

Harmonization of Ontario Retail Sales Tax

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General Business Clients
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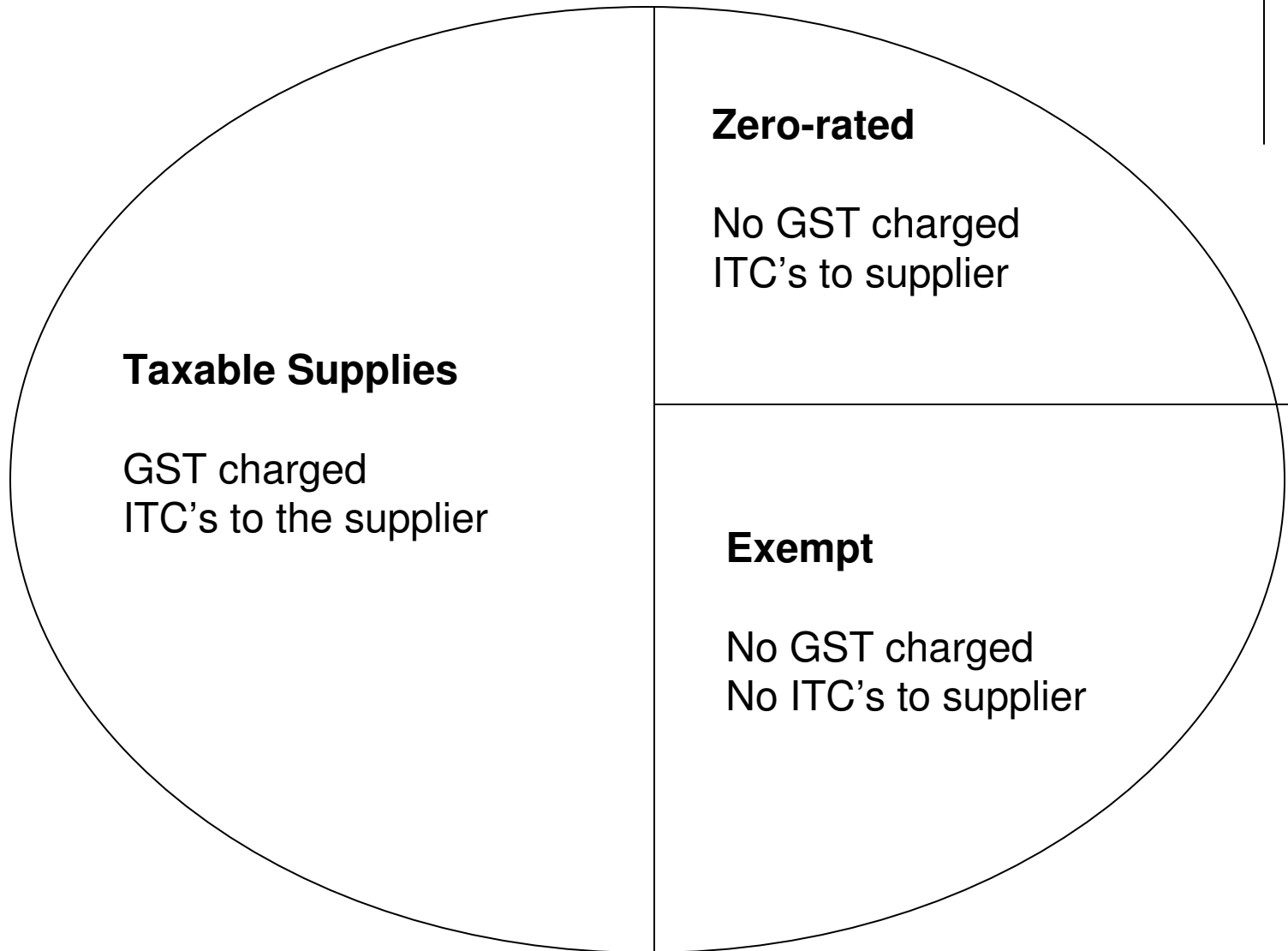
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Overview – Current Situation



- Province of Ontario levies a:
 - RST of 8% on sale of “Tangible Personal Property”
 - Not charged on services
 - Not charged on real property
 - No rebate or refund to commercial consumers except manufacturing & processing equipment
- Federal Government levies a:
 - GST of 5% on all goods and services except exempt or zero-rated supplies
 - Input tax credit (ITC) for GST paid to registrants, except in the case of exempt supplies
 - Charities, municipalities, etc. get rebates in lieu of ITCs

Types of GST Transactions





Harmonization of Sales Tax

- Two significant measures are undertaken
 - Repeal of Ontario's RST
 - Increase of GST to include Ontario's 8% RST
 - Called HST
 - Combined rate of 13%
- Ontario becomes a “participating province” like NB, NS, NFLD and BC (on the same day)



Meaning of Harmonization

- It does not mean that the two laws become one,
rather
- It means that the Ontario RST “dies” and the GST rises from 5% to 13% and the 8% is collected by the Federal Government, who is responsible to pay the province of Ontario



Meaning of Harmonization

- Transactions that were once covered (or not covered) by the Ontario RST will be covered by the Federal Excise Tax Act and subject to the HST
- Corollary:
 - A transaction that was subject to the GST will be subject to the HST
 - A transaction that was not covered by the GST will not be taxable under the HST
- Just a parenthetical note – the tax to the consumer will be in most cases a tax of 13%, but the law will still require that businesses track the two components called:
 - The federal component of 5%, and
 - The provincial component of 8% [referred to as the OVAT]



Impact of HST to Ontario

- Pluralistic society
- No two sectors or industry groups are alike
- There will be winners and losers
- Examples of “winners”
 - Business selling taxable goods and services, especially those who export
 - Manufacturers
 - farmers
- Examples of “losers”
 - Consumers purchasing services, e.g.
 - Lawyers’ and accountants’ fees
 - Home renovations
 - New houses at the “high end”
 - Exempt suppliers like doctors and dentists



Move to Harmonization

- Registrants will be able to claim input tax credits for the provincial portion of OVAT, whereas that tax was lost under the current RST system
- Legislation to enact this change has been passed
 - Ontario's Bill to change the Retail Sales Tax Act received Royal Assent on December 15, 2009
 - Federal Bill to amend the Excise Tax Act also received Royal Assent on December 15, 2009



Point of Sale Exemptions

- Certain items will be exempt from the provincial 8% portion of the HST [OVAT]:
 - Newspapers
 - Meals costing less than \$4.00
 - Books
 - Children's clothing
 - Children's footwear
 - Children's car seats and car booster seats
 - Diapers
 - Feminine hygiene products



Additional Ontario Taxes

- Private Transfers of Motor Vehicles
 - Ontario will retain a sales tax on private transfers of used motor vehicles
- Hotel Rooms
 - Current RST rate on hotel rooms is 5% - this will increase to 8% with the implementation of HST
- Insurance
 - Ontario will retain a tax on insurance at 8% after the transition to HST. The tax will be payable on the same types of insurance currently taxed under RST and will not give rise to an input tax credit



Additional Ontario Taxes

- Alcohol Sales
 - Under HST, the tax on liquor of 10% (at bars and restaurants) and 12% (beverages sold through retail stores) would fall to 8%. However, “to maintain social responsibility and existing revenue, while introducing the new single sales tax, the government proposes to make adjustments to current alcohol fees, levies and charges. The government also proposes to introduce legislation to replace various alcohol and other fees, levies and charges with taxes to enhance their operational structure and legislative clarity.”

Transition Support Payments



- The Ontario government is planning to make certain support payments to individuals/couples and small businesses to compensate for the effect of the change
- Small business transition credit is based on taxable revenues in the first full fiscal quarter commencing after June 30, 2010



Transition Support Payments

- In order to receive the small business transition credit, the business:
 - must not be a listed financial institution
 - must carry on business in Ontario on July 1, 2010 and be a registrant for GST/HST on that day
 - must make taxable supplies for GST/HST purposes
 - must have taxable revenue of less than \$2,000,000
 - for its first fiscal year commencing after June 30, 2010, or
 - for its last fiscal year commencing before July 1, 2010 if the Minister considers it appropriate in the circumstances to consider the taxable revenue of that fiscal year instead
 - March 25, 2010 Budget (Ontario) changed calculation to not examine the last quarter ending in July 1, 2010 but a 12 month period

Small Business RST compensation



- Old Ontario Vendors Compensation under the RST will die
- Vendors will be allowed the normal compensation to the end of March 31, 2010.
- The March 25, 2010 Budget extended the vendor's compensation by \$375 for the period April 1, 2010 to June 30, 2010

Ontario Sales Tax Transition Benefit – to individuals



- Three payments will be paid to individuals as part of the harmonization of the sales tax.
- Payments will be based on the net income on the previous year's tax return.

Ontario Sales Tax Transition Benefit



<u>Date Paid</u>	<u>Single Individuals</u>		<u>Couples and Single Parents</u>	
	<u>Max Ben.</u>	<u>Phase-Out Range</u>	<u>Max Ben.</u>	<u>Phase-Out Range</u>
June 2010	\$100	\$80,000–\$82,000	\$330	\$160,000-\$166,600
December 2010	\$100	\$80,000–\$82,000	\$335	\$160,000-\$166,700
June 2011	\$100	\$80,000–\$82,000	\$335	\$160,000-\$166,700
Total	<u>\$300</u>		<u>\$1,000</u>	

Temporarily Restricted ITCs (RITCs)



- Temporarily Restricted ITCs (RITCs)
 - Associated groups with annual taxable sales > \$10 million and financial institutions will be unable to claim ITCs on the provincial portion of the HST [OVAT] for the first five years for the following items:
 - Energy, except where purchased by farms or used to produce goods for sale
 - Telecommunication services other than internet access or toll-free numbers
 - Road vehicles weighing less than 3,000 kg (and parts and certain services) and fuel to power those vehicles
 - Food, beverages and entertainment
 - After the first five years of HST, full input tax credits for these businesses will be phased in over a three-year period (see next overhead)

Temporarily Restricted ITCs (RITCs)



Restriction of OVAT	From	To
100% of 8%	July 1, 2010	June 30, 2015
75% of 8%	July 1, 2015	June 30, 2016
50% of 8%	July 1, 2016	June 30, 2017
25% of 8%	July 1, 2017	June 30, 2018
0% of 8%	After June 30, 2018	

Temporarily Restricted ITCs (RITCs)



- RITCs do not apply to
 - Items which will be resold (inventory)
 - Farms and public service bodies [MUSH sector and charities]

RITCs



Persons subject to the RITC requirement would separately identify recaptured ITCs in their GST/HST NETFILE returns and would not simply forego claiming these ITCs in their calculation of net tax

(In other words, cannot just ignore the RITC, but must identify it monthly)



RITCs

- Vehicles
 - Does not apply to inventory
 - Parts and services are only in addition to the purchase
 - Diesel fuel is not restricted
 - Demo vehicles – 2% per month X OVAT is RITC
 - Taxi's are exempt



RITCs

- Energy applies to electricity, gas, fuel, steam
- Does not apply to
 - Production equipment and manufacturing
 - [note – only the equipment, the facility is still restricted]
 - Can elect a proxy amount
 - Eg. A chemical manufacturer can use 96% of its energy bills as non-restricted



RITCs

- Must allocate monthly the RITC
- If meals and entertainment are accounted for at end of year, then can account for the RITC then
- Can elect to use an estimation/instalment approach
- If non-arm's length for nil or low consideration, still have RITCs



General Transitional Rules

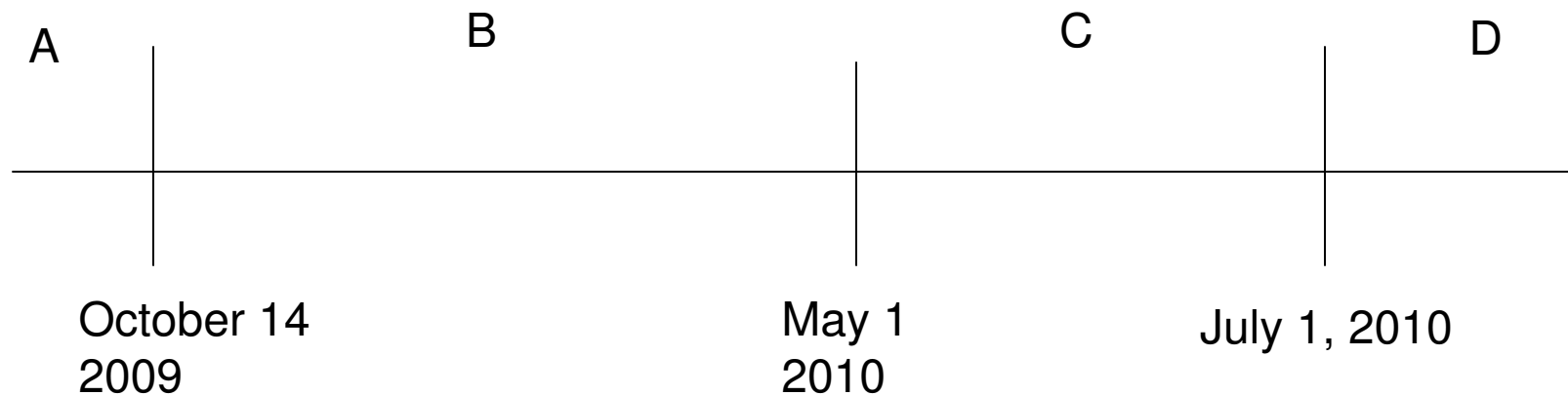
- Generally, goods and services provided on or after July 1, 2010 will be subject to HST; those provided before July 1, 2010 would be subject to GST and/or RST as applicable
- HST will also apply to:
 - Goods delivered or services provided after June 2010, but paid for between May 1, 2010 and June 30, 2010 (for all persons), or
 - Goods delivered or services provided after June 2010, but paid for between October 14, 2009 and April 30, 2010 for certain registrants

General Transitional Rules



Payment date is A,B,C or D

Goods/service delivered after June 2010 (D)





General Transitional Rules

- A – No HST even if goods delivered or service provided after June 2010

- B – HST on OVAT in special situations where ITCs are restricted in some way, but not likely in the general business sector, or consumers

- C – HST if prepaid or due and goods delivered or service provided after June 2010

- D – HST applies, if goods delivered or service provided after June 2010



General Transitional Rules

- General transitional rules were released by the Ontario Ministry of Revenue on October 14, 2009
- Transitional rules include important dates:
 - July 1, 2010 – implementation date for HST harmonization
 - May 1, 2010 – HST will generally apply to consideration that becomes due, or is paid without having become due, on or after this date for property or services provided on or after July 1, 2010
 - October 14, 2009 – HST would not apply to consideration that becomes due, or is paid without having become due, on or before this date. Payment between October 14, 2009 and April 30, 2010 will be subject to a special self-assessment rule for some non-consumers
 - October 31, 2010 – date on which any outstanding RST becomes payable



General Transitional Rules

- Zone C explained further
 - May 1, 2010 prepaid rule
 - **ONUS** is on supplier to capture the OVAT and remit for period that includes July 1, 2010
 - Do not collect RST
 - What happens when the supplier does not know when delivery/service date will be????



General Transitional Rules

- Zone B explained further
- Goods or services provided after June 2010 but paid for between October 14, 2009 and April 30, 2010 if:
 - Certain purchasers (other than consumers) are required to self-assess the Ontario portion of the HST if:
 - The supply is not used exclusively in commercial activities, or
 - subject to ITC restriction or recapture
 - Or, the purchaser:
 - Uses the simplified method to calculate the net tax
 - Is a selected listed financial institution
- Must be included in filing period that covers July 1, 2010 and annual filers must report on special form before November, 2010

General Transitional Rules – Services provided



- HST will **not** apply to:
 - Services where 90% or more of the service is provided before July, 2010
 - Services provided before July 1, 2010 but paid for on or after July 1, 2010
 - Funeral services performed on or after July 1, 2010 pursuant to an arrangement in writing entered into before July, 2010, where all or part of the consideration for the service was paid or put into trust before the service is performed
 - The portion of a round-trip ticket where the travel is after June 2010, if the trip began before July 2010

General Transitional rules Leasing



- HST applies to lease interval periodic payments for periods commencing after July 1, 2010
- HST does not apply if lease interval ends before July 31, 2010 and commences before July 1, 2010
 - Eg. Lease interval is June 1, 2010 to August 31, 2010, lease is subject to HST even if paid before July 1, 2010
 - HST is based upon prorated period after June, 2010
 - Initial commencement of lease is irrelevant



Combined Supply

- Where supply is for goods **and** services, treat as two separate contracts
- Example:
 - Sell computer in June, with service for training in July [all one invoice]
 - GST charged on sale of hardware, HST charged on portion of invoice related to July service

Transitional Rules – Progress payments



- OVAT applies to progress payments on contracts to construct, renovate, alter or repair:
 - Real property
 - Ships or other vessels
- To the extent that the progress payment reasonably relates to property delivered or services performed after June 2010

Transitional Rules – Progress payments



Supplier is required to account for the OVAT on progress payments that become due, or are paid without becoming due, after October 14, 2009 and before July 2010, if the good or service is delivered or performed after June 2010

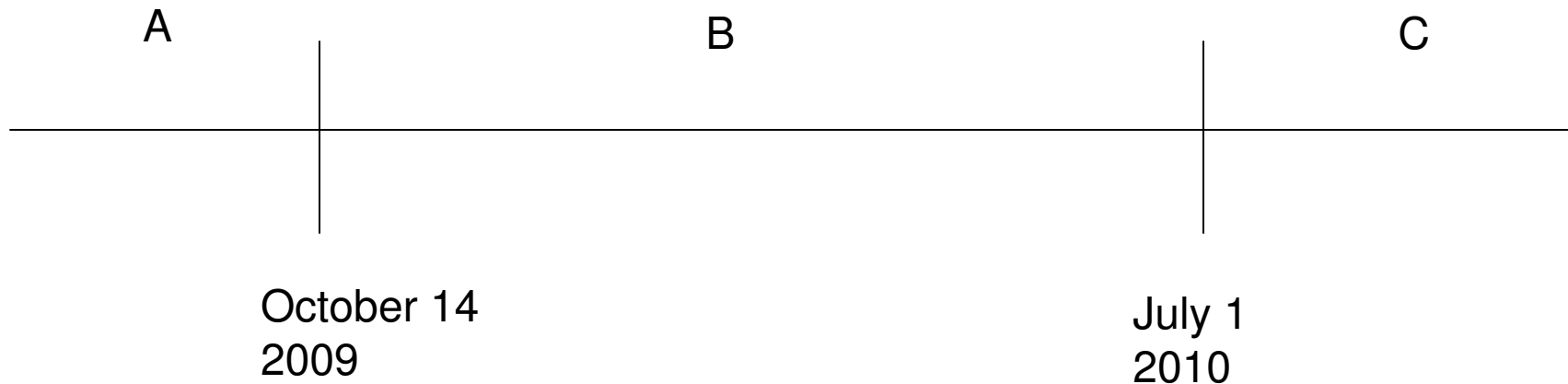
Note:

- this overrides the May 1, 2010 rule for general supplies.
- The onus is on the supplier to collect the OVAT

Transitional Rules – Progress payments



Progress payment is A, B or C
Work done after June 30, 2010



Transitional Rules – Progress payments



- A – No OVAT, as paid before October 14, 2009
- B – vendor required to collect OVAT on progress payment to extent that work done after June, 2010
- C – HST applies if work done after June, 2010



Exchanges and Refunds

- HST applies to the difference as long as exchange is before November 1, 2010, otherwise HST applies to the supply
- Examples:
 - Sale is in June, 2010; cash refund in July, 2010
 - Refund of cash plus the original GST
 - Sale is in June, 2010; exchange for equal value in July, 2010
 - No HST charged



Exchanges and Refunds

- Examples:

- Sale is June, 2010; exchange for upgraded property in July, 2010
 - HST charged on the difference
- Sale in June, 2010; exchange in December, 2010
 - Since after October, 2010, deemed new sale and HST charged on full price, GST refund available
 - Can obtain RST refund from Ontario Ministry of Revenue

Imported goods from a non-participating province, outside Canada



- Importation dues on goods or service from a non-participating province will not apply to a commercial registrant that gets a full ITC
 - Consumers or those who do not get an ITC will have to self-assess the HST provincial component [OVAT]
- Importation from outside Canada – no HST is self-assessed on commercial goods to a registrant

New Housing – Tax and Rebates



- HST will apply to the sale of newly constructed or substantially-renovated residential housing where both ownership and possession are transferred after June 2010
- Grandparenting – if a written agreement was entered into on or before June 18, 2009, but ownership and possession will not be transferred until after June 2010, HST will not apply
 - Where the property is a detached house, semi-detached house or attached house, the purchaser must be an individual in order for the grandparenting rule to apply

New Housing – Tax and Rebates



- Ontario New Housing Rebate – where the sale is subject to HST, the purchaser will be eligible to claim a rebate of 75% of the provincial portion of the HST, up to a maximum claim of \$24,000
 - This will apply regardless of the purchase price of the house (i.e., no maximum purchase price for provincial portion of rebate)
- Ontario RST rebate – where HST is paid and construction period straddles July 1, 2010



Place of Supply

- | Participating provinces | GST/HST Rate |
|-------------------------|--------------|
| ● NFLD, NB, NS | 13% |
| ● Ontario (pending) | 13% |
| ● BC (pending) | 12% |
| ● NS (new rate) | 15% |
| ● All others | 5% |
- [Note - Quebec has its own value added tax system]



Place of Supply

- February 25, 2010 – Finance altered the Place of Supply Rules
 - Taxation of goods left unchanged
 - Reversed position on taxation of services

General Place of Supply Rules



- GST/HST rate applies to a province
 - Goods
 - Goods shipped by supplier by common carrier or mail are deemed taxable in province of recipient {ie. FOB destination}
 - If goods are received legally by recipient in Ontario, then Ontario HST applies {ie. FOB shipper}
 - Location of Supplier is irrelevant
 - Services
 - Location of recipient will be relevant under the new rules [previously it was location of the supplier]
 - A supply of a personal service will be based upon where substantially all of the personal service is performed

Administrative and planning concerns



- Rebate calculation will be more complex
 - Housing rebates will be very complex to the consumer
 - Will have to segregate Federal portion of HST from Provincial portion [OVAT]
- Leasing will turn to HST even if lease is an old lease
- Equipment purchased now will not attract HST, but PST. HST will be rebated, so purchasing may be better if deferred

Administrative and planning concerns



- Budgeting
 - HST is an “up front” cost, loss of cash flow even if obtain rebate
- Forms and invoices will have to change
- If carry on business, watch for \$30,000 small supplier rule



Filing

- GST/HST Notice 249
- Must Efile
 - Threshold amount is over \$1.5million
 - Required to recapture ITC's for provincial part of HST
 - Builder who makes sales of grandparented houses
 - Builder who
 - Must pay Transitional Tax Adjustment
 - Reporting provincial transitional new housing rebate
- No other options, and penalties will apply
- Starts with filing period that includes July 1, 2010



Mandatory filing

- Threshold amount is gross taxable supplies of goods and services in prior fiscal year (taxable and zero-rated)
- Applicable to periods that end on or after July 1, 2010
- Four options
 - GST/HST Netfile*
 - GST/HST Telefile
 - GST/HST Electronic Data Interchange (EDI)
 - GST/HST Internet file transfer (GIFT)
 - (approved third party accounting software)
- Note – If claiming recaptured ITC's or builders, must use Netfile

Mandatory filing – Must Report



- Recaptured ITCs
 - Must report “gross” ITC, recaptured ITCs [RITC] for the provincial portion of the HST as well as “net” ITC
- Builder
 - Must report number of grandparented homes sold in reporting period
 - Number of newly built homes sold that were previously purchased by builder on grandparented basis
 - Transitional Tax Adjustment for the builder
 - RST transitional new housing rebates claimed for the reporting period
 - If Efiling, must report separately GST/HST new housing rebates they are including



Resources

- Federal Gov't
 - GST Notices:
 - 244 - Housing Rebates and real property
 - 247 - General transitional rules
 - 249 - Reporting requirements
- Ontario Gov't
 - Information Notices 1 to 5
 - Number 5 -- RITCs