



## The HST Harmonization in Ontario

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April 2010

Ontario enacted a complete reform of its sales tax regime in December 2009. Under this legislation, the current Provincial Sales Tax ("PST") will be repealed effective July 1<sup>st</sup>, 2010. The new Ontario Harmonized Sales Tax ("HST") will replace the previous Good and Services Tax ("GST") and PST. Ontario becomes the first Canadian province to harmonize its sales tax legislation since 1997. British Columbia will also implement HST on July 1<sup>st</sup>, 2010. For the most part, the two provinces have chosen identical rules.

### Overview of impact

Broadly speaking, the Ontario HST is a value-added tax ("VAT") that will be implemented under the Excise Tax Act ("ETA"), the law regulating the application of the GST. Subject to the application of specific Point of Sale rebates, the Ontario HST will apply on the same goods and services currently taxed under the GST rules. The HST has a broader tax base than the previous PST; services and real property transactions will also be subject to HST. The Ontario HST will be applicable at a rate of 13% (5% GST Federal component 8% HST provincial component) on taxable goods and services. HST paid in the course of carrying a commercial activity can generally<sup>1</sup> be claimed as Input Tax Credits ("ITC") by GST/HST registrants. Compliance will be streamlined by the filing of a single GST/HST return administered by the Government of Canada.

From an economic perspective, the effect of harmonization will be to reduce costs for businesses and to increase costs for consumers especially on the acquisition of services. Ontario registrants would need to update their accounting and point of sale systems to accommodate the change in rate and new point of sale rebates for the implementation date of July 1st, 2010. Also, the harmonization of the sales tax in Ontario may affect the filing requirements of registrants outside of this province. Businesses and their advisors should therefore prepare for adjustments to be made regarding:

- HST transitional rules;
- PST transitional rebates in certain sectors;
- HST partial rebates for public service bodies;
- HST Point of Sale rebates;
- HST ITC recapture for large businesses;
- Additional sales tax cost for businesses involved in tax exempt activities (medical practices, investment corporations);

- HST implications for enterprises situated outside Ontario and BC doing business in Ontario or BC
- Pricing adjustments, especially for businesses making tax-inclusive sales.

## **General rules regarding the introduction of HST**

In most circumstances, HST will be applicable only for transactions completed on or after July 1<sup>st</sup>, 2010 ("the implementation date"). Situations where goods and services are prepaid before the implementation date and provided on or after the implementation date will trigger the application of the transitional rules described below. These rules can "deem" a transaction to have been made on the implementation date. Thus, the HST will have implications prior to July 1<sup>st</sup>, 2010.

## **Transitional rules for the supply of goods**

The HST would apply to consideration paid or that becomes payable:

- On or after July 1<sup>st</sup> 2010 if the goods are delivered, or ownership of the goods is transferred, on or after July 1<sup>st</sup>, 2010;
- On or after May 1<sup>st</sup>, 2010 if the goods are delivered, or ownership of the goods is transferred, on or after July 1<sup>st</sup>, 2010. In this case, HST has to be accounted for by the supplier as if it was collected on July 1<sup>st</sup>, 2010;
- On or after October 14, 2009 if the goods are delivered, or ownership of the goods is transferred, on or after July 1<sup>st</sup>, 2010. This rule only applies to recipients other than consumers that are not entitled to claim full ITC or that are subject to recapture of ITC. In this case, the recipient is required to self-assess and account for the HST in the reporting period including the implementation date. The supplier has no collection responsibility.

By exception to the above rules, the HST would generally not apply to consideration that is paid before July 2010 for a subscription to a newspaper or other periodical publication to be provided after July 1<sup>st</sup>, 2010.

## **Transitional rules for the supply of services**

The HST would apply to consideration paid or that becomes payable:

- On or after July 1<sup>st</sup>, 2010 to the extent that the service is performed on or after July 1<sup>st</sup>, 2010;
- On or after May 1<sup>st</sup>, 2010 to the extent that the service is performed on or after July 1<sup>st</sup>, 2010. In this case, HST has to be accounted for by the service provider as if it was collected on July 1<sup>st</sup>, 2010;
- On or after October 14, 2009 if the service is performed on or after July 1<sup>st</sup>, 2010. This rule only applies to recipients other than consumers that are not entitled to claim full ITC or that are subject to recapture of ITC. In this case, the recipient is required to self-assess and account for the HST in the reporting period including the implementation date. The supplier has no collection responsibility.

The HST would generally not apply, however, to a supply of a service if all or substantially all (90 per cent or more) of a service is performed before July 2010.

By exception to the above rules for supplies of services, the HST would not apply to consideration for the part of a passenger or freight transportation service that is performed on or after July 1, 2010 if the service is part of a continuous journey or freight movement<sup>2</sup> that begins before July 2010.

## **Transitional rules for the supply of leases and similar arrangements**

The HST would apply to consideration paid or that becomes payable:

- On or after July 1<sup>st</sup>, 2010 if the consideration is for a lease interval that occurs on or after July 1, 2010;
- On or after May 1<sup>st</sup>, 2010 if the consideration is for a lease interval that occurs on or after July 1, 2010. In this case, HST has to be accounted for by the lessor as if it was collected on July 1<sup>st</sup>, 2010;
- On or after October 14, 2009 if the consideration is for a lease interval that occurs on or after July 1, 2010. This rule only applies to recipients other than consumers that are not entitled to claim full ITC or that are subject to recapture of ITC. In this case, the recipient is required to self-assess and account for the HST in the reporting period including the implementation date. The supplier has no collection responsibility.

By exception to the above rules regarding leases and similar arrangements, HST will not apply to consideration paid or that becomes payable with respect to a lease interval beginning before July 2010 and ending before July 31, 2010.

These rules are not applicable to the supply by way of lease or similar arrangement of an Intangible Personal Property (see section below).

### **Transitional rule for the supply of Intangible Personal Property (IPP)**

The HST would apply to consideration paid or that becomes payable:

- On or after July 1<sup>st</sup>, 2010

By exception to the above rule for IPP, memberships are deemed to be services provided for the purpose of the application of HST transitional rules. The rules described above in the "Transitional rules for supply of services" will be applicable. Special deeming provisions will also be applicable to lifetime memberships acquired before the implementation date but after October 14, 2009.

### **Transitional rules for the supply of real property**

The HST would apply to the sale of newly constructed or substantially renovated homes *where both ownership and possession* of the home are transferred on or after July 1<sup>st</sup>, 2010.

By exception to the above rule, the HST would generally not apply to the sale of newly constructed or substantially renovated residential property where the written agreement of purchase and sale was entered into on or before June 8, 2009.

## Summary of transitional rules for HST on supplies made in Ontario

Type of supply	For consideration paid or that becomes payable on or before October 14, 2009	For consideration paid or that becomes payable after October 14, 2009 and before May 1st, 2010	For consideration paid or that becomes payable after April 30, 2010 and before July 1st, 2010	For consideration paid or that becomes payable on or after July 1st, 2010
Date the consideration is paid or becomes payable				
Tangible personal properties (Goods) provided by way of sale on or after July 1st, 2010	GST only	GST only / HST provincial component has to be self-assessed by recipients other than consumers not entitled to claim full ITC*	HST to be collected by registered vendors	HST to be collected by registered vendors
Services performed at least in part (more than 10%) on or after July 1st, 2010	GST only	GST only / HST provincial component has to be self-assessed by recipients other than consumers not entitled to claim full ITC*	HST to be collected by registered vendors	HST to be collected by registered vendors
Leases and similar arrangements on or after July 1st, 2010	GST only	GST only / HST provincial component has to be self-assessed by recipients other than consumers not entitled to claim full ITC*	HST to be collected by registered vendors	HST to be collected by registered vendors
Intangible personal property provided on or after July 1st, 2010	GST only	GST only	GST only	HST to be collected by registered vendors
Taxable real property provided by way of sale if ownership and possession is transferred on or after July 1st, 2010	HST applies for all agreements except if entered into before June 18, 2009			

\* Businesses and public service bodies (other than a consumer) are required to self-assess the Ontario HST component where a good or service is acquired for consumption, use or re-supply otherwise than exclusively in the course of commercial activities or in circumstances where the acquired property or service is subject to ITC recapture ("see details in section "Input Tax Credit recapture for large businesses").

### Transitional rules for HST upon importation

The Ontario component of the HST will generally apply to goods physically imported into Canada by a resident of Ontario on or after July 1<sup>st</sup>, 2010. The HST will be collected by the Canada Border Services Agency from that date.

In addition, The Ontario component of the HST will generally apply to the importation of goods and services from a Canadian province that is not an HST participating province on or after July 1, 2010. The Ontario component of HST would need to be self-assessed by the GST/HST registrant. No self-assessment would generally be required in circumstances where the property or service imported to

Ontario is for consumption, use or re-supply exclusively in the course of commercial activities and is not subject to ITC recapture.

### Point of Sale rebates

Certain Point of Sale rebates are applicable for the HST provincial component (8%). The rebates are provided by Ontario to minimize the effect of harmonization on certain supplies exempted in the previous PST regime. Point of Sale rebates will be allowed on the following categories of supply:

- Books and Audio Books;
- Children's clothing, footwear and other products;
- Diapers;
- Feminine hygiene products;
- Printed newspapers;
- Prepared food and beverages purchased for \$4 or less.

### Public Service bodies partial rebates

Public Service bodies involved in activities other than commercial activities will be entitled to claim a partial rebate for the Ontario HST paid. Different partial rebate rates will apply for the Federal and Provincial component of the HST paid. These rates are intended to keep public service bodies neutral relative to the PST currently paid.

Public Sector Body Partial Rebates for Ontario		
Public Service Body	Rebate on Federal Component (5%)	Rebate on Provincial Component (8%)
Registered Charities and Qualifying NPO's	50%	82%
Hospitals	83%	87%
Municipalities	100%	78%
School Boards	68%	93%
Universities and Colleges	67%	78%

### Input Tax Credit recapture for large businesses

Large businesses are generally those making supplies worth more than \$10 million annually (on an associated basis) and certain financial institutions but exclude public service bodies. Such large businesses will be required to recapture input tax credits or self-assess the provincial component of HST on the following specified expenditures acquired or brought in Ontario:

- Motor vehicles licensed or required to be licensed under applicable provincial laws for use on a public highway (except where such vehicle weighs 3,000 kilograms or more);
- Parts and services acquired in respect of such motor vehicles if acquired within 12 months of the acquisition or bringing into Ontario of the vehicle itself (except parts and for repairs and maintenance);

- Fuel (except diesel fuel) used to power the engines of such motor vehicles, even if that vehicle is acquired prior to HST harmonization;
- Energy: electricity, gas, combustibles and steam used for purposes other than farming, production of movable property intended for sale or the production of equipment used for the production of movable property intended for sale;
- Telephone service or other telecommunications services, except toll-free telephone services, Internet access services and web-hosting services;
- Food, beverages and entertainment, to the extent that the expenditure is subject to existing ITC repayment (generally 50%) under the ETA.

### Transitional measures

Consideration paid or that becomes payable by a large business after October 14, 2009 and before May 1<sup>st</sup>, 2010 regarding the acquisition of goods or services subject to ITR recapture may be required to self-assess the provincial component of HST if :

- In the case of the acquisition of a property, the property is acquired or made available to the large business on or after July 1<sup>st</sup>, 2010;
- In the case of the acquisition of a service, a part of the service (more than 10%) is performed on or after July 1<sup>st</sup>, 2010.

### Proxy methods

In order to simplify the compliance to ITC recapture, proxy methods have been announced for energy used in the production of movable property intended for sale and for certain telecommunication services.

### BGK can help

Businesses throughout Canada will be affected by HST harmonization, whether in collecting HST for supplies made in a participating province or in claiming input tax credits on HST paid. Your BGK advisor can assist in preparing for the Ontario harmonization to HST. We are ready to perform diagnostic analysis and to recommend systems changes to be implemented.

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<sup>1</sup> See notably the section on Input Tax Credits recapture for large business

<sup>2</sup> As defined under the ETA

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