TaxNewsFlash
Canada

Finance to Enhance GST Rebate for New Rental Apartments

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Builders may be eligible for a new temporary rebate that will essentially remove the GST (and federal portion of the HST) on qualifying new rental apartments. The new enhanced rebate, which is intended only to apply to certain new buildings started before 2031, essentially increases the GST rebate for certain newly built residential rental properties to 100% (from 36%) for qualifying buildings for which construction started after September 13, 2023.

Although draft legislation for this change has not yet been released, builders should review Finance's announcement to determine if any of their upcoming new rental developments may qualify for the proposed new enhanced GST rebate. Note that Finance's announcement does not appear to affect the current GST/HST rules for newly constructed qualifying buildings, such as input tax credit claims and the GST/HST self-assessment rules, and does not address the provincial component of the HST (or the QST).

Background
Builders who build and rent new residential rental properties are generally eligible to claim input tax credits for the GST/HST paid during the construction phases of these properties and are required to pay GST/HST on the fair market value of the properties at a particular time at the end of the construction. A builder may be eligible to claim the 36% GST New Residential Rental Property Rebate for qualifying units, subject to the phase-out thresholds per unit (e.g., a maximum $450,000 fair market value threshold) and various other conditions. Other rebates and rules may apply for the provincial component of the HST.

Currently, some builders are not eligible to claim the current GST New Residential Rental Property Rebate where the fair market value of these units is above the maximum $450,000 threshold.

Which units qualify for the rebate?

In its announcement, Finance states that the proposed enhanced GST rebate will apply to qualifying residential units in new purpose-built rental housing projects. Specifically, the enhanced rebate will apply to “qualifying residential units” (as defined in the Excise Tax Act) that are eligible for the current GST New Residential Rental Property Rebate and that are located in a qualifying building. Finance notes that qualifying residential units in apartment buildings, student housing, and senior residences built specifically for long-term rental accommodation may qualify for the rebate as long as:

- The building contains at least 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
- 90% of the building’s residential units are designated for long-term rental.

Finance also specifies that certain buildings will not qualify for the enhanced rebate, including single-unit housing, duplexes, triplexes and housing co-ops. Finance adds that some of the buildings excluded from the enhanced GST rebates may still be eligible for the current GST New Residential Rental Property Rebate if all the related conditions are met.

KPMG observations
Based on Finance’s announcement, it appears that a building of stratified units (i.e., condominiums) that is operated as a rental apartment will not qualify for the enhanced rebate. In addition, Finance has not yet provided details on how to calculate the 90% of residential units threshold (e.g., whether it is calculated based on the total number of units or total square footage of the building).

Although Finance indicates that public service bodies (PSBs) will be eligible to claim the enhanced GST rebate on qualifying projects, it appears that PSBs would have to qualify under the current GST New Residential Rental Property Rebate to be eligible for the enhanced GST rebate on qualifying projects, subject to all the other conditions. As a reminder, PSBs should carefully review the current GST legislation and the exceptions and special rules that may apply for certain buildings (e.g., student residence) before determining if a particular project may be eligible under the enhanced GST rebate.

Claiming the enhanced rebate

Essentially, the enhanced GST rebate will increase the current GST New Residential Rental Property Rebate to 100% (from 36%) and removes the phase-out fair market value thresholds for qualifying projects. The enhanced GST rebate will apply to a project that begins construction between September 14, 2023, and December 31, 2030, and that is completed construction by December 31, 2035, subject to other conditions.

KPMG observations
The announcement does not provide any further details on what "begins construction" means. This concept, which is not generally used in the GST/HST legislation except in coming into force clauses, could potentially refer to when the land is purchased, when the permits are approved, or when the first shovel hits the ground. The related draft legislation, which has not yet been released, may include anti-avoidance clauses that may limit transactions and certain changes aimed at qualifying certain projects.

It's also not yet clear how builders will actually claim the enhanced rebate, including whether the CRA will introduce a new rebate form or simply amend the current rebate application. The CRA may also further clarify whether builders will be entitled to apply the amounts of the enhanced GST rebate claimed against the self-assessed GST owing. More details on this issue may help builders determine their budgets and related costs pre-construction, since builders need to know if they will have to finance the cost of the self-assessed GST until the enhanced GST rebate claimed is processed.

Builders entitled to the rebate will still be subject to the self-assessment rules upon completion of construction, even if the tax self-assessed is later fully rebated. It remains to be seen whether the valuation disputes with CRA that can be common for self-assessment will be affected by the possibility of a full rebate payable at a later date.

Renovations and conversions

Builders should also determine whether a particular project may fall under certain exclusions noted in the announcement. For example, Finance has stated that the substantial renovations of an existing residential complex will not qualify for the enhanced GST rebate. However, a non-residential building, such as an office building, converted into a residential rental property may qualify for the enhanced GST rebate if the project also meets all the other rebate conditions.

We can help

Builders will have to carefully review all the conditions and the restrictions related the new temporary enhanced GST rebate and determine if their rental units and projects are eligible properties. Builders will also have to consider the consequences of any future sales of these buildings and whether such transactions may affect the claims of the temporary enhanced GST rebate. Your KPMG adviser can help you assess the application of the new temporary enhanced GST rebate. For more details, contact your KPMG adviser.

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