

## **The New Harmonized Sales Tax for Charities and Non-profit Entities**

The province of Ontario announced in its March 2009 Budget that it would harmonize the retail sales tax (the Ontario RST) with the federal Goods and Sales Tax (GST). The effective date for implementation of this harmonization is July 1, 2010.

Both the federal and provincial governments passed the enabling legislation on December 15, 2009. While the laws have been enacted, many of the details are just now released which will impact the actual implementation of these rules.

### **Overview**

In simple terms, the harmonization means that the old RST will disappear as of July 1, 2010 and the HST will commence on that same day. For the sale of many goods, there will be no change to the consumer. If the previous sales tax that applied to the sale of goods was 5% GST and 8 % RST, then the total tax of 13% is replaced by an HST of 13%. The major change will apply to the provision of services and real estate that did not previously attract the RST. The tax on services and real estate will rise from a GST rate of 5% to a rate of 13%.

### **The Ontario RST**

Effective July 1, 2010, the old RST will no longer apply to transactions in Ontario (with some exceptions such as a special 8% tax on insurance premiums). The cessation of RST on transactions on July 1, 2010 will be met with the imposition of the HST on exactly the same day. The province will provide that the old RST vendor's compensation will terminate for periods ending after March 31, 2010 and be replaced by a one-time Small Business Transition Credit of up to \$1,000. Larger businesses that have annual sales in excess of \$2,000,000 per annum will not be eligible for the Small Business Transition Credit.

### **The HST**

The HST will be 13% and applied to the supply of goods and services after June 30, 2010. The HST will be levied on any transaction that was previously subject to the 5% GST. Certain items that were exempt from RST such as children's clothing will be eligible for an HST point-of sale rebate for the 8% provincial portion of the HST. The HST will be submitted to the federal government as one tax and the purchaser will be eligible for an input tax credit (ITC) on the full 13% if it was entitled to a

full input tax credit before. The provincial portion of the HST (that is the additional 8%) will be accounted for by the federal government and it will pay this tax to the province.

### **Rebates and Input Tax Credits**

Most Charities are not eligible to claim input tax credits. Input tax credits are only eligible to be claimed if the organization is earning fully taxable income and they are only able to claim input tax credits based on that activity.

Rebates are available to most charitable organizations. These rebates have allowed organizations to recover a portion of the GST they have paid in the past despite the fact that the organization may not be required to collect GST on the services that they provide. The amounts of the rebates that will be available in the future are changing. Outlined below is the new amount of rebate available on each portion of the HST depending on the sector your organization will fall into:

	<b>Rebate % of HST Paid</b>	
	<b>Ontario portion of the HST</b>	<b>Federal portion of the HST</b>
Municipality	78%	100%
Universities and Colleges	78%	67%
School boards	93%	68%
Hospitals	87%	83%
Charities and NPO's	82%	50%

### **The Transitional Rules**

The RST will terminate and the HST will commence after June 30, 2010. The HST will apply to the sale of goods or the provision of services after June 30, 2010. This is an oversimplification because the rules embody several technicalities which are introduced to ensure that taxpayers cannot manipulate transactions to obtain the best tax result.

The key dates that affect the transitional rules are as follows:

#### *July 1, 2010*

The provision of goods and services after June 30, 2010 will be assessed HST. The traditional GST and the RST will apply to the provision of goods or services before July 1, 2010 under the old rules. Eligible rebates after July 1, 2010 will be based on the total HST paid.

#### *May 1, 2010*

The payment for goods or services after this date and before July 1, 2010 will attract the HST rather than the GST and RST if the goods or services are provided after June 30, 2010. For

payments received after April 2010 and are subject to the HST, the vendor of the supply is responsible to collect the HST, not the old GST and the RST.

*October 14, 2009*

Any payments that have been made between October 14, 2009 and May 1, 2010 for services that are not received until after July 1, 2010 (or a portion of the service is provided after July 1, 2010), required that charities self-assess the provincial portion of the HST.

*June 18, 2009*

Any sale of new residential housing that has a written and signed agreement before this date and that would otherwise be subject to HST because the earlier of the possession or ownership of the residence takes place after June 30, 2010 will be grandparented and not subject to HST.

The transitional rules are best analyzed as those pertaining to goods, services, leases and other periodic payment contracts and the sale of new residential housing. The general transitional rules are discussed under the following headings:

Sale of goods:

The sale of goods will not attract the HST [but will be subject to the GST and the RST if applicable] if the earlier of the possession or ownership takes place before July 1, 2010. This will be regardless of when the consideration becomes due (ie. it is invoiced) or is paid without becoming due.

Provision of services:

The provision of services will not attract the HST [but will be subject to the GST and the RST if applicable] if all or substantially all (considered to be 90% or more) of the service is provided before July 1, 2010. If less than 90% of the service is provided before July 1, 2010 then the provider will have to allocate the percentage of completion at June 30, 2010 and assess GST on the pre- July 1, 2010 component and assess HST on the post-June 30, 2010. Again, the payment or due date for payment based upon the invoice is not relevant in determining the application of the HST.

Leasing:

The treatment of leases is determined by the lease interval, not the date that the lease originated. The lease interval can best be described as the monthly or other periodic payment. The lease interval will attract HST if the lease interval commences after June 30, 2010. If the lease interval commences before July 1, 2010 and it ends before July 31, 2010, it will not attract HST.

### **Self-assessment rule for certain purchasers**

Because some “non-consumers” such as exempt suppliers and charities do not get the full ITC on their inputs, there is a special prepayment rule. If the purchase pays for, or is invoiced for goods and services after October 14, 2009 and April 30, 2010, and the goods or services are to be provided after June 30, 2010, then the purchaser must account for and self-assess the provincial portion of the HST.

This self-assessment must be completed for the reporting period that includes July 1, 2010 or if the purchaser is not a registrant, then on a special form to be filed before November 2010.

### **Place of Supply**

Three provinces have previously adopted the HST. Sales of goods and services to residents of those provinces have had to have HST charged on the supplies. Now, with Ontario and British Columbia adopting the HST, we will have to be more cognizant of sales outside of the province.

Exports outside of Canada do not attract GST, and will not attract the HST.

Inside Canada, supplies of goods will attract the HST where the goods are delivered to a resident of a province that is a participating province and GST where they are delivered to a resident of a non-participating province. The key will be where legal ownership of the goods transfers. If the legal ownership is transferred in Ontario, another participating province or Quebec, the HST will apply. If the legal ownership is transferred in a non-participating province, then the GST rate will apply.

### **Administration**

All clients will have to make administrative and accounting changes to accommodate the new HST. For example, changes will have to be made to invoicing, rebate calculations, returns and exchanges, the provincial portion of the HST that are restricted to the purchaser etc.

Charities and Not-for-profit organization have some special transitional rules. If the organization is required to self-assess the provincial portion of the HST for the period of October 14, 2009 to May 1, 2010, they will need to become a GST registrant in order to make the necessary remittance. Most of these organizations are not registered for GST as they are not required to collect GST but they simply qualify for a rebate on the amount paid.

Under GST/HST Notice 249 prepared by the Canada Revenue Agency, the government has also introduced new reporting requirements. If an organization exceeds a threshold of \$1.5 million in gross revenues or are required to recapture ITC's for the provincial part of the HST, they will be required to Efile their GST/HST return. This reporting requirement is not optional and may result in penalties if the information is filed in a paper format.

If you wish more information on any of these issues, please contact one of our partners or staff whom may assist you.



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