

Harmonization of Ontario Retail Sales Tax

Prepared for:
Home Builders and Contractors
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Presented by: Douglas M. Parker, CA, CFP
Partner – Director of Taxation
Wilkinson & Company LLP





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Current Situation

- Province of Ontario levies a:
 - RST of 8% on sale of “Tangible Personal Property”
 - No charge on services
 - No charge 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 for GST paid to registrants, except in the case of exempt supplies
 - Charities, municipalities, etc. get rebates in lieu of ITCs

Overview

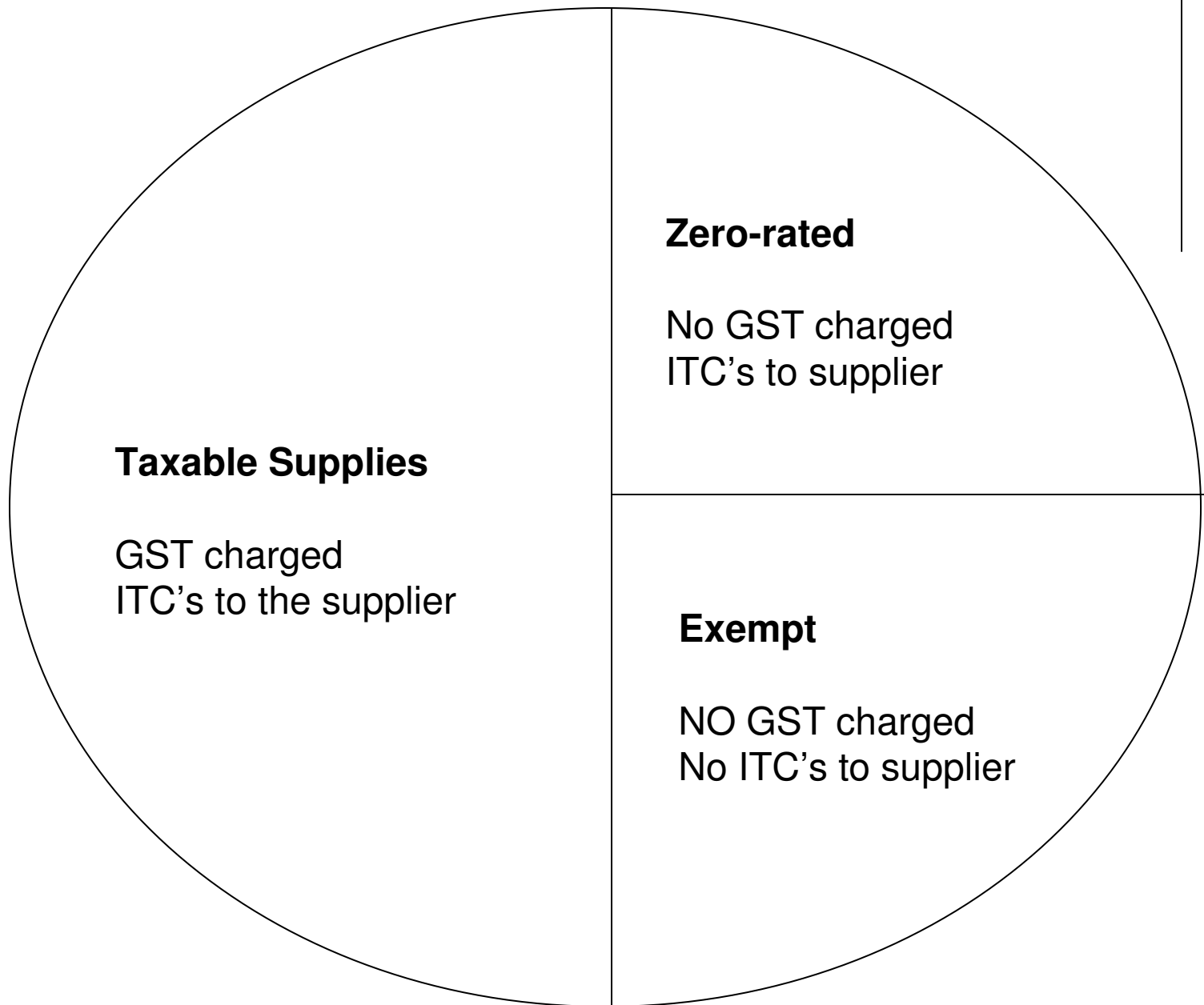


RST (or PST) charged on
-Tangible personal
property

Not charged on
- Most services
- Real Property

GST (and HST) charged
on Taxable Supplies
which are:

Goods and Services
(see next overhead)





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
 - 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
 - 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:
 - 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



Other Relevant Changes

- Temporarily Restricted ITCs
 - Businesses with annual taxable sales > \$10 million and financial institutions will be unable to claim ITCs on the provincial portion of the HST 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



Other Relevant Changes

- Private Transfers of Motor Vehicles
 - Ontario will retain a sales tax on private transfers of used motor vehicles
- 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

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

Small Business Transition Credit



Taxable Revenues	Transition Credit
\$0 - \$15,000	\$300
\$15,001 - \$50,000	2 % of taxable revenue for that quarter
\$50,001 - \$500,000	\$1,000

Ontario Sales Tax Transition Benefit



- 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	\$300		\$1,000	



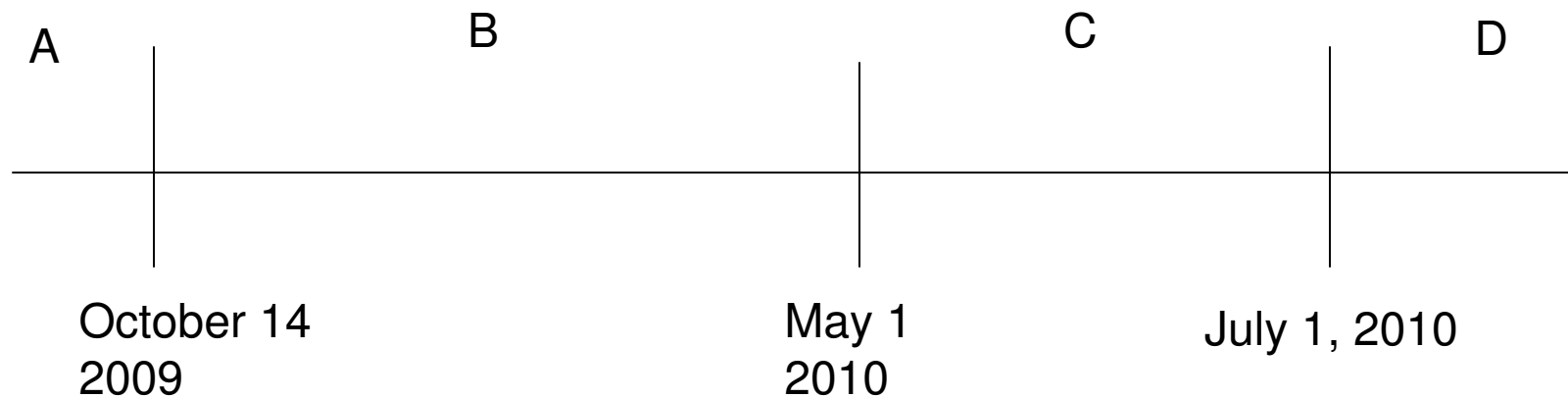
General Transitional Rules

- 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 registrants – registrants will have to self-assess the provincial portion of HST) [see next overhead]

General Transitional Rules



Payment date is A,B,C or D



General Transitional Rules



A – No HST even if goods delivered after June 2010

B – HST on OVAT in special situations, but, not likely in the Real Estate Sector

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

D – HST applies, if goods delivered 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

- 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

General Transitional Rules



- HST will not apply to:
 - 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 - Services provided



- HST will not apply to services provided before July 1, 2010 but paid for on or after July 1, 2010
- Grandparented from HST if payment is before May 1, 2010 and service is after June 30, 2010
 - [subject to special non-consumer rule – see above]
- If service is split between pre and post July 1, 2010, then GST/HST is prorated based upon number of days in each period
- To be exempt from HST more than 90% of the service must be performed before July 1, 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

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 reasonable 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



Transitional Rules – Progress payments



- A – No OVAT, as commenced 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



Real Estate

- Areas covered:
 - Services to the Housing sector
 - Grandparented New House Sales
 - Sales of Real Property
 - New Housing
 - Used Housing
 - Commercial property
 - Personal use property

Services to the Housing Sector



- Follow general GST rules
 - If charged GST in the past, will charge HST in the future
 - Transitional rules will follow the general rules (see below)
 - Real estate agents
 - Date of fee earned (legally) will determine if HST or GST is charged [usually the date of closing]
 - Time spent on assignment is of no value
 - HST paid will give rise to an input tax credit (ITC)



Real Property

- Real property will be subject to HST on the same basis that GST previously applied
- Supplies of commercial real estate and newly constructed or substantially-renovated residential housing will be subject to HST
- Supplies of used residential housing will not be subject to HST
 - [either by sale or lease]

Implementation dates – New Housing sector



- Key dates
 - July 1, 2010
 - HST is now charged on taxable supplies
 - May 1, 2010
 - HST applies if taxable supply is after June 30, 2010
 - June 18, 2009
 - Special transitional rule for housing sector – determines grandparented housing
 - October 31, 2010
 - Any remaining RST is payable

New Housing – Transitional Rules



- Grandparenting rules are different for New Housing
- HST will apply to the sale of newly constructed or substantially-renovated residential housing where both ownership and possession are transferred after June 2010 (subject to grandparenting – next overhead)
- If either of ownership or possession are transferred before July 1, 2010, the sale will not be subject to HST (but will be subject to GST)



Grandparented Contracts

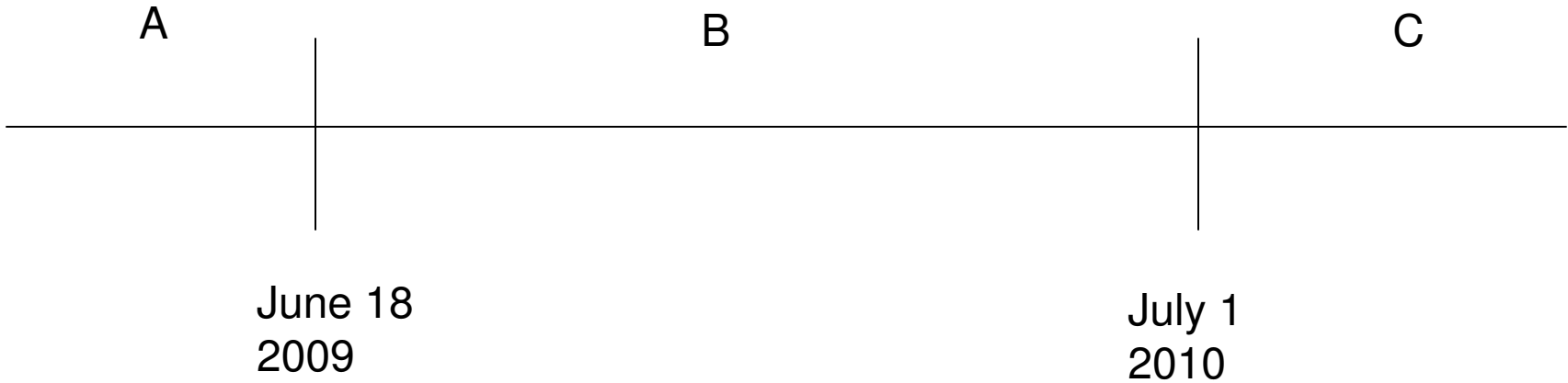
- If a written agreement was entered into on or before June 18, 2009, but ownership and possession will not be transferred until after June 2010, HST will not apply
 - Where the property is a detached house, semi-detached house or attached house, the purchaser must be an individual in order for the grandparenting rule to apply
- Grandparenting rule will not apply to:
 - Homes built or substantially-renovated by owners for their own use
 - Duplexes
 - Apartment buildings
 - Mobile, modular or floating homes
- Special rules will apply for resellers of grandparented properties



Grandparented Contracts

- Special Rules
 - Upgrades will not alter a grandparented contract if the upgrades are not significant
 - A change of a lot from the original contract will destroy the grandparented contract
 - Assignments of a grandparented contract will not destroy the exemption from HST if not a new contract
 - Resellers will be exempted under special rules

New Housing – Transitional Rules

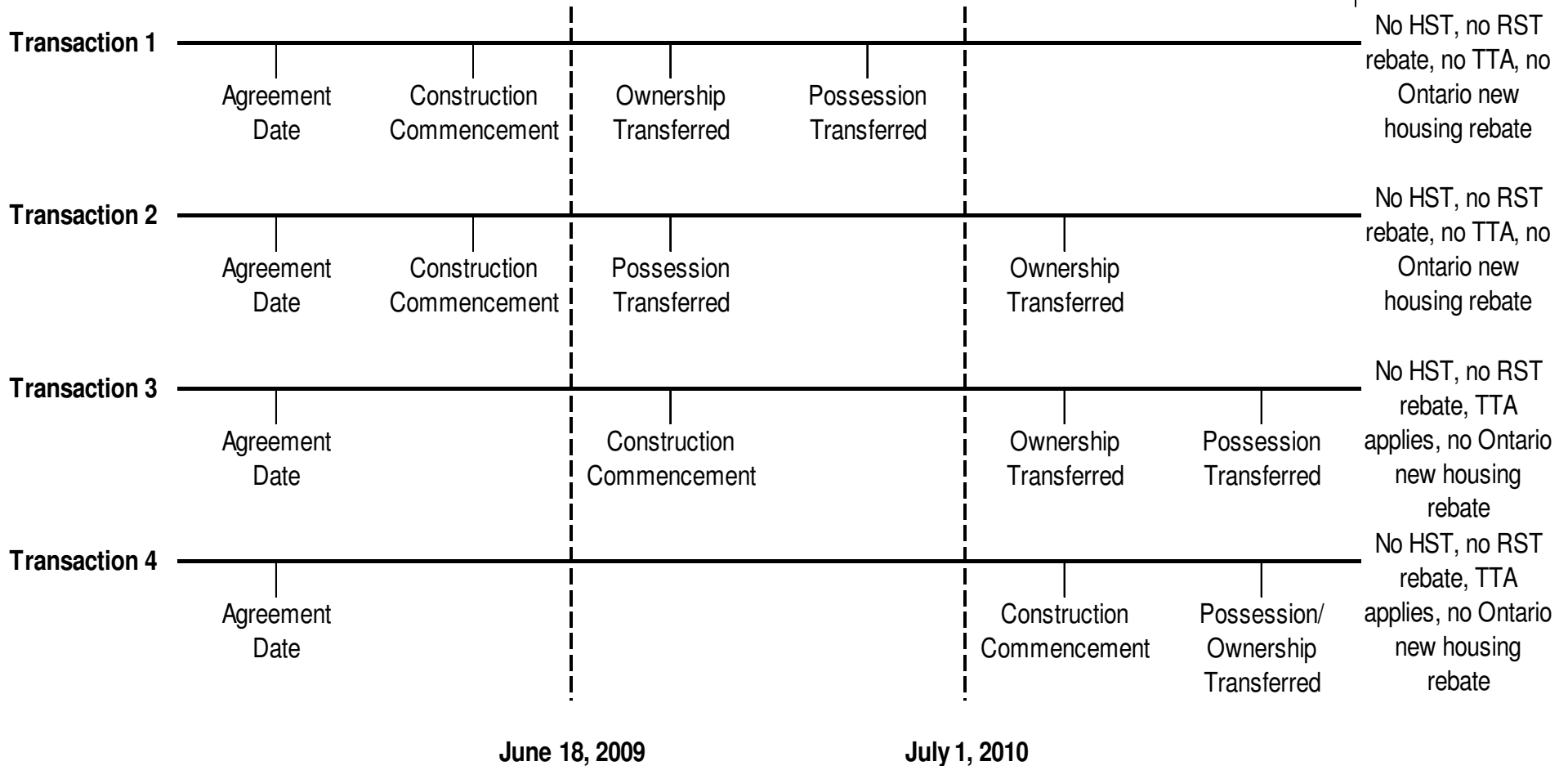


New Housing – Transitional Rules

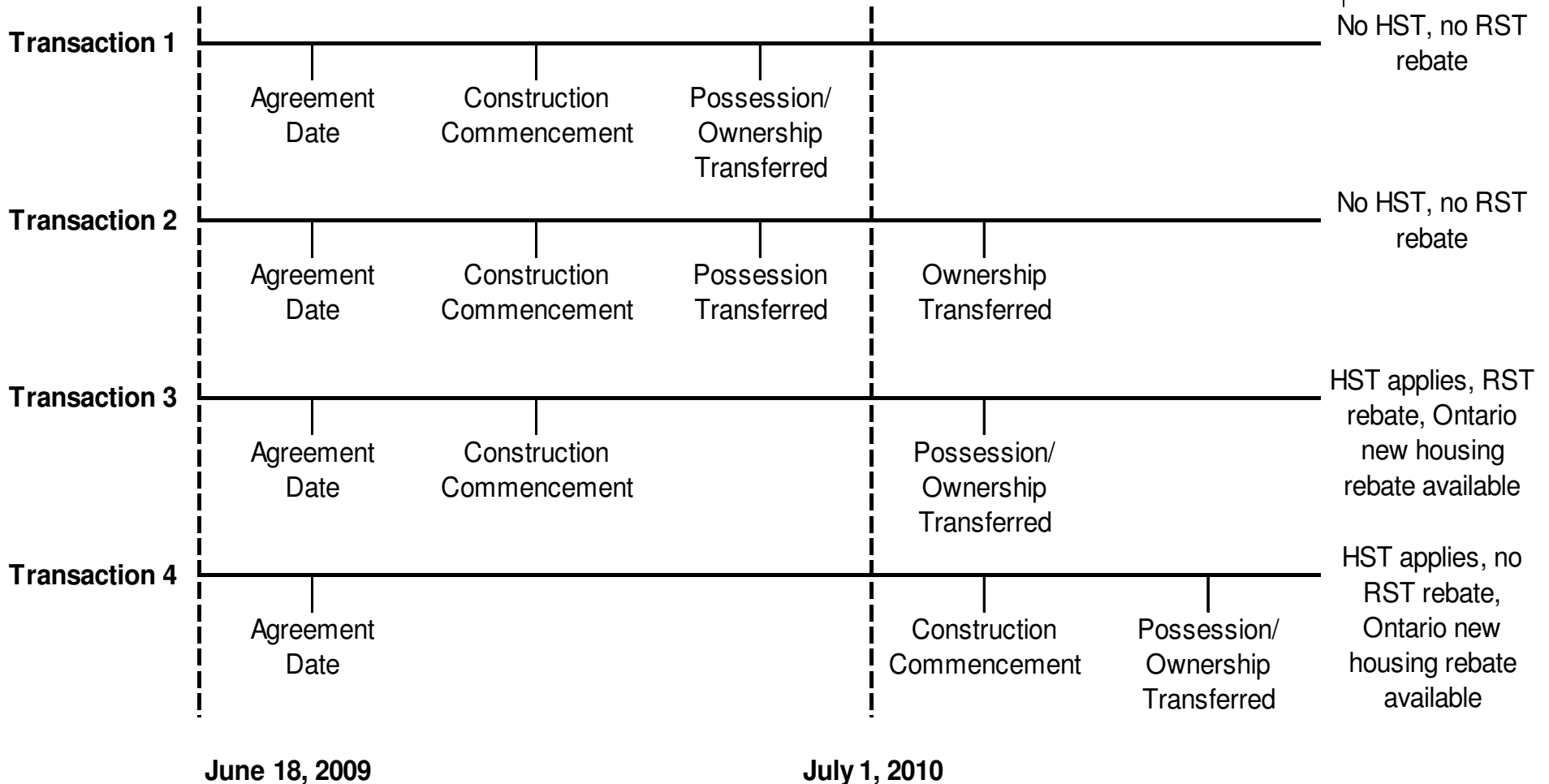


- A - Written agreement is signed on or before June 18, 2009 and the earlier of possession or ownership is after June 2010 [zone C]: HST will not apply
 - [a Grandparented contract]
- B- Written agreement is signed after June 18, 2009 and earlier of possession or ownership is after June 2010 [zone C]: HST will apply

Single Unit Housing Transitional Rules – Agreements Signed on/before June 18, 2009



Single Unit Housing Transitional Rules – Agreements Signed after June 18, 2009 and before July 1, 2010



Builders' Disclosure Requirements



- If a written agreement of purchase and sale for a newly constructed or substantially renovated residential complex is entered into after June 18, 2009 and before July 1, 2010, the builder would be required to disclose in the written agreement whether the provincial part of the HST applies to the sale and, if so, whether the stated price in the agreement includes the provincial part of the HST, net of the Ontario new housing rebate and the RST transitional new housing rebate, if applicable.
- If the transaction is subject to the HST and the builder did not make a disclosure as outlined above, the stated price in the written agreement would be deemed, under the transitional rules, to include the provincial part of the HST. In such a case, the purchaser would not be required to pay the provincial part of the HST in addition to the stated price in the agreement.



New Housing Rebates

- Depending on the facts of the case, the purchaser may be able to claim all of:
 - the GST rebate (which is identical to the old rebate)
 - The Ontario New Housing Rebate for the provincial portion of HST
 - The Ontario RST transitional rebate



New Housing Rebates

Pre-HST		
<u>GST rate</u>	<u>GST rebate</u>	<u>Maximum value of house</u>
5%	36% of GST	\$450,000
GST rebate ground down with house value between \$350,000 and \$450,000		

Ontario New Housing Rebates



- HST paid on house purchase
- Additional rebate on provincial portion of HST [OVAT]
 - 75% of provincial portion of HST
 - Maximum rebate is \$24,000 (which equates to a \$400,000 house)
 - Unlike GST rebate, is not reduced for higher-valued house
 - Maximum value of house is \$452,000, with no phase-out
- New form will be introduced by July 1, 2010
 - Can claim directly or builder can give credit

Ontario New Housing Rebates



- Special rules for:
 - If house sold with land lease to builder, Ontario new housing rebate will be 5.31% of price paid for building, to a maximum of \$24,000
 - If land provided by the purchaser:
 - HST was paid on the land, the rebate would be 75% of the OVAT to a maximum of \$24,000
 - HST was not paid on the land, the rebate would be 75% of the OVAT to a maximum of \$16,080



New Housing Rebates

- Purchaser would not be eligible to claim the Ontario New Housing Rebate for the provincial portion of the HST for a grandparented sale because HST is not being charged



New Housing Rebates

Post-HST					
<u>Federal portion</u>	<u>Federal rebate</u>	<u>Provincial portion</u>	<u>Provincial rebate</u>	<u>Maximum value of house – Federal</u>	<u>Maximum value of house – Provincial</u>
5%	36% of federal portion	8%	75% of provincial portion	\$450,000	\$400,000
Federal portion of rebate ground down with house value between \$350,000 and \$450,000					

Examples



\$300,000 house	<u>GST</u>	<u>GST Rebate</u>	<u>Net</u>
	\$15,000	\$5,400	\$9,600
	<u>Provincial Portion</u>	<u>Provincial Rebate</u>	<u>Net</u>
	\$24,000	\$18,000	\$6,000
		Total tax	<u>\$15,600</u>

\$400,000 house	<u>GST</u>	<u>GST Rebate</u>	<u>Net</u>
	\$20,000	\$3,150	\$16,850
	<u>Provincial Portion</u>	<u>Provincial Rebate</u>	<u>Net</u>
	\$32,000	\$24,000	\$8,000
		Total tax	<u>\$24,850</u>

Examples



\$500,000 house	<u>GST</u>	<u>GST Rebate</u>	<u>Net</u>
	\$25,000	\$0	\$25,000
	<u>Provincial Portion</u>	<u>Provincial Rebate</u>	<u>Net</u>
	\$40,000	\$24,000	<u>\$16,000</u>
		Total tax	<u>\$41,000</u>

Ontario Retail Sales Tax (RST) Transitional Rebates for New Housing



- Purchasers entitled to claim an RST transitional new housing rebate if:
 - construction straddles the July 1, 2010 implementation date for HST,
 - HST is payable on the purchase, and
 - construction must be at least 10% complete as of July 1, 2010 as certified by the builder
- Builders entitled to claim the rebate if:
 - construction straddles the July 1, 2010 implementation date for HST,
 - HST is payable on the purchase in respect of the self-supply of the housing, and
 - construction must be at least 10% complete as of July 1, 2010 as certified by the builder

Ontario Retail Sales Tax (RST) Transitional Rebates for New Housing



- Rebate will be based on the degree of completion of the housing and the estimated RST embedded in the housing
- Estimated RST embedded in the housing calculated by choosing one of the following methods:
 - floor space method - \$45.00 per square metre of floor space
 - fair market value method – 2% of consideration paid for the housing (or the fair market value of the housing in self-supply situations)

Ontario Retail Sales Tax (RST) Transitional Rebates for New Housing



% of completion at July 1, 2010	% of estimated RST that would be rebated
Less than 10%	0%
Equal to or greater than 10% and less than 25%	25%
Equal to or greater than 25% and less than 50%	50%
Equal to or greater than 50% and less than 75%	75%
Equal to or greater than 75% and less than 90%	90%
Equal to or greater than 90%	100%



Example

- A newly constructed single detached house is 80% complete as of July 1, 2010. HST will apply to the sale of the house. The FMV of the house is \$500,000 and the floor space of house is 235 square metres.
- The RST transitional rebate will be the greater of:
 - $\$500,000 * 2\% * 90\% = \$9,000$, or
 - $\$45.00 * 235 * 90\% = \$9,517.50$

Transitional Tax Adjustment (TTA)



- The Ontario government wants to collect from grandparented sales the RST that would have been collected on the completion of a straddled construction [ie. The construction started before July 2010 and ended after June 2010]
- TTA will be collected by the Federal Government and paid to Ontario
- Therefore, builders will have to pay a transitional tax adjustment (TTA) for each grandparented sale as follows:

Transitional Tax Adjustment



	Houses	Condo units/complexes
% of completion at July 1, 2010	TTA rate as a percentage of consideration	
Less than 10%	2.0%	2.0%
Equal to or greater than 10% and less than 25%	1.5%	
Equal to or greater than 25% and less than 50%	1.0%	
Equal to or greater than 50% and less than 75%	0.5%	
Equal to or greater than 75% and less than 90%	0.2%	
Equal to or greater than 90%	0.0%	

Transitional Tax Adjustment Example



- Contract for home is entered into on May 31, 2009. The home will cost \$450,000, and ownership and possession will be transferred in August, 2010. On July 1, 2010, the home was 50% complete.
- The builder will have to pay a transitional tax adjustment of $\$450,000 * 0.5\% = \$2,250$

Transitional Ont RST inventory rebate



- Ontario RST Inventory Rebate for residential real property contractors (and home builders)
- Rebate requirements:
 - Ont RST paid on construction materials in the contractor's inventory on June 30, 2010 for use in a residential real property contract that is subject to HST
 - Ont RST not otherwise recoverable
 - Contractors file rebate application with the Ont Min of Revenue by December 31, 2010



Used housing

- Supply of a used house, or multiple residence complex is tax exempt [0% GST/HST is charged]
- “Supply” covers sale of used house or lease
- Supplier does not get Input Tax Credit for GST/HST paid on its costs



Condo Fees

- Condo fees will not attract GST/HST, but the buried costs in the condo fee will include the GST/HST
- There will therefore be an increase in condo fees due to (for example):
 - Maintenance
 - Snow plowing
 - Landscaping
 - Legal and accounting fees
 - Management fees etc.



Commercial Property

- Supply of a commercial property, by sale or lease is subject to GST/HST
- Input Tax Credits (ITC's) available to the supplier
- General transitional rules apply
- See next overhead for transitional rule to leasing



Leasing and transition

- GST [but not HST] applies if lease period ends before July 1, 2010
 - [Lease period refers to the monthly or periodic payment, not the gross period covered by the lease]
- HST applies if period starts after June 30, 2010
- HST does not apply if period starts before July 1, 2010 and ends before July 31, 2010.



Personal Use Property

- No GST/HST if property is personal use property, not used in the course of a commercial enterprise and sold by a non-registrant
- Covers residence, cottage vacant land
- Farm land is used in a commercial enterprise and usually a registrant, so GST/HST will apply

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 ITC's
 - Must report “gross” ITC, recaptured ITC's 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
 - TTA 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 244,247,249
- Ontario Gov't
 - Information Notices 1 to 5