior on or prior to Sept. 13, 2023. Further, although the draft legislation confirms that the enhanced GST Rental Rebate is available if "construction begins" after Sept. 13, 2023, it does not address how the tax authorities will determine when construction will be considered to have begun. In the meantime, BLG can help you understand the implications of the proposed enhanced GST Rental Rebate to ongoing and future new residential rental construction projects.

If you have any questions or require more information, please reach out to any of the key contacts listed below.

By

Beverly Gilbert, Olivia Ruvo, Jingcai Ying

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Tax Disputes & Litigation, Commodity Tax

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BLG Offices

Calgary

Centennial Place, East Tower
520 3rd Avenue S.W.
Calgary, AB, Canada
T2P 0R3

T 403.232.9500
F 403.266.1395

Ottawa

World Exchange Plaza
100 Queen Street
Ottawa, ON, Canada
K1P 1J9

T 613.237.5160
F 613.230.8842

Vancouver

1200 Waterfront Centre
200 Burrard Street
Vancouver, BC, Canada
V7X 1T2

T 604.687.5744
F 604.687.1415

Montréal

1000 De La Gauchetière Street West
Suite 900
Montréal, QC, Canada
H3B 5H4

T 514.954.2555
F 514.879.9015

Toronto

Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada
M5H 4E3

T 416.367.6000
F 416.367.6749

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