



February 17th, 2010

## Home Renovation Tax Credit (HRTC) Information Bulletin

*CCI Toronto is pleased to report that a joint CCI-T/ACMO Committee met recently with senior representatives from the Canada Revenue Agency to provide clarification on a number of issues arising with respect to the Home Renovation Tax Credit. The bulletin below provides some clarification to member concerns. Those CCI members who are also members of ACMO may have received a previous similar message from ACMO.*

### Information Bulletin Re Home Renovation Tax Credit

The Home Renovation Tax Credit (HRTC), which was introduced by the Federal Government as part of the stimulus plan in the 2009 Federal budget has presented some challenges for boards and property management companies.

A full overview of the HRTC is too long to include as part of this information bulletin, but for those interested in reviewing the rules and guidelines you can visit <http://www.cra-arc.gc.ca/hrtc> to view the Canada Revenue Agency (CRA) website.

After reviewing the information on this site you may have questions regarding how this tax incentive affects Condominiums. On behalf of CCI Toronto & Area Members, and in conjunction with ACMO, a lawyer specializing in tax law was retained to coordinate a meeting with CRA representatives in order to address many questions submitted by our members regarding the legal interpretation of the HRTC rules and how they affect the practical management of Condominium Corporations. This meeting with CRA representatives was also attended by an Auditor specializing in condominium accounting and taxation.

Listed below are the 16 questions, which formed the basis of discussion and a summary of the answers that CRA representatives provided.

#### **Notes:**

**1. For the purposes of clarity in the questions and answers listed below the word "Invoice" refers to the invoices received from service providers regarding a payment owing for services rendered. The term "Receipt" refers to an income tax receipt or summary of proposed eligible expenses prepared by a condominium corporation or property management firm for use by an owner in supporting and HRTC claim on their personal income tax return.**

**2. This bulletin is provided to CCI Toronto members for informational purposes only and is not intended to constitute any form of professional advice. It is understood that the legislation is subject to interpretation and its application and enforcements has yet to be tested in the Courts. Moreover, CRA employees cannot be held responsible for an incorrect interpretation of the law.**

#### **1. Do condominium corporations have to provide an HRTC Receipt to condominium owners?**

No. A condominium corporation ("Corporation") is not obligated to provide a receipt summarizing the eligible expenses incurred by the Corporation on behalf of all owners. However, qualifying owners are entitled to claim

their portion of eligible expenditures as part of their HRTC credit. Owners are therefore entitled to request to review copies of the invoices for work which they think is eligible and submit as part of their HRTC claim their proportionate share in accordance with Schedule D of the declaration.

2. **Do property management companies “Management”) have the obligation to provide these receipts on behalf of their clients?**

No. There is no legal requirement for Management to provide these receipts since there is no requirement for the Corporation to provide the Receipts to its owners. If the Corporation chooses to prepare these invoices for their owners, it stands to reason that the contract between Management and the Corporation would determine the obligation, if any, of Management to provide this service.

3. **Are condominium corporations (and by extension Management companies) justified in taking the position that the Receipt will be issued to the owner of record on January 31, 2010 for all eligible expenses incurred between January 27, 2009 and January 31, 2010? (this would address the issue of ownership changes during the 2009 calendar year.)**

As currently written the answer to this question is “no”, the right to the credit belongs to the owner of record at the time that the expense was incurred by the Corporation. The impracticality of this is explained below from a legal and financial reporting standpoint.

The HRTC requires that the owner that paid the funds should receive the credit, without recognition of exceptional circumstances surrounding condominium ownership. In the condominium industry the asset that is the reserve fund is sold with the unit. It is the position of ACOMO and CCI (Toronto) that the credit that results from the expenditure of those funds should also be transferred to the new owner. Then is a matter between the present owner and the previous owner to decide on how to partition or divide the credit.

4. **Must Receipts be provided by February 28, 2010 for all eligible expenses incurred between January 27, 2009 and January 31, 2010?**

Since there is no requirement to provide the Receipts on behalf of the Corporation the answer is no – there is no deadline. From a client service perspective, if receipts are to be issued it is recommended that owners receive their report in sufficient time to meet the April 30<sup>th</sup> filing deadline for the 2009 taxation year. If issued after an owner has already filed their 2009 income tax return,, CRA has advised that the taxpayer has the right to file and request for an adjustment. There is also a period of 10 years to file a claim for the HRTC credit.

5. **With the exception of furnishings and other clearly ineligible expenses, do reserve fund expenditures (in spite of the fact that some would call them planned maintenance) qualify as eligible expenses?**

Generally “yes”. The spirit of the law is that if the renovation is an enduring improvement to the dwelling including the land that forms part of the dwelling (and not an annual, routine or recurring renovation) then it is eligible. It is important to make the determination of what is an eligible expense separate from whether it was paid from the Reserve or Operating fund.

The CRA website states that, “The **expenses are eligible** when they are incurred in relation to a renovation or alteration to an eligible dwelling (including the land that forms part of the eligible dwelling) and are of an enduring nature and integral to the dwelling. As a general rule, if the item you purchase will not become a permanent part of your eligible dwelling, it is not eligible.”

6. **Do ancillary expenditures related to eligible expenses (professional engineer fees, security costs related to eligible work etc.) qualify as eligible expenditures?**

Yes. Any costs associated with the completion of a project that is an eligible expenditure is eligible to be included in the calculation of the HRTC. An example of engineering fees incurred to supervise, tender or consult on a project that is eligible was given to representatives of CRA and their response was that these costs can be included in the claim.

7. **Are Corporations (and by extension Management companies) protected by placing a disclaimer on the**

**receipt in the event that an expense deemed eligible by the Corporation is subsequently deemed ineligible by CRA?**

From the standpoint of CRA the reporting relationship that exists is between the individual taxpayer and the Canada Revenue Agency. A Corporation that makes an honest error in judgment in determining whether an expense is eligible can expect no penalties by CRA. That does not hold true necessarily for Corporations that intentionally or fraudulently misrepresent the eligible expenses in order to increase the amount of the claim by its owners. CCI (Toronto) and ACMO have prepared a suggested disclaimer for those that wish to use it.

8. **In the event of expenses incurred by shared facilities of two or more condominium corporations, does the responsibility of the SF management company end at providing the total of the eligible expenses for the SF to the management company of the condominium corporations that contribute to SF (based on the % of their contribution)?**

The short answer is yes. This is in keeping with the philosophy that since the condominium corporations contributed to those expenses based on their proportionate share then the owners who provided those funds to the Corporation are entitled to claim the portion of the funds that they provided.

9. **Do Corporations (and by extension Management) need to supply copies of the invoices being claimed as eligible expenses to each owner along with a copy of schedule D of the declaration for that Corporation? Do those need to be submitted with the tax return of each unit owner making a claim?**

CRA is not expecting each unit owner to provide copies of the contracts entered into by the Corporation as proof of eligible expenses. If the Condominium Corporation provides a Receipt or summary of eligible expenditures incurred on behalf of all owners, then the unit owner can rely on that summary and the Corporation is responsible to maintain the records and proof of expenses to support the summary which it provided to owners. CRA did indicate that if possible, but no mandatory, they would like to see the owners with a list of the contractors, their GST numbers and very short description of the work completed and when. It is important to note from an administration standpoint, that Corporations need to maintain those records in the event the taxpayer gets audited.

10. **Should Corporations (and by extension Management companies) issue their receipts based on the total expenses or only those expenditures over \$1,000? Is the reduction of the \$1,000 from the total expenses the responsibility of the owner at the time of filing their tax return or should the Corporation make that reduction in the total amount before issuing a Receipt?**

There is no minimum amount on which Corporations should report. The deduction of \$1,000 from the total eligible expenses is done by the individual taxpayer when completing Schedule 12 of their personal 2009 Income Tax Return, and not by the Corporation.

11. **Holdback on a project that has been completed but the holdback not released as at January 31, 2010?**

The eligible expenses include the value of any work completed as at January 31, 2010. Therefore if work on a project was completed prior to January 31, 2010 then the entire value of the contract is an eligible expense even though the contractor has not yet received payment in full.

Note: If a Corporation is in the midst of a large project that is eligible it would be beneficial to have the invoice and the consultant prepare a certificate for payment for work completed to January 31, 2010.

12. **Are the common element portions for parking spaces and lockers included in the portion of eligible expenses assigned to an individual unit which owns those parking spaces and lockers?**

The proportionate interest in common elements which determines the percentage of contributions to Common Area Maintenance (including parking and locker percentages, if applicable) dictates the percentage of the eligible expenditures that an individual unit owner can claim.

13. **What are the reporting responsibilities for Corporations without any eligible expenses?**

Technically there is no responsibility on the part of the Corporation although a letter to unit owners indicating that the Corporation has not incurred any eligible expenses is advisable.

14. **Can the Corporation include as an eligible expense the consulting fees for work which has not been started or has not been contracted as at January 31, 2010?**

Yes, provided the consulting or engineering work is in relation to an eligible expenditures and the services (consulting work) for which the claim is being made were received prior to January 31, 2010.

15. **If it is determined subsequent to releasing the receipts to the owners that an expense should be included or excluded by way of reporting error or CRA audit, what will be the obligation of the Corporation with respect to revising the receipts previously issued. For instance will the revisions require the owners to revise their 2009 income tax returns or could the revision be reported for the next tax year ie 2010?**

In the event that an error is discovered that alters the amount of the claim made by owners in relation to the HRTC claim, then the owners should be notified as soon as possible and they should forward the information on the correction to CRA in order to have their personal income tax return re-assessed.

16. **Is there any reporting obligation to CRA direct from the Corporation for the record of Receipts issued?**

No. There is no summary or detail that is required to be filed with CRA in connection with the HRTC other than the requirement to maintain the records in the event that CRA chooses to further investigate any claims made by unit owners in connection with the Corporation's eligible expenses.

Sincerely,  
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President, CCI Toronto & Area Chapter