



GST/HST Presentation For Discussion Purposes Only

**Capital Properties – Input Tax Credits
Public Service Bodies (PSBs) 2022**

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Definitions

- **Excise Tax Act (ETA) subsection 123(1)**
- <https://www.canada.ca/en/revenue-agency/services/tax/businesses/topics/gst-hst-businesses/definitions-gst-hst.html>
- **Public Service Body (PSB)** means a non-profit organization, a charity, a municipality, a school authority, a hospital authority, a public college or a university
- **Capital property**, in respect of a person, means property that is, or would be if the person were a taxpayer under the Income Tax Act, capital property of the person within the meaning of that Act, other than property described in Class 12, 14, 14.1 or 44 of Schedule II to the Income Tax Regulations

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Definitions

- **Property** means any property, whether real or personal, movable or immovable, tangible or intangible, corporeal or incorporeal, and includes a right or interest of any kind, a share and a chose in action, but does not include money
- **Real property** includes (in part)
- (b) in respect of property in **any other place in Canada**, messuages, **lands and tenements** of every nature and description and every estate or **interest in real property**, whether legal or equitable, and
- (c) a **mobile home**, a floating home and any leasehold or proprietary interest therein;

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Definitions

- **Fair Market Value (FMV)** of property or a service supplied to a person means the fair market value of the property or service without reference to any tax excluded by section 154 from the consideration for the supply
- **Generally** means the **highest price**, expressed in dollars, that property or services would bring in an open and unrestricted market, between a **willing buyer and a willing seller** who are both knowledgeable, informed, and prudent, and who are **acting independently of each other**. Fair market value does not include the GST/HST payable on the fair market value of the property. For sales of real property, fair market value does not include any provincial land transfer taxes payable on sale.

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Definitions

- **Improvement...** means **any property or service** supplied to, or goods imported by, the person for the purpose of improving the property, to the extent that the consideration paid or payable by the person for the property or service or the **value** of the goods is, or would be if the person were a taxpayer under the Income Tax Act, **included in determining** the cost or, in the case of property that is capital property of the person, **the adjusted cost base** to person of the property ...
- Current expenses or capital expenses? - <https://www.canada.ca/en/revenue-agency/services/tax/businesses/topics/rental-income/current-expenses-capital-expenses.html>

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Definitions

- Definitions for capital gains
- <https://www.canada.ca/en/revenue-agency/services/tax/individuals/topics/about-your-tax-return/tax-return/completing-a-tax-return/personal-income/line-12700-capital-gains/definitions-capital-gains.html>
- **Adjusted Cost Base (ACB) - usually cost** of a property **plus any expenses to acquire it, such as commissions and legal fees.**
The cost of a capital property is its actual or deemed cost, depending on the type of property and how you acquired it. It **also includes** capital expenditures, such as the cost of **additions and improvements** to the property. You **cannot add current expenses, such as maintenance** to the ACB.

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ITCs Acquisitions

General Rules:

- PSB - **do not apportion** the GST/HST paid or payable on acquisitions of capital property between commercial activities and the making of exempt supplies
- **Instead**, you have to **use the primary use rule**
- Under this rule, you can claim a **full ITC** on the acquisition or importation of capital property if you **intend** to use it **primarily (more than 50%)** in your commercial activities
- Exception – section 211 Election (Form GST26) - additional information at end of slideshow

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ITCs Acquisitions

Section 209 - Real property of certain public service bodies

- Subsection 209 (1) *If a registrant (other than a financial institution or a government) is a public service body, section 141.2 and subsections **199(2) to (4) and 200(2) and (3) apply**, with any modifications that the circumstances require, to **real property acquired** by the registrant for use as capital property of the registrant or, in the case of **subsection 199(4)**, to **improvements to real property** that is capital property of the registrant, **as if the real property were personal property**.*

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ITCs Acquisitions

- 199 (2) **Where a registrant acquires ...personal property or brings ... participating province **for use as capital property,****
- (a) tax payable by the registrant in respect of the **acquisition ...shall not be** included in determining an **input tax credit ... unless ... for use primarily in commercial activities and**
- (b) where the registrant acquires ... for use primarily in commercial activities ... the registrant **is deemed ...to have acquired ... for use exclusively** in commercial activities

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ITCs Acquisitions

Excerpts - RC4022 General Information for GST/HST Registrants

- The general rule, known as the primary use rule, for claiming ITCs for capital personal property ... as follows:
- If you use the capital personal property **primarily** (more than 50%) in your commercial activities, you can claim a **full ITC**.
- If you use the capital personal property **50% or less** in your commercial activities, you **cannot claim an ITC**.
- **Example** - You bought a computer for \$2,000 plus the GST/HST. You will use the computer 60% in your commercial activities and 40% for personal use. Since you **will use** the computer more than 50% in your commercial activities, you can claim an ITC for the full amount of the GST/HST.

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ITCs Acquisitions

- 199(3) ... where a registrant **last acquired** ... personal property for use as capital property ... **but not for use primarily** in commercial activities ... **and the registrant begins** ... **to use the property as capital property primarily in commercial activities** ... registrant shall be **deemed**
- (a) **to have received**, at the particular time, a supply of the property by way of sale; **and**
- (b) except where the supply is an exempt supply, **to have paid, at the particular time, tax** in respect of the supply equal to the **basic tax content** of the property at the particular time

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Excerpt - GST/HST Memorandum 19.1

ITC Eligibility in Terms of Percent of GST/HST Paid or Payable (% = extent of use in commercial activity)

Type of Property	Percent of Use in Commercial Activity	General Registrants (partnerships and corporations)	Ref.	Registered Individuals	Ref.	Public Sector ¹	Ref.
Capital Real Property	≤ 10%	0	206	0	208	0	209
	>10% to 50%	%		see note ²		0 ³	
	>50% to <90%	%		%		100%	
	≥ 90%	100%		100%		100%	
Capital Personal Property	50% or less	0	199	0	199	0	199
	>50%	100%		100%		100%	

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ITCs Improvements

- The **ITC** you can claim for an **improvement to capital real property is based on the percentage of use** of the real property in your commercial activities at the time **you last acquired** the real property or portion of it. This means the ITC is **based on the use of the real property** in your commercial activities, not on the use of the improvement itself in your commercial activities.(RC4022)
- Would not include repairs and maintenance expenses
- Generally **cannot claim ITC** in respect of the **improvement** unless, at the time tax in respect of the improvement becomes payable, **the capital property is used primarily** in its commercial activities

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ITCs Improvements

Subsection 199(4) – Improvement

- 199(4) Where a registrant **acquires ... an improvement to personal property that is capital property of the registrant, tax payable by the registrant in respect of the acquisition ... shall not be included in determining an input tax credit of the registrant unless, at the time that tax becomes payable or is paid without having become payable, the capital property is used primarily in commercial activities of the registrant.**
- T4037 Capital Gains 2020
- Income Tax Folio S3-F4-C1

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ITCs Change-in-use

If **no GST 26 Election** - change-in-use rules as follows:

- For PSB, the **change-in-use rules** to **capital real property** are generally **same** as those to capital personal property
- Real property that was used **more than 50%** in your commercial activities is **now used 50% or less** in your commercial activities.
- Your real property that **was used 50% or less** in your commercial activities is **now used more than 50%** in your commercial activities.
- You must determine the **basic tax content** of the property **when the change occurs**

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ITCs Change-in-use

Basic Tax Content (BTC)

- “Basic tax content of a property **generally means** the amount of **GST/HST** that was payable for the last **acquisition** of the property, and for any **improvements** made to the property since that last acquisition, **less** any **amounts** that were, or would have been, **able to be recovered** (for example, by **rebate or remission, but not by input tax credits (ITC)**). The calculation for the basic tax content **takes into account any depreciation in the value of the property since it was last acquired** (for example, when it was purchased or when it was last deemed to have been purchased, whichever occurred more recently).”

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ITCs Change-in-use

Changing to more than 50% in commercial activities

- When you buy capital real property for use 50% or less in commercial activities, you cannot claim ITCs.
- However, if you **later change** the use of the property **to more than 50%** in your commercial activities, we consider you to have **purchased the property and to have paid the GST/HST at that time.**
- This means you can claim an **ITC, equal to the BTC** of the property at the time of the change in use, by including this amount in your GST/HST return

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ITCs Change-in-use

Changing use to **50% or less** in commercial activities

- When you buy capital real property for use more than 50% in commercial activities you can claim ITC
- If you **change use** from more than 50% in your commercial activities **to 50% or less** in your commercial activities, you are **considered to have sold the property & collected GST/HST** on that sale
- The **tax is equal to the BTC** of the real property at the **time of the change-in-use** and has to be **included in net tax** in GST/HST return for reporting period in which the change-in-use occurred

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ITCs Change-in-use

BTC general rule: $(A - B) \times C$

- **A is GST/HST** payable for your last **acquisition** of the property and for **improvements** you made to it
- **B is any rebate or refund** you were entitled to claim ... for GST/HST for last acquisition of the property and for later improvements you made to it, but not including ITCs
- **C is the lesser of 1 -**
- **FMV of property at the time of change in use divided by the total cost** (not including the GST/HST) for your last **acquisition** of the property and later improvements you made to it

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ITCs Change-in-use

Example from RC 4022 (no PSB Rebate previously claimed):

- You bought a tractor for use more than 50% in operating the residential rental buildings (an exempt activity) and paid the GST on your purchase. Since you were **not using the tractor more than 50% in your commercial activities**, you could **not claim an ITC** for the tax paid on this purchase and you were also not entitled to any refunds or rebates of that tax.
- Cost of tractor: \$10,000
- GST payable ($\$10,000 \times 5\%$): \$500

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ITCs Change-in-use

- Later, you change the use and **begin using it more than 50%** for the commercial buildings (commercial activity). Since you are now using it more than 50% in your commercial activities, you can claim an **ITC equal to the BTC** at the time of the change in use.
- FMV of tractor at change in use is \$7,000 (no improvements). You calculate BTC as follows:
 - $(A - B) \times C$
 - $= (\$500 - \$0) \times (\$7,000 / \$10,000)$
 - **= \$350**
- ITC you may be eligible to claim on GST/HST return

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ITCs Change-in-use

- Later you **change use back to 50% or less** in your commercial activities. Since you are no longer using the tractor more than 50% in your commercial activities, you have to **pay tax equal to BTC** of the tractor at the time of the change in use.
- FMV is now \$4,000 (no improvements). You calculate the BTC of the tractor as follows:
 - $= (A - B) \times C$
 - $= (\$500 - \$0) \times (\$4,000 / \$10,000)$
 - **= \$200**
- Include in period in which change occurred

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ITCs Change-in-use

Example from RC4082 (PSB Rebate previously claimed):

- Charity is a GST/HST registrant resident in **Ontario**. On January 1, 2015, you bought a machine for \$50,000 plus \$6,500 HST for use **80% in commercial activities**. Since using machine more than 50% in commercial activities ...**claimed a full ITC of HST**.
- You **later change use of machine to 40%** in commercial activities. Since you are no longer using machine more than 50% in commercial activities, you **have to pay** tax based on **BTC** of property at time of the change in use.
- **No improvements** were made to the property since you acquired it. The **fair market value** of the machine at the time of the change in use is **\$40,000**.

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ITCs Change-in-use

- $BTC = \text{Basic tax content} = (A - B) \times C$
- $= (\$6,500 - \mathbf{\$4,530}) \times \$40,000 / \$50,000$
- $= \$1,576$

- Amount B is equal to **\$4,530** because you would have been **entitled to claim a PSB rebate of the HST you paid (50% of the federal part plus 82% of the provincial part** since your charity is resident in **Ontario**) when you purchased the property if you had not been entitled to claim a full ITC for that tax.

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ITCs Change-in-use

- The BTC of the capital property **at the time of the change** in use is **\$1,576**. **When determining your net tax, include** this amount on line 105 if you are filing your return electronically or on line 103 if you are filing a paper **GST/HST return** for the reporting period in which the change occurred.
- As the BTC calculation already takes into account the amount of the PSB rebate you would have been entitled to claim, the amount of tax you have to pay is reduced. Therefore, you are not entitled to claim a PSB rebate of the tax you have to pay on your change in use of the capital property.

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Section 211 – GST 26 Election

- *GST26 Election or Revocation of an Election by a Public Service Body to Have an Exempt Supply of Real Property Treated as a Taxable Supply*
- When you make this election a supply of the property that would normally be exempt **will now generally be taxable**
- GST/HST registrant - may also be entitled to **claim ITCs for GST/HST paid or payable for the property**
- Percentage of use in commercial activity (not primary usage)
- Excerpts from RC4081 and RC4082
- GST/HST Rulings
- **Separate Presentation?**

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Capital Property Additional References

- **RC4081** GST/HST Information for Non-Profit Organizations
- **RC4082** GST/HST Information for Charities
- **RC4022** GST/HST Information for GST/HST Registrants
- <https://www.canada.ca/en/revenue-agency/services/tax/technical-information/technical-information-gst-hst.html>
- 19-1 Real Property and the GST/HST
- 19-4-2 Commercial Real Property - Deemed Supplies
- GST/HST Memoranda Series 8-1 through 8-4
- GST/HST Rulings 1-800-959-8287
- Business Enquiries 1-800-959-5525