

The HST and You!

Impact of the Ontario HST on Public Sector Bodies (PSB)



Outline

- Background to the HST
- The Potential Impact
- Transitional Rules
- Planning
- Electronic Filing
- Questions

Background to the HST Information Released

- Limited legislation has been issued (Bill C-62 and Bill 218 Royal Assent - Dec 15/09)
 - Most rules will come via Regulation
- HST Publications
 - Transitional Rules (Oct /09)
 - Tax Benefits for Consumers (Sept /09)
 - Residential Housing (Nov /09)
 - Various GST Info Sheets (Jan /10)
 - Temporary Recapture of Input Tax Credits (Feb /10)
- Memorandum of Agreement Canada-Ontario (June /09)
- Ontario's Tax Plan for Job's and Growth (Nov 09)

Background to the HST Basics

- Effective July 1, 2010
- Rate of 8% for the Ontario HST and 5% for the GST
- Parallels the GST
- HST is a “value-added tax” rather than the Ontario Retail Sales Tax (PST) which is a consumption tax
- Elimination of the Ontario Retail Sales Tax (except on insurance premiums)



Background to the HST Benefits - Government

- Encourage new investment;
- Create growth in the economy;
- Create jobs in local community;
- Eliminate hidden costs for consumers;

Background to the HST Benefits - Tax Payers

- “Simpler” compliance
 - Deal with only one government tax authority
 - One potential compliance audit
- PST is subject to interpretation
 - Results in many judgment calls made by auditors
 - Limited legislative guidance
- Will eliminate embedded PST previously absorbed by persons engaged exclusively in commercial activities as HST is recoverable as ITCs

Background to the HST

Costs of Replacing PST with Ontario HST

Additional tax to consumers

- Expenditures not currently subject to PST:
 - i.e. professional fees , commercial rents, real property purchases
- Additional tax on entities not exclusively engaged in commercial activities (i.e. exempt supplies)
 - Many Public Service Bodies
 - Health Care services
 - Financial institutions
- Cash flow impact
 - Like the GST, Ontario HST will be remitted when billed, not when collected
 - Purchases taxed at 13%

Background to the HST

PST versus HST

Example: Sale of Light Bulbs

- PST
 - Purchased PST exempt by providing PEC
 - Charged PST on the sale of the item
- HST
 - Purchase item and pay HST and claim an ITC
 - Charge the HST on the sale of the item

The Potential Impact

Potential Impact

Tax Collection - GST/HST

- GST tax status does not change - only the rate
 - Was an exempt supply remains an exempt supply
 - 5% = 13%
 - Except for Point of Sale Rebates
- Filing Frequency
 - No change as frequency based on annual sales
 - Electronic filing may be required*
- Registration Threshold
 - Still need sales to exceed small supplier threshold (30K/50K)



Potential Impact Tax Collection - PST

Generally,

- As of July 1, 2010, PST will cease to apply on goods and services*
- As of July 1, 2010, PST will cease to apply on goods brought into Ontario or imported by a resident
- Final PST returns due July 23, 2010
- PST collected or becomes payable after June 2010 supplemental PST returns to be filed by 23rd day of following month

Potential Impact

Tax Collection - Point of Sale Rebates

Tax Relief from the Ontario HST (8%) for:

- Books and newspapers
- Children's clothing and footwear
- Car seats and car booster seats
- Diapers
- Feminine hygiene products
- Food and beverage under \$4.00

Potential Impact

Tax Collection - Provincial Government

Ontario has agreed to pay the GST/HST effective July 1, 2010

Steps to take:

- Is payment
 - Consideration for a supply?
 - Grant or subsidy?
- Consideration for a supply
 - Taxable or exempt supply?
 - Collect GST/HST or not?
 - ITC or rebate on related expenses
- Grant or Subsidy (TIB-067)
 - No GST/HST collected
 - No change to ITC/rebate



Potential Impact

Tax Paid – Rebate or ITC?

- GST rebates not affected
- GST ITC rules not affected
- Ontario HST rebates available
- Ontario HST ITC available
- “Large businesses” ITCs restrictions not applicable to Ontario PSBs

Potential Impact Tax Paid - Rebate

	GST	Ontario HST
Municipalities	100%	78%
Universities/Colleges	67%	78%
School Boards	68%	93%
Hospitals*	83%	87%
Charities, Qualifying Non-Profit Organizations	50%	82%

Potential Impact

Tax Paid - ITC Restrictions - Self assessment

Transactions after October 14, 2009 and before May 1, 2010

- Applies to large businesses that are subject to the restrictions
- Applies where the HST was not collected
- Applies to straddle transactions that relate to the post June 30, 2010 period
- Can't prepay or purchase before May 1, 2010 and avoid the HST



Potential Impact

Tax Paid – Tracking ITCs and Rebates

Entities eligible for ITC and/or rebate

- GST/HST ITC account - no change
- GST Rebate account - no change
- Ontario HST Rebate account - new

Transitional Rules

When do we charge/pay PST?
When do we charge/pay the Ontario HST?
When do we have to self-assess?

Transitional Rules

GST - When is tax payable?

General Rule for GST

Earlier of when the consideration for the supply:

- Becomes due; or
- Is paid without becoming due.

*Subject to special over-ride rules

Transitional Rules

PST - When is tax payable?

General Rule for PST

- PST will generally cease to apply to a sale of goods where the goods are delivered and ownership of goods are transferred after July 1, 2010

PST Override Rules

After October 14, 2009 and before May 2010

- Where consideration becomes due or is paid within these dates
- PST should be collected on July 1, 2010 straddle transactions

No PST required to be collected if:

- Self assessment of HST by purchaser required, or
- TPP/Service used exclusively in commercial activities*

Transitional Rules

Self-assessment

Transactions after October 14, 2009 and before May 2010

Who is required to self-assess Ontario component of HST (8%)?

- Businesses acquiring supply not exclusively in commercial activities
- Large Business acquiring supply subject to ITC restrictions
- Using simplified procedures (i.e. charities, quick method)
- Selected listed financial institutions
- *Excludes consumers

Remit Ontario HST earlier of the GST/HST return for July 1, 2010 or on prescribed form before November, 2010.

Transitional Rules

Sale of Goods (Tangible Personal Property)

Consideration becomes due (e.g., invoiced) or is paid for taxable goods delivered after June 30, 2010

1. Invoice dated on or after May 1, 2010
 - HST collected by vendor
 - PST not collected
2. Invoice dated between October 14, 2009 and May 1, 2010
 - HST not collected by vendor (GST collected)
 - PST collected by vendor
 - Purchaser may be required to self-assess (double taxation?)

Transitional Rules

Sale of Goods

Example 1:

- Sale of TV occurs in April 2010. Purchased for \$1,000 for individual personal use (i.e., consumer). Pays for the TV in full at the time of purchase. TV gets delivered and ownership transfers on July 15, 2010

Result:

- Consideration was paid in full April 2010 (before May 1, 2010), GST is triggered in April 2010, earlier of when consideration becomes due, or when paid without becoming due.
- GST is collected - no Ontario HST
- PST is collected - No self-assessment (consumer)

Transitional Rules

Sale of Goods

Example 2:

- Charity (not registered for GST) buys a TV in April 2010. Delivered in July 2010. Ownership transfers in July 2010

Result:

- GST is paid. GST rebate (50%).
- Self-assess the Ontario component of HST (8%) on the purchase of the TV, remit tax before November 2010 on prescribed form. Claim 82% rebate of provincial component of HST
- If PST is paid. PST refund opportunity

Transitional Rules Services

Consideration becomes due (e.g., invoiced) or is paid for services performed after June 30, 2010*

1. Invoice dated on or after May 1, 2010
2. Invoice dated between October 14, 2009 and May 1, 2010
 - HST not collected by vendor
 - PST collected by vendor (if subject to PST)
 - Purchaser may be required to self-assess Ontario HST

*Special rules for lifetime memberships and construction service contracts

Transitional Rules Services

Special Transitional Rule

- No Ontario HST to be charged on a supply of a service that is 90% performed before July 1, 2010. GST is charged. PST is charged if service is subject to PST.

*Acceptable documentation will need to be maintained.

Transitional Rules

Services

Service performed straddles July 1, 2010, implementation date. Service subject to GST, not PST.

Example 1:

- Lawn maintenance package purchased (paid for) on April 15, 2010
- Service covers period from June 1, 2010, to December 31, 2010

Result:

- No HST is collected since the service is paid for before May 1, 2010
- Self assessment may be required on cost of maintenance package that relates to post July 1, 2010 period (only for “non-consumers” and only if a full ITC is not claimable)

Transitional Rules

Services

Example 2:

- Lawn maintenance package, vendor issues an invoice on August 15, 2010, for \$1,000 no pre-payment made. Maintenance period from June 1, 2010 to December 31, 2010

Result:

- Consideration becomes due on August 15, 2010
- HST charged for period July 1, 2010 to December 31, 2010
($\$857.14 \times 13\% = \111.42)
- GST charged for the month of June, 2010 ($\$142.86 \times 5\% = \7.14)
- \$111.42 remitted in return covering August 15, 2010

Transitional Rules

Lease

Rule

- Ontario HST would generally apply to a supply of property by way of lease, licence or similar arrangement for the part of a lease interval that occurs on or after July 1, 2010.
- The Ontario HST would not, however, apply to a supply of property by way of lease, licence or similar arrangement if the lease interval begins before July 2010 and ends before July 31, 2010.

Transitional Rules

Lease

Example

- 2008 computer lease (5 years) “Lease interval” May 1, 2010 to October 31, 2010
- Payment due March 31, 2010. Recipient uses the Quick Method

Result

- No “grandfathered” leases
- No HST to be collected since payment due before May 1, 2010. GST would be due on March invoice
- Purchaser needs to self assess 8% portion of HST on post July 1, 2010 period since on the Quick Method
- PST applies for the pre July 1, 2010 period
- If PST is paid on entire lease interval, eligible for rebate for post July 1, 2010 period

Transitional Rules

Memberships

Rule

- A supply of a membership in a club, organization or association deemed to be a supply of a service for purposes of the transitional rules.
- Ontario HST is payable with respect to the period after July 1, 2010

Transitional Rules Memberships*

Example:

- Golf Membership for 2010 sold to consumer. Membership to be billed in 3 equal installments, \$1,000 each on January 1, May 1 and September 1

Result:

- January 1 invoice - GST only
- May 1 invoice - GST on entire invoice, Ontario HST on half of invoice (July & August)
- September 1 invoice - HST on entire invoice

*Special rule for lifetime membership - payments made before May 1, 2010, may be subject to HST.

Transitional Rules

Real Property - Tax Payable

- GST is generally payable on earlier of when consideration is paid or becomes due
 - Override rule - for sale of real property GST is due on the earlier of the day ownership or possession transfers
 - Override rule for real property construction services*
 - GST is deemed to become due on any consideration that has not been paid or invoiced on the last day of the month following the month in which substantial completion is reached.
- * Applies to construction, renovation, alteration or repair of real property

Transitional Rules

Real Property

Example:

- Commercial property purchase and sale agreement entered into on March 1, 2010, ownership and possession transfer on August 1, 2010

Result:

- HST would apply to the transaction
- Depending on GST/HST registration status of purchaser HST may have to be paid to vendor or self-assessed by purchaser

Transitional Rules

Real Property Construction Services*

- HST applies if the payment is attributable to property delivered or services performed after June 30, 2010
- HST applies to amounts due or paid without becoming due after October 14, 2009 and before July 1, 2010, if property or services delivered after June 30, 2010
 - Exception to the May 1, 2010 rule
 - i.e. HST applies to April 2010 progress billing if attributable to property delivered or services performed after June 30, 2010
- If HST applies to pre July 1, 2010 billing it is reported on GST/HST return that includes July 1, 2010

*Does not apply to sale of residential property

Transitional Rules

New Residential Housing

General Rules

- “Grandparented Transactions” Agreements on or before November 18/09
 - No HST is collected
 - Builder pays transitional tax adjustment (TTA) based on % completion as of June 30, 2010
 - TTA = PST not paid on post June 30, 2010 costs
- Agreements after November 18, 2009
 - HST applies
 - Purchaser may be entitled to a transitional PST rebate on estimated PST costs incurred pre July 1, 2010.

Transitional Rules

Recovery Opportunities

PST Charged After October 14, 2009

- Examples:
 - Leased equipment for the period after July 1, 2010
 - Goods delivered after July 1, 2010
 - Services provided after July 1, 2010
- No PST required to be collected if:
 - Self assessment of Ontario HST by purchaser, or
 - Exclusively in commercial activities

Planning

Planning

Compliance - Points to Consider

- HST Impact Analysis
 - Cash Flow
 - Direct Costs (5% - 13%)
- HST Implementation Strategy
 - Accounting System
 - Review Contracts
- Staff Training
 - A/P and Billing Functions
- Post-Implementation Review

Planning for HST

Potential Risk Areas

- System errors (5% versus 13%)
 - Not picking up or charging correct tax rate
- Exempt versus 13% taxable supplies
 - Registered but not aware taxable supply
- Contracts with Provincial Governments
 - Grants vs. Consideration for a Supply
 - Failure to collect 13% HST
- Municipalities - Review all expenditures with a view to claiming ITCs rather than rebates
 - may not have been reviewed since GST rebate increased to 100%

Planning for HST

Potential Risk Area – Imported Taxable Supplies*

Pre July 1, 2010

- A recipient of an imported taxable supply was required to self assess the GST on the value of consideration for the supply.
 - A person who was entitled to a full ITC or rebate was not required to self-assess.
 - Generally required entities to self assess GST on imported services and intangibles (e.g., software)

Post June 30, 2010

- A recipient of an imported taxable supply may be required to self-assess both the GST and Ontario HST on the following supplies if a full ITC is not claimable.
 - Services and intangible property acquired outside Canada
 - Any taxable supply that is imported into B.C. from another province

Planning for HST

Potential Risk Area – Imported Taxable Supplies

- To determine if a supply made in Canada qualifies as an “imported taxable supply” it must be determined in which province the supply is made.
 - Place of supply rules related to a province were released in 1997 with the coming into force provisions related to the HST introduced in Nova Scotia, New Brunswick and Newfoundland & Labrador.
 - Much speculation that these rules may be amended for purposes of the BC and Ontario HST
 - No confirmation at this time.



Planning for HST

Potential Risk Area – Place of Supply Rules*

Types of Supplies

- Tangible Personal Property
- Intangible Personal Property
- Real Property
- Services
- Transportation Services
- Postage
- Telecommunication Services
- Deemed and Prescribed Supplies

Planning for HST

Place of Supply Rules - Tangible Personal Property (TPP)

Current Rule

- Sales of tangible personal property are made in a province if the supplier delivers the property or makes it available in that province to the recipient of the supply.
 - if a supplier in Ontario ships or mails taxable TPP to Saskatchewan, or arranges for a common carrier to do so, possession will have taken place in Saskatchewan and 5% GST will apply.
 - If a supplier in Alberta sells TPP to a purchaser in Ontario, and the purchaser arranges to pick the TPP up in Alberta and will use the TPP exclusively in Ontario it may be required to self assess the 8% Ontario HST.

Planning for HST

Place of Supply Rules - Services

Current Rule

- Generally, a service is considered to be supplied in a particular province if all or substantially all (90% or more) of the Canadian element of the service is performed in that province. The "Canadian element" of a service is the portion which is performed in Canada.
 - If a supplier in Alberta performs a taxable service and 90% or more of the service is performed in Alberta, only GST will apply to the service
 - If a purchaser acquires a service that is performed 90% or more in Alberta that is primarily for use in Ontario and the purchaser is not entitled to a full ITC it would be required to self-assess the Ontario HST (8%).

Planning for HST

Place of Supply Rules - Intangible Personal Property

- The place of supply rules for intangible personal property (e.g., franchise rights, memberships, admissions to business conventions, intellectual property) include four categories of supplies of intangible personal property relating to:
 - real property;
 - tangible personal property;
 - services to be performed; and
 - other supplies of intangible personal property not relating to real property, tangible personal property, or services to be performed
- To the extent that the supply relates to property located in Ontario or services to be performed in Ontario the 8% Ontario HST will apply and self-assessment may be required.

Planning Opportunities

Accelerate non-taxable PST purchases

- custom software
- real property
- non-taxable services

Delay purchases that are currently subject to PST until after June 30, 2010

- virtually all goods
- taxable services
- software



Planning Strategy

Consider Whether To Change GST Filing Frequency

- Smaller entities have the choice to file annually, quarterly or monthly GST returns
- Evaluate cash flow issues relating to the HST on expenses and revenues

Electronic Filing



Electronic Filing

Who is Required*

- Required to recapture Input Tax Credit (NETFILE)
- Your annual threshold amount is >\$1.5 million
- You are a builder who makes certain supplies

*Refer to CRA Notice 249 for complete information



Electronic Filing Threshold Amount

Include:

- Total taxable goods and services made in Canada in previous fiscal year
- Zero-rated goods and services

(These include those of your associates)

Exclude:

- Supplies made outside Canada
- Zero-rated export of goods and services
- Zero-rated financial services
- Taxable sales of capital real property
- Goodwill

Electronic Filing Types

- NETFILE
File the returns directly with the CRA over the internet
- TELEFILE
File the returns using the touch-tone telephone and a toll-free number
- EDI (Electronic Data Interchange)
File the returns using EDI (computer-to-computer exchange of information)
- GIFT (GST/HST Internet File Transfer)
File the returns using third-party CRA-approved accounting software

Questions?