

# HST: Is Your Business Ready?

You have undoubtedly heard the extensive media coverage of protests, economic opinions, and political statements about the Harmonized Sales Tax (HST) being implemented in British Columbia and Ontario on July 1, 2010. This is arguably one of the most significant changes to sales tax regimes since the introduction of the GST as it replaces the existing provincial sales tax (PST) systems and administration. For some businesses HST offers significant benefits, while for others it presents a unique set of challenges.

In B.C. the HST will be 12%, consisting of the 7% provincial component and the 5% GST. In Ontario, the HST will be 13%. The transition to HST is not as simple as changing the rate from 5% to 12%. The existing GST rules are complex to begin with, and the complexity increases when you consider the extensive transitional rules implementing the change from PST to HST, and the fact that the governments are still making changes to the rules. Not all provinces have yet adopted HST, so sales tax may also vary from province to province.

Many items not previously subject to PST will be subject to HST such as services, intangible goods and restaurant meals. Items that were GST exempt or zero-rated will continue to be HST exempt or zero-rated.

The B.C. provincial government has listed a number of items that will have point of sale rebates from the 7% portion of the HST. Below are some of those items. This list may change prior to the HST implementation date.

- Motor vehicle fuels, marine diesel and aviation/ jet fuel
- Books
- Children's size clothing and footwear, diapers and car seats
- Feminine hygiene products

The rules for determining what qualifies for point of sale rebates are quite detailed. You should clarify these rules with your professional advisor if goods that you sell appear to qualify for these rebates.

## Input Tax Credits (ITCs)

Businesses will now claim the 12% HST ITCs instead of 5% GST ITCs. For businesses with gross annual sales of over \$10 million, within an associated group, there will be restrictions on the provincial portion of the ITCs on the following items:

- Energy (except when used by farmers or in production)
- Telecommunication services other than internet and toll-free numbers
- Road vehicles weighing less than 3,000 kg
- Meals, beverages and entertainment

These restrictions are expected to last five years and therefore it may be best for businesses to record their federal and provincial HST in separate ledger accounts. This will allow for better tracking of these ITC's.

With the exception of the above restrictions, businesses will continue to be entitled to claim ITC's for the HST paid for property or services that relate to their commercial activities. As before, ITC's cannot be claimed for HST paid on property or services that relate to the provision of exempt supplies.

## Place of supply

Under current PST rules, the PST on out-of-province purchased items is self-assessed by the purchaser when they bring it into the province.

For HST, the place of supply rules require that the applicable rate is charged based on where the supply takes place. Generally this is the delivery destination for goods, the location where real property is located and where services are received.

These rules are complicated and should be reviewed in detail with your professional advisor if the recipient of a taxable supply is located outside the province of the supplier.

## Transitional Rules

There are rules that will determine the GST/HST rate during the transition from PST to HST. The rules are designed to avoid the imposition of both PST and HST and to ensure that HST is not avoided by making pre-payments and/or manipulation of the intent of HST.

General rules:

- For sales and delivery around the transition date of July 1, 2010, it is necessary to look at the timing of the delivery and ownership transfer to determine the appropriate treatment.
- If ownership and delivery occurs after June 30, 2010, then HST should be charged.
- If ownership occurs before, and delivery after, June 30, 2010, then PST and GST should be charged.

- If contingent sales delivery is before June 30, 2010, and ownership is after the final payment, then PST and GST should be charged.
- For services, the date the service is rendered determines if HST will be applicable.
- Deposits are subject to GST\PST or HST depending on the date the deposit is applied.

Prepayment transactions that occur between October 15, 2009 and April 30, 2010 require that the purchaser self-assess the 7% provincial portion. This does not apply to consumers or businesses that are entitled to claim full ITCs.

If prepayment transactions occur between May 1, 2010 and June 30, 2010, then the vendor must charge the 12% HST. An example of this would be tickets sold during this period for a concert to be performed in August 2010.

There are numerous special situations; some are listed below:

- Services, where 90% of the dollar value is complete prior to June 30, 2010.
- Freight shipments
- Passenger transport and passes
- Subscriptions to newspapers and magazines
- Funeral and cemetery services
- Real estate commissions
- Contingency fees
- Holdbacks
- Property and services combined in one supply
- Memberships (excluding initiation fees)

This list is not comprehensive and the transitional rules can be complex. Professional assistance in interpreting the transitional rules is advised.

#### Planning for the Change

Questions and advice to help you prepare for the transition include:

- Can your accounting software, cash registers and point of sale systems accommodate the change? How will you account for the restricted ITCs, if applicable?
- Review existing and upcoming new contracts that straddle the implementation date to determine which transitional rules will apply.

- Update cash flow budgets to include costs for services not previously subject to PST; the cost of compliance with collecting and paying out the increased tax; and the costs of team training and possibly new technology to comply with the reporting requirements.
- Will the HST cost you money or save you money?
- Are you required to self-assess for transactions between October 15, 2009 and May 1, 2010?
- Are you required to collect the HST provincial portion starting May 1, 2010 due to applicable transitional provisions?
- Do you have procedures developed to determine place of supply?

The upcoming changes will have a significant impact on many businesses, including but not limited to:

- Real estate and property development
- Retail
- Manufacturing
- Wholesale
- Transportation
- Construction
- Energy

## Conclusion

One cannot deny that the implementation of HST will have a significant impact on businesses in British Columbia. Whether that proves to be beneficial or a challenge still remains to be seen. However, the fact remains that these changes are approaching fast and your company would be best served to be well prepared to understand the effects of HST.

If you require assistance understanding the rules, please feel free to contact your local MacKay LLP office. We will be happy to help you make this transition for your business as smooth as possible.

This article is general in nature and should not be relied upon to replace specific professional advice.

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