

Search - 1 Result - Taxation

1-5SA Doing Business in Canada

Doing Business in Canada

Copyright 2010, Matthew Bender & Company, Inc., a member of the LexisNexis Group.

PART I Government, Legal System, and Business Environment
Chapter 5 Special Alert--Taxation

1-5SA Doing Business in Canada

Taxation

Effective July 1, 2010, Ontario and British Columbia are preparing to eliminate their Provincial Retail Sales Taxes (the "PST") and harmonize them with the federal Goods and Services Tax (the "GST") to create a single value-added tax known as Harmonized Sales Tax (the "HST"). Information about Ontario's HST is available on the Ontario Government web site.¹ British Columbia also provides information on its government web site.² There is still some opposition to the HST so that until it actually comes into effect there is a possibility that either government may reverse course.

Key Points

- In Ontario the HST rate will be 13% (5% federal + 8% provincial).
- In British Columbia the HST rate will be 12% (5% federal + 7%

provincial).

- Businesses currently registered for PST purposes will cease filing PST returns for periods after July 1, 2010.
- The Canada Revenue Agency will audit and administer the HST, meaning businesses will file a single sales tax return--a GST/HST return--with the federal government.

Non-Residents & Businesses Operating Outside Ontario and British Columbia

- HST is federal law, meaning businesses registered for GST purposes, regardless of where they are located, that ship goods into Ontario or British Columbia or provide services in Ontario or British Columbia will be required to charge and collect HST.

Exemptions

- As GST and HST are the same tax, any goods or services that are currently subject to GST at 5% will, after July 1, 2010, be subject to HST at 13%.
- Exceptions: Ontario and British Columbia will provide a point-of-sale rebate of the provincial component of the HST on the following.
 - Books
 - Children's clothing & foot-wear
 - Children's car seats & car booster seats
 - Diapers & feminine hygiene products
- British Columbian will also provide a provincially-administered point-of-sale rebate for residential energy, ensuring the HST will not increase

consumers' costs for oil, electricity, natural gas or propane used to heat or power homes.

- In addition, British Columbia will provide a point-of-sale rebate on motor fuel. These fuels include gasoline, ethanol, diesel and biodiesel when used in motor vehicles as well as locomotive fuel used for trains, marine diesel used for boats, and aviation fuel and jet fuel used for aircraft.

Temporary Restricted Input Tax Credits for Large Businesses & Financial Institutions

- Large businesses with annual taxable sales of \$10 million and financial institutions will be prohibited from claiming input tax credits on the following expenses for the first five years:
 - Energy, other than for farms or used to produce goods for resale
 - Telecommunication services, other than internet access or toll-free numbers
 - Road vehicles weighing less than 3,000 kg, fuel for such vehicles, and parts & certain services for such vehicles
 - Food, beverages, & entertainment expenses
- After the first five years, this restriction on input tax credits will be phased out over an additional three years.
- This is similar to the approach Quebec took when it converted its PST to the Quebec Sales Tax.

Financial Institutions

It appears that financial services will not be zero-rated. Accordingly, the GST/HST rules that currently apply for financial institutions with operations in Nova Scotia, New Brunswick, or Newfoundland will also apply in Ontario and British Columbia.

Insurance

Ontario PST currently applies to insurance premiums, but federal GST does not. Ontario has indicated that it will retain a specific 8% tax on insurance premiums following harmonization. The tax will apply to any insurance currently taxed under the existing PST system. It will not apply to automobile insurance premiums.

In British Columbia, the Insurance Premium Tax will continue to be collected on insurance premiums on risks that were previously taxed, e.g., many property and casualty products (excluding auto) and group insurance. For investment-related products, such as mutual funds and segregated funds, there will be an increase in the cost of management and administration to the extent that these services will be subject to the additional 7% harmonized tax. Currently, in British Columbia these services are not subject to PST.

Hospitals, Educational Institutions, Other Charities, & Municipalities

As with GST, public service bodies will pay HST and Ontario and British Columbia will provide public sector body rebates of the provincial component of the HST at the following rates:

Ontario

	New Provincial Rebate (8% HST)	Existing Federal Rebate (5% HST)
Municipalities	78%	100%
Universities & Colleges	78%	67%
School Boards	93%	68%
Hospitals	87%	83%
Charities & Qualifying Not-for-Profits	82%	50%

British Columbia

	New Provincial Rebate (7% HST)	Existing Federal Rebate (5% HST)
Municipalities	78%	100%

Universities & Colleges	75%	67%
School Boards	87%	68%
Hospitals	58%	83%
Eligible facility operators and external suppliers.	58%	50%

Residential Real Property Builders & Developers

- In Ontario, under the current GST system, buyers of newly constructed residential homes are entitled to a 36% rebate of the 5% GST payable on the purchase of homes that cost \$350,000 or less. The rebate is phased out on homes that cost between \$350,000 and \$450,000.
- Under the HST, the 36% rebate of the federal portion of the HST (5%) remains. Ontario will also provide a rebate of 75% of the provincial portion of the HST on newly-constructed homes priced less than \$400,000, with the provincial new housing rebate being phased out on homes costing between \$400,000 and \$500,000.
- In British Columbia, the Province is proposing to increase the threshold for the B.C. HST new-housing rebate from \$400,000 to \$525,000 to ensure that, on average, purchasers of new homes up to \$525,000 pay no more tax due to harmonization than is currently embedded as PST. Purchases of new homes can therefore expect a rebate of up to \$26,250.
- British Columbia is also proposing transitional rules for new housing. The provincial portion of the HST would not apply to sales of new homes where ownership or possession is transferred before July 1, 2010. In addition, sales of new homes under written agreements of purchase and sale entered into on or before November 18, 2009, would generally not be subject to the provincial portion of the HST, even if both ownership and possession are transferred on or after July 1, 2010.
- It is not clear whether the Ontario new housing rebate will be assignable to builders, but presumably the federal GST rules will be followed.
- Unlike the current PST system in which builders and developers are not entitled to recover the PST they pay on materials and equipment, under

the new HST system any HST paid by a builder or developer should be wholly recoverable, thereby reducing building costs.

- No changes are proposed to Ontario's existing Land Transfer Tax system.
- In both provinces the HST will not apply to sales of existing residential homes.

Tourism

- The current Ontario PST on hotel rooms and other transient accommodations is 5%. With HST, the provincial portion will increase to 8%.
- To offset the additional tax, Ontario will increase funding for destination marketing programs by \$40 million.
- In British Columbia the municipal option to add a 2% tax to hotel rooms will be extended until June 30, 2011.

Automobile Dealers and Used Car Sales

- Sales and leases of new and used motor vehicles by dealers will remain subject to both the federal and provincial portion of the HST. However, private sales of vehicles will also be subject to the provincial portion of the HST. The Ministry of Transportation will collect the tax at the time of registration of the transfer.
- This policy will maintain a level playing field between used vehicle dealers and sales by private individuals.

Small Businesses & Small Charities

- As is currently the case for GST, businesses with less than \$30,000 in

annual taxable sales will not have to register for GST/HST purposes. Businesses with sales below this threshold that are currently registered for PST will be entitled to deregister as of July 1, 2010 and to stop charging, collecting, or filing sales tax returns. These businesses may voluntarily register in order to claim input tax credits to recover the GST/HST they pay on expenses.

- This "small supplier" threshold for charities and other public service bodies is \$50,000. If taxable sales are below this threshold, they are not required to register for HST purposes.
- To assist small businesses (less than \$2 million in annual revenues) in adjusting their accounting and point-of-sale systems, Ontario will provide a one-time transition credit of up to \$1,000.

Individuals

To reduce the impact of HST on consumers, Ontario is providing a sales tax transition benefit to individuals and families.

- Single individuals resident in Ontario with incomes below \$82,000 will receive up to \$300 from the Ontario government, paid in three installments, between June 2010 and June 2011.
- Single parents or couples resident in Ontario with income below \$166,700 will receive up to \$1,000, paid in three installments, between June 2010 and July 2011.

In British Columbia, effective, January 1, 2010, the basic personal income tax credit has increased to \$11,000 from \$9,373, an increase of 17 per cent.

Sales Tax Credit for Low-Income Canadians

- As with the federal GST, which provides a GST/HST credit to low-income Canadians, Ontario will provide an additional HST credit of up to \$260 a year for each person, paid quarterly, to individuals earning less

than \$20,000 a year and families earning less than \$25,000 a year. The credit is phased-out for those earning more than these amounts.

- Ontario will also maintain its existing property tax credit for low and middle income Ontarians.
- In British Columbia low income families and individuals will receive an annual HST credit of \$230 for individuals with income up to \$20,000 and \$230 per family member for families with incomes up to \$25,000, paid quarterly with the GST credit.

Open Issue: Tax-Inclusive Pricing?

The two governments have not addressed the issue of tax-inclusive pricing--requiring vendors to advertise prices that include the applicable GST/HST. Division XI of Part IX of the *Excise Tax Act*--the legislation that imposes the GST/HST--contains rules requiring tax-inclusive pricing in certain circumstances, most notably, consumer transactions. This legislation has been passed by the federal Parliament, but has not been proclaimed in effect. The enacting legislation provides that it may only be enacted once provinces representing more than 51% of the Canadian population have introduced the HST or a similar value-added tax (i.e. the QST). When Ontario and British Columbia harmonize, that threshold will have been surpassed. The next question is whether the federal cabinet will now exercise their power to proclaim these tax-inclusive pricing rules.

FOOTNOTES:

↗Footnote 1. <http://www.rev.gov.on.ca/en/taxchange/>.

↗Footnote 2. <http://www.gov.bc.ca/hst/>.