

Implementation of the New Harmonized Sales Tax (HST) in Ontario General Transition Rules Applicable to Transactions Straddling the Implementation Date

General Overview

Many businesses will have specific HST implementation rules that apply to transactions which straddle the implementation date of July 1, 2010. These transition rules are used to determine which tax – the existing RST or the Ontario component of the HST – would apply to these transactions.

Key Dates

August 14, 2009	Release date of HST notice.
May 1, 2010	HST will generally apply to consideration due (or paid) after this date for goods and services to be provided after the implementation date of July 1, 2010.
July 1, 2010	Implementation Date for HST.
October 31, 2010	Final date on which any outstanding RST becomes payable to facilitate the wind-down of the RST.

A. Application of the Transition Rules – Tangible Personal Property

In order to properly apply the transition rules, there are two parts to a transaction that must be properly understood. First is the date the consideration becomes due or is paid without becoming due (“Payment Date”) and the second is the date that the goods are delivered and ownership transfers (“Ownership Date”).

Payment Date on or after July 1, 2010

HST generally applies to these transactions when the Ownership Date is also on or after July 1, 2010.

Example – An agreement is made in May 2010 to purchase furniture, with 12 monthly payments between July 2010 and June 2011; the furniture is delivered in July 2010, with ownership transferring at that time. The HST would apply.

Payment Date between May 1, 2010 and July 1, 2010

HST will apply to these transactions when the Ownership Date is on or after July 1, 2010.

Example – A sale is made in June 2010 of a motor home. Payment is made at the time of the sale. However, the delivery and Ownership Date is in August 2010. The HST would apply.

Subscriptions to Newspapers and Magazines

Notwithstanding the above transition rules, HST will not generally apply on subscriptions to newspapers and magazines where the payment date is before July 1, 2010.

B. Application of the Transition Rules – Services

Many service industries perform services that stretch over a period of time. Generally, HST will apply to the supply of a service to the extent that the service is performed on or after July 1, 2010. Where substantially all (90% or more) of the service is performed before July 1, 2010 the HST will not apply.

Payment Date on or after July 1, 2010

Where payment is made after this date, HST will apply to the service on a proportional basis to the date of supply of the service.

Example – A consulting firm is hired for a project in the summer of 2010. The project is started at the beginning of June and is completed at the end of August, at which time an invoice is prepared and payment is made. The HST would apply to the portion of the service performed after July 1, 2010. The portion performed in June would have GST applied only.

Payment Date between May 1, 2010 and July 1, 2010

As in the above scenario, the HST will apply to these payments proportional to the date of supply of the service

Example – A summer yard maintenance contract is paid for on May 1, 2010 covering lawn mowing and weed spraying through to September 30, 2010. The HST would apply to 3/5th of the contract amount. The supplier would account for the HST in the reporting period that includes July 1, 2010.

Continuous Services

Where goods are supplied or services delivered or performed on a continuous basis by means of wire, pipeline or similar conduit, the HST would generally apply to the extent that the delivery or performance is on or after July 1, 2010. If the supplier cannot reasonably determine when the property or services are delivered or performed, consideration would be prorated equally based on the number of days in the period to which the consideration applies.

Example – A cable television company invoices for service for the period from June 16, 2010 to July 15, 2010. The HST would apply to 50% of the invoice, representing the 15 days on or after July 1, 2010.

Memberships

A supply of a membership in a club, organization or association is deemed to be the supply of a service for purposes of the transition rules, and thus would be subject to the above transition provisions.

C. Application of Transition Rules – Leases and Licences

This section outlines the transition rules applicable to taxable property that is supplied by way of lease, licence or similar arrangement, the consideration for which is rent, royalties or similar payments.

HST will generally apply to leases and licences on the part of the lease interval that occurs after July 1, 2010. It should be noted that lease intervals that straddle July 1, 2010 and end before July 31, 2010 will not have HST applied, such as the case of a monthly car lease with payments on the 15th of the month – the June 15th payment for the period ending July 14th would not have HST applied.

Payment Date on or after July 1, 2010

When payment is made in this case, HST applies for the interval of the lease payment after July 1, 2010.

Example – A monthly car lease is paid on July 1, 2010 for the month of July 2010. The HST would apply to the payment.

Payment Date between May 1, 2010 and July 1, 2010

The HST will apply to these payments to the extent that the payment relates to a part of the lease interval that occurs after July 1, 2010. In these cases, the supplier would be required to account for the Ontario component of the HST in the reporting period of the supplier that included July 1, 2010.

Example – On May 1, 2010 a lease payment is due for a commercial property lease covering the six months ending October 31, 2010. The part of the payment for the months of May and June of 2010 would not be subject to the HST, but the part of the payment for the remaining months would be.

HST Electronic Filing Requirements

The federal government has announced that GST/HST registrants with greater than \$1.5 million in annual taxable supplies on an associated basis will be required to file their GST/HST returns electronically for all reporting periods ending on or after July 1, 2010 using one of the following four options:

- GST/HST Netfile
- GST/HST Telefile
- GST/HST Electronic Data Interchange filing and remitting
- Internet File Transfer

In the case of Large Businesses (annual taxable sales greater than \$10 million), and Homebuilders, further restrictions make Netfile the only option. The government will be imposing penalties on businesses who do not use the proper filing method. Most businesses will find that the free online Netfile service is easy to use and likely their best filing option.

Summary

This guide provides only a general overview of the HST as it relates to transactions straddling the implementation date. It cannot be expected to cover every scenario or circumstance. Should you be in doubt about the application or relevance of any of the above to your specific situation, please be sure to seek further advice.

The Ontario Ministry of Revenue publication entitled “General Transitional Rules for Ontario HST” fully outlines the above, and can be found at the following link:

<http://www.rev.gov.on.ca/en/notices/hst/03.html>