

# Harmonized Sales Tax in Canada

## Ontario Edition

Prepared by Ontario's  
Certified General  
Accountants

WhiteHillTurnerMoore, LLP

CERTIFIED GENERAL ACCOUNTANTS

	Fiscal 2006	Fiscal 2007	Fiscal 2008	Change from 2007	Fiscal 2006	Fiscal 2007	Fiscal 2008	Change from 2007
	\$	\$	\$	\$	\$	\$	\$	%
Element	38,952	35,065	2	3	3	330	356	38,652
Plans	63,488	55,265	160	135	550	509	61,888	
Phased	37,098	31,565	-	-	-	-	38,750	
	192,794	185,917	178	677	996	891	1,674,498	
Acceptances	12,532	7,336	-	5	56	47	1,146	
	\$ 205,326	\$ 193,253	\$ 157	\$ 153	\$ 952	\$ 938	\$ 697,062	

  

	Fiscal 2006	Fiscal 2007	Fiscal 2008	Change from 2007
	\$	\$	\$	\$
1,208	3,578	3,691	93	125
1,847	1,903	1,666	-237	139
5,745	5,568	1,772	-3,796	436
360	354	16	-338	280
3,456	3,378	719	-2,659	54
1,987	1,865	78	-1,787	1,654
573	609	1,533	924	439



CERTIFIED  
GENERAL  
ACCOUNTANTS

We see more than numbers.

*W & H*



**Harmonized  
Sales Tax in  
Canada**  
Ontario Edition

# MISSION STATEMENT

The mission of the Certified General Accountants of Ontario is to ensure its members merit the confidence and trust of all who rely upon their professional knowledge, skills, judgment and integrity, by regulating qualification, performance and discipline standards for certified general accountants, while advocating the use of their professional expertise in the public interest.

---

This booklet is intended to provide useful information to assist businesses in their transition to the new harmonized sales tax (HST) in Ontario, and does not replace federal or provincial legislation and accompanying regulations. It is strictly intended for reference purposes. As it may not completely address your particular operation, you may wish to consult the appropriate legislation or contact:

- A certified general accountant
- Canada Revenue Agency at 800-959-5525
- Ontario HST Information line at 800-337-7222

The content of this booklet is based on available information as of November 15, 2009. Please contact the Ontario HST information line for the most recent announcements.

Copyright © Certified General Accountants of Ontario, 2009

ISSN 1195-8480

# Introduction

To fully understand the new harmonized sales tax, it is helpful to first review the Goods and Services Tax and retail sales taxes.

## GOODS AND SERVICES TAX

In 1991, the federal government introduced the Goods and Services Tax (GST). The tax replaced the previous federal sales tax, which was imposed directly on manufacturers and certain licensed wholesalers at a general rate of 13.5 per cent of sales revenues. The federal sales tax remained hidden in the price of goods as the cost of the tax was passed on to retailers and consumers in the price of products manufactured in, or imported into, Canada.

The GST, on the other hand, is a value-added tax that taxes the incremental value added to a product or service at each stage in the chain of import, manufacture and distribution, until the final imposition on a retail sale to a consumer. At the present time, more than 130 countries in the world have adopted a value-added tax in some form or other.

## HOW DOES THE GST WORK?

Under the GST, tax is collected on the provision of taxable goods and services (termed "supplies") at each stage of the distribution process. Those organizations engaged in making taxable supplies may recover the tax paid to their suppliers, or directly to the Canada Border Services Agency on import, and the net of the tax collected on supplies and the tax paid on purchases or imports (termed "input tax credits") is reported on the periodic GST return.

A system of registration of suppliers has been established for the purpose; this system is central to the documentation that the GST has been charged by a registered supplier. The tax continues to be charged throughout the distribution chain, with each supplier recovering tax paid on its purchases and imports until, and including, the final sale to the consumer. At this point, the tax will have been paid on the full retail value.

The Canadian model provides for some exceptions, based on policy decisions. Certain goods and services are taxed at a rate of zero per cent. They include basic groceries, drugs and medical devices, supplies related to agriculture and fisheries, certain transportation services and, very importantly, exports of goods and services. The fact that these goods and services are taxed, albeit at a zero rate, means that the supplier may continue to recover the tax paid on its purchases and imports that are inputs to those goods and services.

Other goods and services are treated as exempt from GST. These include various supplies of residential real property, health-care services, educational services, supplies by public-sector bodies and charities, and financial services. Suppliers of goods and services that are defined as exempt are denied recovery of the GST paid on their purchases and imports that are inputs to their

exempt supplies. GST paid on purchases and imports that are inputs to both exempt and taxable supplies must be allocated between the two categories on some reasonable basis for purposes of recovery.

While these rules would deny recovery of tax to most public-sector bodies, the legislation provides for organizations in the public sector to recover a portion of the tax by way of rebate. The rates are intended to neutralize the effect of the GST on these bodies, which would otherwise have become a cost to the organization. These rates are currently 83 per cent for a hospital authority or other health facility, 68 per cent for a school authority, 67 per cent for a university or public college, and 50 per cent for a charity, or non-profit organization that receives at least 40 per cent of its total funding from government sources. Municipalities are currently permitted a 100 per cent rebate.

Further, not all tax paid is necessarily recoverable as an input tax credit, even if it is paid on a purchase or import that is directly related to the making of a taxable supply. No recovery is possible for tax paid on club memberships, or on personal-use items used or consumed by employees and business owners, and restrictions apply in other areas. No recovery of tax is possible for the amount of GST charged on the capital cost of an automobile in excess of \$30,000, or on an automobile lease payment in excess of \$800 per month. In addition, the amount of GST that can be recovered that relates to meals and entertainment is restricted to 50 per cent, with only limited exceptions (one of which is the company holiday party, annual picnic or golf day to which all employees at a location are invited).

Certain transactions are deemed to be supplies subject to GST. Where an employee receives a taxable benefit, the employer must remit GST of 4/104 of the amount of the benefit (including an automobile standby charge) and three per cent of the amount of any automobile operating cost benefit.

#### **OVERVIEW OF RETAIL SALES TAX**

In contrast to a value-added tax, a retail sales tax of the kind currently levied in Ontario, British Columbia, Manitoba, Saskatchewan and Prince Edward Island, is a single-incidence tax on use or consumption by an end consumer. Goods or services that are acquired for re-sale can be acquired exempt of retail sales tax, so that the tax effectively is only collected on the final sale to the end consumer.

However, despite being a single-incidence tax, a retail sales tax will cascade as organizations in the distribution chain each acquire goods and services on which retail sales tax is charged. For example, a shoe retailer will be able to buy shoes and retail packaging exempt for sale to consumers; however, as an end consumer itself, it will pay retail sales tax on its furniture and office/store supplies, shelving, computers, cash registers and telecommunications costs. This tax becomes hidden in the price charged for shoes as the retailer (hopefully) will price its goods to cover all its costs (including the retail sales tax paid) plus a markup. On this price, the retailer will collect the retail sales tax from the purchaser of the shoes.

Ontario, British Columbia and Prince Edward Island have attempted to minimize the effect of the hidden tax by allowing exemption further up the chain to manufacturers and producers. These organizations are able to acquire production equipment and consumables exempt from retail sales tax, but these organizations, too, will pay retail sales tax as end users on administrative, sales and distribution assets and expenses.

# Harmonization by Canadian Provinces

Since its introduction, the federal government has consistently proposed to the provinces the adoption of a harmonized sales tax system. Benefits to businesses are noticeable. The abolition of the array of retail sales taxes, each with its own peculiarities, rates and jurisdictional issues, eliminates a substantial administrative burden imposed by filing requirements and audit, and reduces the heavy investment in knowledge and training that an abundance of systems would require, resulting in measurable savings. Adopting a value-added tax also removes the hidden cost that results from a retail sales tax, which in turn promotes reduced pricing in those sectors of the economy that are less weighted toward personal services.

A C.D. Howe Institute study showed that the consumer price index (CPI) components related to food, household furnishings and operation, health and personal care, recreation and education, alcohol and tobacco all reflected a reduction in price, while those related to shelter, clothing and footwear, and transportation all increased in price, resulting in a net, minor reduction in overall tax-included prices following harmonization in the Atlantic provinces. At the time of its announcement to harmonize, Ontario also claimed that businesses will save up to \$500 million annually from the simplified unitary system.

The proposals by Ontario and British Columbia to harmonize with the GST are the most recent provincial commitments to the federal system, but harmonization has already occurred, in differing degrees, in Quebec and the Atlantic provinces.

## QUEBEC

Quebec was the first to harmonize its provincial sales-tax system with the GST. In 1992, it implemented the Quebec Sales Tax (QST), a value-added tax that adopted substantially the same tax base as the GST. With a few exceptions, organizations that registered for QST purposes collected it on the same types of supply on which they collected GST. There are several differences between the QST and the GST. In the first place, Quebec assumed responsibility for both the GST and QST, having taken over the federal administration in the province. In addition, some changes in tax base are apparent.

The rate of tax at present is 7.5 per cent, but is scheduled to increase to 8.5 per cent on January 1, 2011. The tax is collected on a GST-included base. Rates of rebate for QST paid by public-service bodies differ from their federal counterparts. While charities and publicly-funded non-profit organizations are entitled to 50 per cent QST rebates, universities are only entitled to 47 per cent while hospitals receive 51.5 per cent. Municipalities are denied any QST rebate.

In addition to this, restrictions were placed on the ability of large businesses (those with taxable supplies over \$10 million, including sales of affiliates) and financial institutions to recover QST paid on certain groups of expenses.

## **THE PARTICIPATING PROVINCES – NOVA SCOTIA, NEW BRUNSWICK, AND NEWFOUNDLAND AND LABRADOR**

In 1997, Nova Scotia, New Brunswick, and Newfoundland and Labrador each harmonized its provincial sales-tax system with the federal GST. The composite tax, referred to as the harmonized sales tax or HST, is collected at a current combined rate of 13 per cent — a five per cent GST component and an eight per cent provincial component. All GST registrants were automatically HST registrants at the time of the changeover. The system is administered by the Canada Revenue Agency, with the provinces each receiving federal transfer payments for the provincial component of the HST, based on an agreed formula.

The tax base remained the same for the HST as it had under the GST, with few exceptions. Rebates of the provincial component of the HST are available to selected public-sector bodies at differing rates. Rebates of the provincial component of the HST are available to selected public sector bodies at different rates. Registered charities and publicly-funded non-profit organizations resident in Nova Scotia, New Brunswick or Newfoundland and Labrador, that are not also public institutions, may recover 50 per cent of the provincial component of the HST; charities and NPOs resident in Newfoundland and Labrador that are also selected public service bodies may claim a rebate of 50 per cent of the provincial component of the HST paid on inputs not related to their public services.

For municipalities, hospitals, schools, public colleges and universities resident in Nova Scotia, the rates of rebate are 57.14 per cent for municipalities, 83 per cent for hospitals, 67 per cent for public colleges and universities, and 68 per cent for school authorities. In New Brunswick, the rate for municipalities is 57.14 per cent.

## **ONTARIO**

In its March 2009 budget, Ontario announced that it would harmonize with the GST, moving to a single, composite, 13 per cent sales-tax rate: five per cent GST and eight per cent Ontario Value-Added Tax (OVAT), effective July 1, 2010. The Memorandum of Agreement, signed March 10, 2009, contained the summary of the proposals, and indicated that the Ontario model will combine features of both the Quebec system and the system applicable to the participating provinces. A formal Canada-Ontario Comprehensive Integrated Tax Co-ordination Agreement is expected to be in place, with policy, administrative and legislative details finalized by March 31, 2010.

The tax will be administered by the Canada Revenue Agency, although Ontario will be responsible for winding down its retail sales tax. Ontario may negotiate with the Canada Revenue Agency and Canada Border Services Agency for the continued support of the retail sales tax by offering interpretations, audit, objection and appeal services on a fee-for-service basis for the transitional period beyond the implementation date for OVAT. Ontario will receive transfer payments from the federal government for the provincial component on the basis of an agreed formula, similar to the compensation arrangements in place in the participating provinces.



There is no separate registration system established for OVAT. Just as happens with respect to the HST in the harmonized provinces, and the BC HST, when a supplier is registered for GST, the supplier is automatically registered for OVAT, and must collect the OVAT when the detailed rules indicate that a supply is made in Ontario. However, if a person is a registered vendor for Ontario retail sales-tax purposes, but has annual revenue of less than the \$30,000 small supplier limit applicable for GST registration purposes, the vendor will not be compelled to register. Voluntary registration remains an option, if so desired. If a vendor chooses to register, the registration would apply for the combined tax. Therefore, the vendor will be required to collect HST on all taxable supplies, and will be eligible to claim input tax credits.

The tax base, with certain exceptions, remains the same. That is, if a good or service is currently taxed or zero-rated for GST, it will be taxed or zero-rated for OVAT purposes. Similarly, the goods and services that are exempt for GST will be exempt for OVAT purposes. The Memorandum of Agreement between the federal and provincial government does, however, provide for some differences. Ontario is permitted to provide for point-of-sale rebates of the OVAT, and several rebates have been announced: children's clothing and footwear, diapers, car seats and booster seats, books and audio books, print newspapers, prepared food and beverages sold for \$4 or less, and feminine hygiene products. In other words, sales of these goods will only attract five per cent GST, not 13 per cent HST.

Ontario, like the participating provinces, proposes to keep an unrecoverable retail sales tax that will apply to the private sale of an automobile on registration at the Ministry of Transportation offices. It also proposes to keep the unrecoverable eight per cent retail sales tax currently applicable to insurance premiums, despite the GST exemption applicable to such premiums. Ontario will also provide a new housing rebate equal to 75 per cent of the eight per cent OVAT on the purchase of a new home, up to a maximum of \$24,000, which is reached at \$400,000.

At or below the \$400,000 level, the rebate is intended to compensate a purchaser fully for the difference in tax content in the purchase price of a new home under OVAT. Over this price level, the rebate remains a flat \$24,000. A similar rebate will be in effect for rental property acquired to be used as a primary residence. The rebate can be credited by the builder, or the purchaser may apply for the rebate directly to the provincial government.

Some businesses that are particularly labour-intensive, such as personal services businesses, will not benefit from the abolition of the retail sales tax as much as other, more capital-intensive, operations. In these sectors, the imposition of 13 per cent OVAT instead of five per cent GST will represent a substantial overall price increase. While Ontario has agreed to be bound by federal tax-base changes, Ontario will be compensated if any such change reduces Ontario's revenues from the OVAT by more than one per cent, net of credits and rebates, unless the change has Ontario's prior agreement. Further, Ontario may increase or decrease the OVAT rate only after two years from implementation.

Public service bodies resident in Ontario will generally be making exempt supplies, with no eligibility to recover GST or OVAT paid on inputs to those exempt supplies. To compensate them for the difference in tax content, these bodies will be entitled to rebates of a portion of the provincial component of OVAT paid that cannot be recovered by input tax credit. The rate for charities and publicly funded non-profit organizations is 82 per cent, for school boards 93 per cent, for hospitals 87 per cent, and for municipalities, universities and colleges 78 per cent.

Similar to the restricted input tax-refund system in Quebec, large businesses with annual taxable sales in excess of \$10 million, and financial institutions, will be unable to claim input tax credits for the OVAT paid on certain restricted groups of expenses. These restrictions would be temporary, during the initial implementation of OVAT, and will apply only to the provincial portion of the tax. After the first five years following implementation, full input tax credits on these purchases will be phased in, in equal amounts, over a three-year period. The restricted groups of expenses are as follows:

- 1) energy, except where purchased by farms or used to produce goods for sale (this restriction, as currently phrased, will deny input tax credits to real property contractors that manufacture for supply and installation)
- 2) telecommunication services other than internet access or toll-free numbers
- 3) road vehicles weighing less than 3,000 kilograms (and parts and certain services) and fuel to power those vehicles and
- 4) food, beverages and entertainment.

The Memorandum of Agreement notes that the restricted groups of expenses may not be set wider than those currently applicable in Quebec under the QST.

Other consequential changes will occur as the result of enacting OVAT. The tax on transient accommodations (predominantly hotel rooms), which was five per cent under the retail sales tax, will increase to eight per cent. The windfall to the government will be re-directed to destination marketing in Ontario tourist regions. Further, rates of tax on beer and alcohol will reduce to eight per cent from the current 10/12 per cent structure. To ensure that the government's tax changes are not seen as encouraging irresponsibility and to maintain revenue, other fees, levies and charges will be increased to ensure that the price at the taps and at the beer store remains the same.

To compensate businesses (excluding financial institutions) for the increased administrative burden of the change to OVAT, businesses with taxable revenues in the first fiscal quarter beginning after July 1, 2010 not exceeding \$15,000 will receive a \$300 credit. Those with taxable revenues exceeding \$15,000 but not exceeding \$50,000 will receive a credit of two per cent of taxable revenue for the quarter, and those with taxable revenues exceeding \$50,000 but not exceeding \$500,000 will receive \$1,000. Vendor compensation payable under the *Retail Sales Tax Act* will cease with the return filed for March 2010.

To further compensate individuals, a sales-tax transition credit will be paid to individuals and families in three approximately equal instalments, in June and December 2010, and June 2011, totaling a maximum of \$300 for single

individuals and \$1,000 for single parents and families. The credits are reduced by five per cent of income over a threshold of \$80,000 per individual and \$160,000 per family or single parent. The credits, therefore, phase out for an individual at an income level of \$82,000, and for single parents and families at an income level of \$166,700.

## **BRITISH COLUMBIA**

Following Ontario's lead, British Columbia announced its intention to harmonize its sales tax system with the GST on July 23, 2009. The harmonization is to be effective July 1, 2010 at a rate of seven per cent, for composite rate of BC HST of 12 per cent.

The basic framework is similar to that adopted in Ontario. The administration will be undertaken by the Canada Revenue Agency, and policy and legislation details are to be finalized by the same target date of March 31, 2010. British Columbia will be responsible for winding down its own social service tax and tax on hotel rooms, and there will be no separate system of registration for BC HST. If registered for GST, a supplier will be automatically registered for BC HST. If a BC SST registered vendor is operating as a small supplier for GST purposes, registration will not be required, but may be applied voluntarily.

The tax base will remain the same, again with some exceptions where the provincial tax component will be rebated. Those that have been announced include: motive fuels (gasoline, diesel, marine diesel, locomotive fuel and aviation fuel, including bio-fuel components, for cars, boats and aircraft) children's clothing and footwear, children's car seats and booster seats, diapers, books, feminine hygiene products, and residential energy costs (oil, hydro, propane and natural gas used to power or heat homes).

British Columbia will provide a new housing rebate equal to 5/7 of the seven per cent BC HST provincial component on the purchase of a new home, up to a maximum of \$20,000, which is reached at \$400,000 price point. Over this price level, the rebate is a flat \$20,000. A similar rebate will be in effect for rental property acquired for use as a primary residence.

The provincial component of the BC HST paid by BC-resident public sector bodies will be rebated only to certain bodies at set rates. Rates that have been published include municipalities (75 per cent), and charities and publicly-funded non-profit organizations (57 per cent). School boards, hospitals, universities and colleges will not receive rebates, but the province has undertaken to review the grants paid to these bodies to compensate for the extra cost of the BC HST.

Again, similar to the restricted input tax refund system in Quebec, large businesses with annual taxable sales in excess of \$10 million and financial institutions will be unable to claim input tax credits for the BC HST paid on certain restricted groups of expenses. These restrictions are temporary, during the initial implementation of BC HST, and will apply only to the provincial portion of the tax. After the first five years following implementation, full input tax credits on these purchases will be phased in, in equal amounts, over a three-year period. The restricted groups of expenses are almost identical to those in effect for Ontario OVAT.

Unlike in Ontario, businesses in British Columbia will receive no transitional credits, since the benefits from the tax change itself are expected to be sufficient to defray any such costs. However, low income families and individuals will receive an annual BC 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.

# Transitional Rules

The Ontario Ministry of Revenue released an information notice on October 14, 2009 to taxpayers that outlined the transitional rules that will apply to the July 1, 2010 implementation of the HST in Ontario.

Fundamentally, these rules have two objectives: firstly, to ensure that vendors and purchasers understand the sales tax treatment of transactions involving the sale, lease or license of property and services that straddle the July 1, 2010 implementation date, and secondly, to describe the timing and reporting requirements related to the wind-down of the existing retail sales tax systems.

The notice explains the application of the transitional rules relating to the implementation of the HST, as set out in Division X of the *Excise Tax Act — Transitional Provisions for Participating Provinces*. These rules, dealing with such issues as prepaid funeral expenses, transportation, memberships, continuous supplies and budget payment arrangements, were enacted in 1997 when the provinces of Newfoundland and Labrador, Nova Scotia and New Brunswick harmonized their provincial sales tax systems with the federal GST. They were specifically structured with the intention that other provinces would adopt them at a future date, thus eliminating the need to enact transitional legislation to bring them into the fold.

## KEY DATES

The transitional rules specify a number of key dates with respect to the timing of an organization's requirement to account for the Ontario component of the HST. These dates and a brief description of their purpose are as follows:

### **Announcement/release date - October 14, 2009**

Any consideration for a supply that becomes payable or is paid before this date, even if it relates in whole or in part to goods or services to be delivered or performed after the July 1, 2010 implementation date, will not be subject to the new provincial component of the HST. Conversely, some businesses and public sector bodies will be required to self-assess and account for the OVAT on payments that become due or are paid after that date and before May 1, 2010 which relate to the supply of goods or services to be provided on or after July 1, 2010.

### **Specified pre-implementation date - May 1, 2010**

The OVAT will apply to consideration for a taxable supply that becomes payable or is paid after this date and relates to the supply of goods and services to be provided on or after July 1, 2010.

### **Implementation date - July 1, 2010**

All taxable supplies made in Ontario on or after this date will be subject to HST.

**Four month date - November 1, 2010**

This is the date on which the OVAT will generally begin to apply to pre-May 2010 supplies for which consideration had neither become due nor had been paid. This date will mark the end of a four month wind-down period of the Ontario retail sales tax system.

For detailed information on the HST transition rules, consult —  
[www.rev.gov.on.ca/en/notices/hst/03.html](http://www.rev.gov.on.ca/en/notices/hst/03.html) or  
[www.rev.gov.on.ca/en/notices/hst/pdf/03.pdf](http://www.rev.gov.on.ca/en/notices/hst/pdf/03.pdf).

For additional information on the HST transition rules, or to find out about scenarios not covered by the government's October 14, 2009 release, contact the Ontario government's HST information line at 1-800-337-7222.

## Use of Simplified Factors

The administration of the GST/HST has resulted in the use of a number of simplified factors in calculating GST/HST to remit and input tax credits to recover. While, at time of writing, these factors have not been published for use with the Ontario OVAT and BC HST, new factors are expected for small registrants using the Quick Method and the Streamlined Input Tax Credit Method, and public-sector bodies using the Special Quick Method.

Factors for expense reports have not yet been published, but based on an eight per cent rate of provincial tax (as will be applicable in Ontario), the rate of recovery on employee expense reports will be 12/112, and on allowances, 13/113. Intuitively, one would expect that the rates for BC HST would be 11/111 and 12/112 respectively.

Taxable benefit remittance rates were not available at time of publication, but for OVAT purposes, the benefit remittance rate is expected to be 12/112 on standby charges, and other *Income Tax Act*, paragraph 6(1)(a), benefits, while the rate applicable to the personal portion of operating expenses would be nine per cent of the personal kilometer amount if the current general rate of 24 cents per kilometer is maintained. While for BC HST purposes, it may seem logical to assume 11/111 on paragraph 6(1)(a) type benefits, one should wait for the official notifications to be certain.

We encourage readers to contact the Ontario government's HST information line at 1-800-337-7222 for confirmation of these rates as they are released.

# Application of the HST

To apply both the QST and the HST in the provinces that have already harmonized – Ontario and British Columbia – one must identify the province where a supply occurs. The rules currently in place to identify the province in which a supply occurs for purposes of imposing the collection of QST, and HST are expected to continue, in order to ensure consistency of application nation-wide.

## **SUPPLY OF GOODS**

A supply of goods is considered made where the goods are physically delivered, mailed or couriered, or made available in that province. For goods supplied by short-term rental (i.e., no more than three months), the supply is considered made in the province where the goods are first delivered or made available. In the case of a longer-term lease, the supply is made in the province where the goods are ordinarily located in a lease period. For this period, each lease period (e.g., each month) is treated as a separate supply. Motor vehicles are considered supplied in the province where they are registered.

## **SUPPLY OF SERVICES**

A service is considered supplied in a province if substantially all (which the Canada Revenue Agency interprets as 90 per cent) of the Canadian element of the service is performed in that province. If not, the supply is considered made in the province where the supplier's establishment that negotiated the supply is located, provided the service was not performed substantially outside the province.

## **SUPPLY OF REAL PROPERTY**

A supply of real property is made in the province where the real property is situated.

## **SUPPLY OF INTANGIBLES**

The supply of an intangible is considered made in a province if substantially all the Canadian rights are exercisable only in that province. If not, the supply is considered made in the province where the supplier's establishment is located that negotiated the supply, provided that the rights cannot be exercised substantially outside the province.

In each of the above cases, there are tie-breaker rules that apply to identify the province where a supply is made if the above rules do not resolve the issue. For additional information on the place of supply rules, contact the Canada Revenue Agency at 1-800-959-5525.

## **SPECIFIC EXCEPTIONS**

There are several specific rules that apply in particular circumstances for the sake of simplicity. A freight transportation service is made in a province if the destination of the service is in that province.



Memberships supplied to individuals where the rights can be exercised in more than one province are considered made in the province of the individual's mailing address. Repair services or photographic printing services are considered made in the province of destination after repair, etc. Supplies of services made to annuitants of registered retirement savings plans, retirement income funds and education savings plans are considered made in the province of the annuitant's mailing address.

1-900 and 1-976 services are considered supplied in the province of the call's origin. Otherwise, telecommunication services are generally taxed based on the application of the two-out-of-three rule. The telecommunication will be taxed in a province if the telecommunication is emitted and received in the province, or emitted or received in the province and the billing location for the service is also in that province. If the service consists of supplying telecommunications facilities, the supply will be considered made in the province where all the facilities are located, or, if not located in one province, in the province to which the invoice for the service is sent.

For Internet access, where there is only one user, the service is considered supplied in the province of location of the user. If the supplier services more than one user, but does not have the information to determine the location of each user (for example, when selling to a reseller), then the service is considered supplied in the province of the mailing address of the recipient (for example, the reseller).

# How to Prepare for Implementation

Given that, all businesses currently registered for GST will automatically be registered for the Ontario and BC HST on July 1, 2010, one must implement significant changes to systems and processes before this deadline. It is anticipated that all the laws and rules relating to harmonization will be formalized by March 31, 2010. However waiting until then to start the implementation process will be too late for many businesses to have all the changes completed by July 1, 2010.

To begin the preparation process, consider all facets of an organization that are affected by sales taxes (for example, accounts receivable, accounts payable, payroll, purchasing, forecasting and budgeting); this can be a very time consuming task. The benefit of spending time preparing for implementation is a reduction in costly errors, surprises for overlooked issues, and future audit exposures.

Below are a number of issues businesses need to consider for the sales tax implementation.

## COLLECTION OF SALES TAXES

- Amend software and/or tax tables used to generate invoices, debit and credit notes to accommodate additional tax rates/codes.
- Amend automated system-generated entries (e.g., monthly inter-company charges, monthly rent charges or management fees to reflect the new sales tax codes/rates).
- Consider the impact of harmonization on real property contracts during the transitional period and after implementation.
- Determine if prepayments have been made before the implementation date. The transitional rules may be used to determine the tax rate applicable in these situations.
- Develop special codes for point-of-sale rebates for the provincial component of OVAT and BC HST if applicable.
- Do a product and service sales tax analysis. Many goods, services, intangible personal property and real property non-taxable under the old Ontario sales tax legislation will now become taxable as a result of harmonization. However, unless a supply is specifically excluded from OVAT or BC HST (e.g., books, children's clothing), or under a specific Ontario or BC levy post-harmonization (e.g., in Ontario certain insurance premiums), the sales tax status will be consistent with current GST rules, which will simplify tax administration for businesses.
- Do not delete or deactivate old tax rate codes since it may be necessary to use them after implementation during the transitional period.
- Follow transitional rules for volume rebates, promotional allowances, price adjustments, goods returned or exchanges after the July 1, 2010 implementation date and guidance for goods in transit on July 1, 2010.

- Modify tax tables for Internet web sites. All GST registrants will automatically become registered to collect OVAT and BC HST.
- Review ongoing or long-term contracts that straddle the harmonization date to ensure the correct sales rate is applied (e.g., service agreements, licences, memberships and leases).
- Update point-of-sale terminal or cash-register software.

#### **RECOVERY OF VALUE-ADDED TAXES PAID (INPUT TAX CREDITS AND REBATES)**

- A business defined as a “large business” (over \$10M taxable sales) or a financial institution cannot claim input tax credits for the provincial component on specified restricted expenses. Restrictions will last up to five years with a three-year phase out.
- Develop updated or new tax tables/codes for accounts payable systems that automatically record input tax credits or rebates based on embedded taxes. Prepare to code payables for restricted versus non-restricted expenses.
- Do not delete/deactivate old tax rates as they may be required in some situations. If your system can only accommodate one or a limited number of tax rates, develop a manual system to record sales taxes correctly during the transitional period.
- During the transitional period, implement procedures to ensure only the value-added tax paid is recovered. Develop an override procedure to use in instances where old tax rates are charged in error.
- Develop a system to track the federal and provincial components of HST if you are part of the MUSH sector (municipalities, universities, schools and hospitals) or a qualifying non-profit organization.
- Evaluate and update periodic system-generated payments to apply the new taxes.
- Make adjustments to the remittance percentages if you are a small businesses or public service body using the simplified remittance methods.
- Modify employee expense reimbursement and allowance software or pre-printed forms for not only the new rates but also the restricted expenses and possibly the use of factors. In addition, watch for special transitional rules for expense reports that straddle the implementation date.
- Selected listed financial institutions must adjust formulae included in the Special Attribution Method calculation if applicable.

## OTHER CONSIDERATIONS

- Revise cash flow projections.
- Update budgets and forecasts.
- Modify purchase orders with pre-printed sales tax information or system-generated purchase orders to accommodate the new taxes, e.g. the goods for resale exemption will no longer apply in Ontario or British Columbia.
- Modify pre-printed price lists or Internet web-sites containing sales tax information.
- Develop a system to track coupons and rebates by province of redemption or purchase.
- Develop a system to track bad debt adjustments, tracking the tax from the original transaction.
- Develop a process to change taxable benefit remittance rates for the 2010 and 2011 taxation years, if applicable.
- Modify documented procedures for how internal tasks are performed whether automatically or manually.
- Additional calculations may be required for the embedded tax content subject to the change-in-use provisions.

Plan to do a test run of sample data for all modified systems as a result of the numerous changes and revisions. This will reduce the potential for errors and surprises when the systems are activated on July 1, 2010.

# APPENDIX A

## COMPARISON CHART

The harmonization of the Ontario and British Columbia retail sales taxes with the GST will cause a number of products and services to become taxable. This table illustrates a variety of purchases that will have a new sales tax status on July 1, 2010.

Purchase description	Old sales tax status		Tax status under the GST rules
	Ontario	British Columbia	
Energy (gas, fuels, electricity)	Non-taxable	Non-taxable	Taxable
Professional services (engineering, accounting, consulting)	Non-taxable	Non-taxable	Taxable
Legal services	Non-taxable	Taxable	Taxable
Advertising services	Non-taxable	Non-taxable	Taxable
Training seminars	Non-taxable	Non-taxable	Taxable
Trade show admissions and conferences	Non-taxable	Non-taxable	Taxable
Admissions to live theatrical or musical performances in places of amusement where 90 per cent of the performers who regularly participate in the cast are permanent residents of Canada	Non-taxable	Non-taxable	Taxable
Admissions under \$4	Exempt	Non-taxable	Taxable
Footwear under \$30	Exempt	Taxable	Taxable
Basic groceries, eggs, milk, bread, fruit and vegetables	Exempt	Exempt	Zero-rated
Prepared foods, e.g., restaurant and catered meals	Taxable under \$4 Exempt	Exempt	Taxable Not subject to OVAT
Snack foods and soft drinks	Taxable	Exempt	Taxable

Purchase description	Old sales tax status		Tax status under the GST rules
	Ontario	British Columbia	
Internet access fees	Non-taxable	Taxable	Taxable
Membership fees (fitness, golf)	Non-taxable	Non-taxable	Taxable
Real property contracts (home improvements, office renovations)	Exempt	Exempt	Taxable
Office rent	Exempt	Exempt	Taxable
Personal services (manicures, hair cutting)	Non-taxable	Non-taxable	Taxable
Commissions	Non-taxable	Non-taxable	Taxable
Magazines (subject to certain conditions)	Exempt	Exempt	Taxable
Newspapers	Exempt	Exempt	Taxable Not subject to OVAT
Manufacturing equipment (subject to certain conditions)	Exempt	Exempt	Taxable
Taxi and limousine fares	Non-taxable	Non-taxable	Taxable
Goods for resale and raw materials	Exempt	Exempt	Taxable
New residential housing	Exempt	Exempt	Taxable
Cleaning services	Non-taxable	Non-taxable	Taxable
Safety clothing (defined by province)	Exempt	Exempt	Taxable
Custom software (subject to certain conditions)	Exempt	Exempt	Taxable
Software services (subject to certain conditions)	Taxable	Exempt	Taxable
Adult-sized clothing for children under 15	Taxable	Exempt	Taxable

## APPENDIX B

### ADDITIONAL READING

To learn more about how to prepare for the HST, or the economic benefits of harmonizing retail sales tax with the GST, read the following reports:

Canada Revenue Agency, "Questions and Answers on General Transitional Rules for Personal Property and Services."

[www.cra-arc.gc.ca/E/pub/gi/notice247/notice247-e.pdf](http://www.cra-arc.gc.ca/E/pub/gi/notice247/notice247-e.pdf)

C.D. Howe Institute commentary, "Lessons in Harmony: What Experience in the Atlantic Provinces Shows About the Benefits of a Harmonized Sales Tax."

[www.cdhowe.org/pdf/commentary\\_253.pdf](http://www.cdhowe.org/pdf/commentary_253.pdf)

C.D. Howe Institute commentary, "Growth-Oriented Sales Tax Reform for Ontario: Replacing the Retail Sales Tax with a 7.5% Percent Value-Added Tax."

[www.cdhowe.org/pdf/Commentary\\_273.pdf](http://www.cdhowe.org/pdf/Commentary_273.pdf)

Ontario Chamber of Commerce, "Made in Ontario: the Case for Sales Tax Harmonization," prepared by Ernie Stokes and Robin Sommerville of the Centre for Spatial Economics.

[http://taxharmonization.on.ca/files/HST\\_Report.pdf](http://taxharmonization.on.ca/files/HST_Report.pdf)

TD Economic Report "The Impact of Sales Tax Harmonization in Ontario and BC on Canadian Inflation", September 18, 2009.

[www.td.com/economics/special/dp0909\\_hst.pdf](http://www.td.com/economics/special/dp0909_hst.pdf)

## About the Authors

**Rod Butcher, CGA**, director of consulting services, Brendan Moore & Associates, is a noted commodity tax commentator with over 25 years of experience in both industry and public practice. While in industry, Rod held senior tax and financial positions at major international food and beverage manufacturers with hands-on exposure to international and domestic tax issues common to all large Canadian businesses. Now in professional practice, his extensive commodity-tax experience makes him uniquely suited for the senior tax policy role in the consulting practice of Brendan Moore.

Rod has contributed frequent articles to newsletters such as Carswell's *GST & Commodity Tax* and CCH Canadian's *Tax Reporter* series. He is currently the editor of the Thomson Carswell publication *VAT Guide for Canadian Business*.

**Diane Gaudon, CGA**, manager, client services at Brendan Moore & Associates, has more than 20 years of experience as a professional accountant. During the past eight years, Diane has been a contributor to both CCH Canadian and Carswell commodity tax-related publications.

She is also a frequent presenter of commodity-tax-related material to numerous professional organizations, including the Certified General Accountants of Ontario and the Canadian Insurance Accountants Association.





## Certified General Accountants of Ontario

240 Eglinton Avenue East

Toronto, ON M4P 1K8

416-322-6520 or

1-800-668-1454

Email: [info@cga-ontario.org](mailto:info@cga-ontario.org)

[cga-ontario.org](http://cga-ontario.org)

[cga-yourcareer.org](http://cga-yourcareer.org)

edit card, consumer  
business and govern  
curities borrowed o  
der resale agreeme  
btotal  
customers' liability ur  
tal

t Interest Income (teb)  
n-interest revenue  
al revenue (teb)  
vision for credit losses  
n-interest expense  
ome before income  
es and non-controlling  
rest in subsidiaries  
ome taxes (teb)