

HST – Harmonization Is Here!

Effective July 1, 2010, Harmonized Sales Tax (HST) came into effect in British Columbia and Ontario and the pre-existing provincial sales taxes in these provinces were repealed. We have prepared this brief summary to highlight changes that may impact your business as a result of the HST implementation.

What Has Not Changed

The following aspects of your business have not changed as a result of the HST implementation:

- Your pre-existing GST number is now your HST number
- Your filing frequency for GST/HST returns will remain the same
- The tax status of goods and services has not changed (i.e. what was taxable under GST remains taxable under HST)
- Pre-existing elections, such as elections to treat supplies between closely related companies as sold for nil consideration, will remain valid for HST purposes

What Has Changed – Place of Supply

GST/HST legislation contains a set of rules called “Place of Supply” rules which are used to determine which rate of tax, GST or HST, should be charged for *taxable sales made in Canada*. There are different Place of Supply rules depending on the nature of the items being sold: tangible personal property (goods), services, and intangible personal property.

GST/HST registrants across Canada who make sales into a variety of provinces/territories are responsible to collect the correct rate of tax per the Place of Supply Rules. As a result of HST implementation in B.C. and Ontario, the sales tax landscape across Canada has become more complex (see attached Sales Tax Table) and changes in the Place of Supply rules are designed to simplify the application of these rules.

Tangible Personal Property

The Place of Supply rules for sales of tangible personal property (goods) within Canada remain the same under HST, such that the seller should charge the rate of tax (GST or HST) based on the destination of the goods, using the rate in effect in the jurisdiction where the goods are delivered or made available to the customer.

Services

The general Place of Supply rules for services have changed, effective July 1, 2010. Under the new Harmonized VAT System Regulations, there are a series of tests to determine the Place of Supply for services which are performed *in whole or in part in Canada*.

Please note that certain services, such as legal services in relation to litigation, personal services, passenger transportation services, and other services, have service-specific Place of Supply Rules that supersede the general Place of Supply Rules. There are also special Place of Supply rules for services performed in relation to real property, and in relation to tangible personal property (i.e. goods).

General Place of Supply Rules for Services

To determine the Place of Supply for services, there are different rules to follow if the seller obtains the customer's address during the normal course of business, than if they do not obtain an address.

- Where only one address is obtained, and it is a home or business address in Canada, the address will determine the Place of Supply.
- Where more than one address is obtained, the address most closely connected to the supply of the service will determine the Place of Supply.

Where NO address is obtained, the seller should look at where the services are performed to determine the Place of Supply.

- If the service is performed mostly (50% or more) in HST provinces, the HST province where the greatest proportion of the service is performed will be the Place of Supply.
- If the service is performed equally in a variety of HST provinces, the HST province with the highest rate of tax will be the Place of Supply.
- If the service is NOT performed mostly in HST provinces, then 5% GST should be charged.

These rules may lead to unanticipated results. For example, services that are performed in B.C. for a customer with an address in Ontario would now be taxed at the 13% Ontario HST rate, instead of at the 12% B.C. HST rate.

Intangible Personal Property (IPP)

The Place of Supply Rules for IPP (such as memberships or rights to use information) are similar to the rules for services in that there are different rules to follow if the seller obtains the customer's address during the normal course of business, than if they do not obtain an address. There is also special treatment for IPP that is sold for less than \$300, where the sale is made at a permanent establishment or vending machine.

What Has Changed – Restricted Input Tax Credits (RITC)

“Large Businesses” (businesses with greater than \$10 million in annual taxable sales, individually or as part of an associated group) are required to recapture (i.e. you won't recoup it) the provincial portion of the HST for purchases of *specified property and services* in B.C. and Ontario effective July 1, 2010.

Specified property and services includes the following:

- Specified energy (electricity, gas, steam, etc.)
- Specified telecommunications services
- Qualifying motor vehicles
- Specified meals and entertainment

Contact Information

Gary Chow and Gabriela Oteiza Dunn are available to answer HST related questions. Please feel free to contact them via phone or email.

Gary Chow, CA

Phone: 604-691-6875

Email: gchow@wolrigemahon.com

Gabriela Oteiza Dunn

Phone: 604-684-6212 ext. 332

Email: goteiza@wolrigemahon.com

Canadian Sales Tax Rates in Effect as of July 1, 2010		
Province or Territory	GST or HST Rate	PST or QST rate
British Columbia	12% HST (5% federal + 7% provincial)	
Alberta	5% GST	
Saskatchewan	5% GST	5% PST
Manitoba	5% GST	5% PST
Ontario	13% HST (5% federal + 8% provincial)	
Quebec	5% GST	5% QST* on GST-included price
New Brunswick	13% HST (5% federal + 8% provincial)	
Nova Scotia	15% HST (5% federal + 10% provincial)	
Prince Edward Island	5% GST	5% PST on GST-included price
Newfoundland & Labrador	13% HST (5% federal + 8% provincial)	
Yukon Territory	5% GST	
Northwest Territories	5% GST	
Nunavut	5% GST	

* QST rate will rise to 8.5% on January 1, 2011 and to 9.5% on January 1, 2012