



THE LEGAL MEMO

HST ON REAL PROPERTY

Harmonized sales tax, (“HST”), is a federal tax currently set at 13% of the sale price, (consisting of a 5% federal tax component, and an 8% provincial tax component).

The application of the HST can be very complex so this is meant to be only a brief overview in connection with real estate transactions.

General Rule

The general rule is that HST applies to all purchases of real estate in Canada, unless there is a stated exemption for that transaction.

Exemptions

The main exemption is the sale of “used” residential real estate. If it is a used residential property there is no HST on the transaction.

Other transactions which are exempt include: Certain sales of farmland, recreational property by an individual including non-commercial hobby farms and sales of vacant land by an individual provided they are not selling “in the course of a business”.

Commercial Properties

If the purchaser is HST- registered then a vendor does not have to collect and submit HST since the parties are permitted to self-assess. This means the purchaser can deal with the purchase on their own HST submission in the normal course of buying product etc., and collecting HST on their own sales.



New Housing

New housing and condominiums attract HST at the full rate, but thankfully some rebates are available to reduce the HST paid.

Up to a purchase price of \$350,000.00, the purchase gets a federal rebate, (on the federal portion of HST), to the lesser of \$7,560.00 or 36% of the GST paid. A rebate is available for purchase prices of between \$350,000.00 and \$450,000.00 in accordance with a set formula but on sales prices over a \$450,000.00 purchase price there is no federal rebate available.

The provincial rebate on the provincial component of HST is 75% of that provincial component, but it cannot exceed \$24,000.00 which effectively means this rebate is only on the first \$400,000.00 purchase price.

You can access Province of Ontario information on LTT at www.fin.gov.on.ca/en/tax/ht

Remember that every situation is different and this article deals only with generalities. If you are uncertain as to your legal rights in a certain situation you should always consult your lawyer.