

BMCA Review of HST in Ontario

General Overview

The Harmonized Sales Tax (HST) has been controversial since its announcement and is about to become reality. Companies that do business in either BC or Ontario will need to have their accounting systems and operations ready for the July 1, 2010 harmonization date. Although the HST may benefit many businesses, many will be negatively impacted, in particular exempt corporations. You should be aware of the impact of the HST on your business and its cash flows. This paper is intended to be of a general nature, accordingly is written at a summarized level and should not be substituted for government legislation and professional advice.

The Ontario HST rate will be 13% which is represented by the Federal Goods and Services tax component of 5% and the Ontario provincial tax portion of 8%. The existing goods and services tax legislation governing the Federal GST will govern the HST. For example, if a good or service is currently subject to GST, it will be subject to the HST. Input tax credits (ITCs) will be made available for the entire amount of the HST with several exceptions and you will be filing one HST return with the Canada Revenue Agency.

Transitional Rules

The HST is applicable to transactions that relate to payments made or invoices issued on or after May 1, 2010 for taxable supplies of goods and services made on or after July 1, 2010. The following tables summarize the transitional rules.

i) Tangible personal property (goods)

Consideration after July 1, 2010	Consideration after May 1, 2010 and before July 1, 2010	Consideration after October 14, 2009 and before May 1, 2010
HST application to consideration for good delivered and ownership transferred on or after July 1, 2010	HST applicable to consideration for goods delivered and ownership transferred on or after July 1, 2010	Self-assessment required on selected non-consumer goods delivered and ownership transferred on or after July 1, 2010

ii) **Services (including general memberships)**

Consideration after July 1, 2010	Consideration after May 1, 2010 and before July 1, 2010	Consideration after October 14, 2009 and before May 1, 2010
HST application to consideration for part of a services performed on or after July 1, 2010	HST applicable to consideration paid for part of a service performed on or after July 1, 2010	Self-assessment required on selected non-consumer for consideration paid part of a service performed on or after July 1, 2010

The following transitional rules are applicable for certain specific goods and services:

- a. Passenger transportation services – No HST is applicable on consideration for part of a service performed on or after July 1, 2010 if the service is part of a continuous journey beginning before July 1, 2010.
- b. Subscriptions to newspapers, magazines, etc – HST will not apply to a subscription or newspaper, magazine or other periodical publication paid for prior to July 1, 2010.
- c. Leases and licenses – HST is applicable to the portion of the lease interval occurring on or after July 1, 2010. Self-assessment of the HST is required for payments made after October 14, 2009 and before May 1, 2010. HST does not apply to lease intervals commencing before July 2010 and ending before July 31, 2010.
- d. Intangible personal property – HST will generally apply to consideration that becomes due or is paid on or after July 1, 2010.
- e. Passenger transport passes – HST will not apply to the supply of a transport pass if the pass period begins before July 1, 2010 and ends before August 2010.
- f. Real property(other than residential housing)- HST is applicable to a supply of real property in Ontario if both ownership and possession of the property are transferred to the purchaser on or after July 1, 2010.
- g. Progress payments and Holdbacks- HST is applicable to progress payments made under contracts for construction, renovation, alteration or

repair of or real property where payment becomes due after October 14, 2009 and can reasonably be attributed to property delivered or services performed on or after July 1, 2010.

- h. Sales outside of Canada- As in the GST system, sales outside of Canada are deemed “exports” and are zero-rated for HST purposes. Thus, no HST applies.
- i. Sale of goods and services to government- Prior to July 1, 2010 the Ontario government did not pay GST and the federal government did not pay Ontario retail sales tax. Under the HST rules, all businesses are required to bill and collect the HST from both federal and provincial governments;
- j. Non-Profit organizations- Non-profit organizations currently claim a GST rebate to the extent of 50% of the 5% GST charged to them which results in a 2.5% rebate. Under the HST rules, HST rebates may be claimed for both the federal and provincial HST components whereby the federal rebate portion remains at 50% and the Ontario rebate portion of the HST is 82%. Accordingly, the net refund for Ontario purchases in this sector will amount to 9.06%;

HST Exemptions

There are several exemptions from the HST including the following goods/services that are presently exempt from Retail Sales Tax:

1. Basic groceries
2. Prescription drugs
3. Certain medical devices
4. Child care
5. Residential rents
6. Legal aid
7. Most financial services
8. Tutoring and music lessons

Retailers will also have to provide consumers with point of sale rebates on the following goods:

1. Books
2. Children’s clothing and footwear
3. Children’s car seats and booster seats

4. Diapers
5. Feminine hygiene products
6. Print newspaper
7. Qualifying prepared food and beverage ready for immediate consumption sold for a price not exceeding \$4

HST “Place of Supply” Rules

HST has adopted the concept of “place of supply” in determining the rate of HST to charge on sales. In the case of the sale of goods, the HST rate will be determined by the provincial rate in effect *where the customer receives delivery* of the product. For the supply of services, emphasis is on the location of the recipient, not necessarily where the services are performed (contrary to the current GST rules).

For example, sales to the province of Alberta would be charged GST at the basic federal rate of 5% since Alberta does not have a provincial sales tax. A sale in the province of BC, which is an HST province, would be charged 12% (as opposed to 13% in Ontario) since the BC provincial tax rate is 7% as opposed to 8% in Ontario. See the attached schedule for an overview of inter-provincial HST rates.

Self-Assessment of the HST

In a measure to ensure that the same rates of tax apply, whether a supplier is located in Ontario or a non-HST province, such as Alberta, any goods imported into the province of Ontario would require “self-assessment” and payment of the 8% provincial component of HST. Quick method GST users will be required to self-assess the provincial portion of the HST (8% in Ontario) of purchased goods and services.

Large Business and Input Tax Credit (ITC) Restrictions

Businesses (and associated persons) with taxable supplies made in Canada in excess of \$10 million will be subject to the ITC restrictions below. The \$10 million threshold is tested annually and is pro-rated for short taxation years. The provincial HST portion of the ITCs (8% in Ontario) will be added back on the return; hence, increasing the HST liability or reducing the HST refund.

Large business will have their ITCs restricted with respect to the following purchases:

1. Road vehicles weighing under 3,000 kg and related fuel, parts and certain services

2. Energy costs (other than energy consumed for manufacturing).
3. Telecommunications (other than internet access and toll-free numbers).
4. Food, beverages and entertainment.

New Filing Requirements

Registrants with total annual taxable and zero rated supplies in excess of \$1.5 million are required to file their HST returns electronically. The \$1.5 million taxable supplies threshold is determined based on the aggregate taxable supplies of an associated group of companies. These rules are applicable to reporting periods ending on or after July 1, 2010 and there are proposed penalties for paper filing HST returns.

Some Status Quo

Like the current GST system, mandatory registration takes place at the \$30,000 level of annual sales and the quick method election remains for annual sales less than \$200,000. Also, if you are currently registered for the GST, the HST system will continue using existing GST registrations and account numbers including quick-method elections.

Planning for the HST

Given the scope of the HST, the following planning should be considered:

1. Adjust your billing system, accounts receivable, accounts payable to charge the HST rate of 13% creating the option for variable rates depending on the location of the customers (see Place of Supply Rules).
2. Adjust your point of sale systems, including cash registers, to charge HST rate of 13% and for point of sales rebates if applicable.
3. Adjust your accounting systems to track restricted ITCs if applicable.
4. Understand the impact on your cash flows as you may now be financing the HST included in the costs of your inventory and work-in-process.
5. Consider deferring major purchases to after June 30, 2010 to potentially save the retail sales tax.
6. If you provide exempt services, consider increasing your inventory of items currently not subject to RST.
7. If you are selling outside Ontario, you should familiarize yourself with the complex place of supply rules to ensure compliance on when to collect the provincial portion of HST and the appropriate rate. See attached list of the interprovincial s tax rates.

8. Determine the impact of the HST on your suppliers and consider entering negotiations to obtain lower prices.
9. Review the impact of HST on your costs and review your pricing to consider passing on any savings to your customers.
10. Ensure the appropriate staff in your organization is adequately trained and familiar with the rules to manage the HST transition and implementation process.
11. Review any HST questions you may have with your professional advisors.
12. Review the HST transition rules on the Canada Revenue Agency's website. See <http://www.cra-arc.gc.ca/tx/pstr/trnstnl/menu-eng.html>.

One-Time Transition Credit

To help reduce the cost of transitioning to the new HST system for small business, a one-time credit of \$300 to \$1000 is available on the initial filing for entities having up to \$50,000 of taxable revenues in the first quarter commencing after July 1, 2010.

Government Enquiries and Further Information

For a complete analysis we recommend that you link to the following:

- Information Notice # 3, under date of October 14, 2009 published by the Ontario Ministry of Revenue, "General Transitional Rules for Ontario HST" (<http://www.rev.gov.on.ca/en/notices/hst/pdf/03.pdf>);
- GST/HST Info Sheet GI-056 dealing with HST Services, published by Canada Revenue Agency (<http://www.cra-arc.gc.ca/E/pub/gi/gi-056/gi-056-e.pdf>); and
- GST/HST Info Sheet GI-070 dealing with HST – Goods, published by Canada Revenue Agency (<http://www.cra-arc.gc.ca/E/pub/gi/gi-070/gi-070-e.pdf>).

Telephone enquiries to the Province of Ontario may be directed to 1-800-337-7222 and to the CRA through the business window general enquiry line 1-800-959-5525.

We remain available if questions arisen please give us a call or send us an email. We will work through the new tax with you.

Interprovincial Sales Tax Rates

Province	Provincial Rate (%)	HST Combined Fed /Prov Rate (%)
British Columbia	7	12
Alberta	0	5
Saskatchewan	5	10
Manitoba	7	12
Ontario	8	13
Quebec	7.5	12.875
Prince Edward Island	10	15.5
New Brunswick	8	13
Nova Scotia	8	13
Newfoundland & Labrador	8	13