

6. GST ON SELF-SUPPLY OF RESIDENTIAL PROPERTY [§4.118]

Section 191 of the *ETA* sets out the “self-supply” rules for residential real property. The self-supply rules apply to residential real property that is not sold but otherwise occupied as a place of residence (e.g., leased or rented or occupied by the builder). The rules serve to level the playing field by taxing these properties on the same basis as newly constructed or substantially renovated residential properties that are taxable.

The general self-supply rules apply to a builder (as that term is defined in the *ETA*) that constructs or substantially renovates a single-unit residential property, a residential condominium, or a multi-unit residential property and subsequently supplies the property by way of lease, licence or similar arrangement for the use of an individual as a place of residence and deems the builder to have sold and re-purchased (self-supplied) the property at its fair market value, generally when the first unit is rented.

The same self-supply rules apply where a builder occupies the property as their own place of residence (i.e., the builder is deemed to have sold and re-purchased the property at its fair market value).

Effective September 14, 2023, the federal government introduced an enhanced GST rebate for new purpose-built rental housing (“PBRH”). In many cases, this effectively offsets the tax owed as a result of the self-supply rules. The rebate applies to PBRH that meets all the following conditions:

- the units are “qualifying residential units” as per the current GST/HST new residential rental property rebate rules;
- the residential units form part of a “multiple unit residential complex” (as defined in *ETA*, s. 123(1)) with at least: (a) four residential units each containing a private kitchen, washroom, and living area; or (b) 10 private rooms or suites;
- at least 90% of the residential units are held for long-term residential rental or used to make an exempt supply that gives possession or use of the unit to a person for occupancy of the unit as the individual’s place of residence; and
- construction began after September 13, 2023, but before 2031, and must be substantially completed before 2036.

For further discussion, see “Purchaser GST New Housing Rebates” in this chapter.

There are other “deemed” supplies under the “change in use” rules. These include circumstances in which:

- (1) a business converts capital real property from commercial use to residential use or some other exempt use;
- (2) a business converts capital real property from non-residential exempt uses such as municipalities, universities, schools, and hospitals (“MUSH”) sector use to residential uses; and
- (3) there has been a partial increase or decrease in the proportion of the property used for commercial as opposed to residential or other exempt purpose.

7. WHO COLLECTS THE GST? [§4.119]

a. The General Rule on GST Collection and Remittance [§4.120]

Generally, the *ETA* requires the supplier of a taxable supply to collect GST from the recipient of the supply. However, in certain circumstances, there is an exception to this rule with respect to the taxable supply of real property by way of sale. Specifically, unless the vendor is a “prescribed supplier”, a purchaser is responsible for paying and remitting GST if:

- (1) the vendor is a non-resident person or is resident in Canada for GST purposes only because of a permanent establishment in Canada;
- (2) the purchaser is registered for GST purposes and is not an individual;
- (3) the purchaser is registered for GST purposes and is an individual and the property is not a “residential complex” or place of burial;
- (4) the vendor and the purchaser have made an election under s. 2 of Part 1 of Schedule V; or
- (5) the purchaser is a “prescribed recipient”.

As of February 10, 2025, there were no prescribed suppliers or prescribed recipients under the *ETA*.

b. Residency Status of Vendor [§4.121]

Section 221(2)(a) of the *ETA* provides that the vendor is not required to collect the GST payable by the purchaser if the vendor either is a

non-resident person or is resident in Canada for GST purposes only because of a permanent establishment in Canada. Therefore, if GST is payable by a purchaser and the purchaser is not otherwise responsible for remitting the GST as a result of one of the other exceptions set out in paragraphs (2), (3), (4), or (5) of “The General Rule on GST Collection and Remittance” in this chapter, the purchaser should obtain a certificate (Form 221(2)(a)), from the vendor confirming the residency status of the vendor before paying GST to the vendor on the completion date.

See the Forms and Precedents section for:

- Form 221(2)(a) (Certificate as to Residency Status of Vendor)

c. Registered Purchaser [§4.122]

The *ETA* contains a special rule that applies to most sales of commercial real property relieving the vendor from the obligation to charge and collect the GST from the purchaser, thereby minimizing the cash flow burden on the purchaser. Section 221(2)(b) and (c) provides that the vendor is not required to collect GST payable by the purchaser if, the purchaser is either a “prescribed recipient” or is registered for GST purposes and, the supply is not a supply of a residential complex or place of burial made to an individual. Therefore, if the vendor is not otherwise required to collect GST, the vendor should obtain a certificate (Form 221(2)(b/c)) from the purchaser confirming that the purchaser is registered for GST purposes (that is, the vendor should not need a certificate to confirm that the complex is not a residential complex and that the purchaser is not an individual).

A purchaser must be GST registered in order for s. 221(2)(b) to apply. Accordingly, the vendor must ensure that the recipient is GST-registered. In order to do so, the vendor should contact the CRA before the completion date to confirm that the purchaser’s GST number is valid and that the number was assigned to the purchaser. A GST registration number can be verified by using the GST Registry on the CRA website (see the “Confirming a GST/HST account number” page at www.canada.ca). Note that being registered for GST purposes is different from being a GST registrant; the *ETA* defines “registrant” to include persons who are required to be registered. Therefore, having a purchaser certify as a GST registrant is not sufficient. Vendors should also include a purchaser’s warranty in the Agreement of Purchase and Sale and obtain a declaration and indemnity from the purchaser on closing.