

# YOUR ACCOUNTANT



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## BC HST - TRANSITIONAL RULES

### Overview

Effective 1 July 2010, British Columbia (BC) will implement the Harmonized Sales Tax (HST). The HST will apply in BC at a rate of 12% - combining the existing 5% federal Goods and Services Tax with a new provincial tax component of 7%. HST will replace the existing provincial retail sales tax (PST) system. All GST registrants will automatically become HST registrants, and will continue to use their existing GST/HST business number and file their normal GST/HST tax returns.

The HST will apply to any supplies of taxable goods and services made in BC that are currently subject to the GST. Generally a supply of goods is considered to be made in BC if the goods are delivered or made available to one's customer in BC; a supply of services is considered made in BC if it is performed in BC. Any supplies which are made outside BC will be subject to the existing GST rules. Some supplies of services will be made in part in BC and in part outside BC. Special rules will determine how the HST should be applied in such cases, and it is a good idea to check with your accountant to confirm how the tax will be applied in such cases.

On 14 October 2009, the BC government released publications outlining the transitional rules required to determine which tax – the existing PST or the provincial part of the HST - will apply to transactions that straddle the implementation date.

The transitional rules will operate on the basis of the following three key dates:

**Implementation Date** – 1 July 2010, the date on which the HST comes into effect.

**Pre-implementation Date** – 1 May 2010, the date on or after which the HST will generally apply to prepayments starting on 1 May 2010 for property and services provided on or after 1 July 2010.

**Release Date** – 14 October 2009, the date on or before which the HST will not apply to prepayments made on or before 14 October 2009.

### HST General Transitional Rules

#### Sales of Tangible Personal Property (Goods)

Generally, HST must be charged by suppliers of taxable goods in BC if the goods are delivered and ownership of the goods is transferred on or after 1 July 2010. This is true even if the consideration for the supply is due or is paid before 1 July (but on or after 1 May). Finally, for consideration paid after 14 October or prior to 1 May, a customer who is not a consumer (i.e. a business) may be required to self-assess the provincial portion of the HST for goods delivered on or after 1 July 2010 (if the HST paid on the supply would not fully qualify for an input tax credit).

#### Services

HST will apply to taxable services provided in B.C. on or after 1 July 2010. Generally, when the performance of a service straddles the implementation date, HST will be payable on the portion of the consideration that relates to

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the services performed on or after 1 July 2010. Consequently, a service provider will have to pro-rate invoices for supplies of services straddling the implementation date, charging GST and PST (if applicable) for the portion of the service performed before July 2010, and HST for the portion performed on or after 1 July 2010.

However, if 90% or more of a service is performed before 1 July 2010:

- HST will not apply to the service; but
- PST will apply if the services are taxable for PST purposes.

As above, if the consideration for the service becomes due or is paid before July 2010 but after 1 May, then HST must be charged on the portion of the service rendered after 1 July. For consideration paid after 14 October or prior to 1 May, a customer who is not a consumer (i.e. a business) may be required to self-assess the provincial portion of the HST for services rendered after 1 July (to the extent that the HST would not qualify for a full ITC).

### Leases and Licenses

The HST will generally apply to leases or licenses of taxable goods, intangible personal property, non-residential or commercial real property for periods on or after 1 July 2010. If the lease/license period straddles the implementation date, the HST will apply only on the portion of the period that falls on or after 1 July 2010. However if the lease period begins before 1 July 2010, and ends on or before 30 July 2010:

- HST will not apply to the lease or license payment; but
- PST will apply if the leases or licenses are taxable for PST purposes.

Again, if the consideration for the lease becomes due or is paid before July 2010 but after 1 May, then HST must be charged on the portion of the lease period after 1 July. For consideration paid after 14 October or prior to 1 May, a customer who is not a consumer (i.e. a business) may be required to self-assess the provincial portion of the HST for the lease period falling after 1 July (to the extent that the HST would not qualify for a full ITC).

These rules do not apply to supplies of intangible personal property where the payments do not vary with the amount of use or profits from the property (i.e. lump sum payments paid for patents).

### Sales of Real Property

HST will apply to taxable sales of non residential real property in B.C. if both ownership and possession of the property are transferred to the purchaser on or after 1 July 2010. In the case of residential property, a special "grandfathering" rule will apply. For sale agreements signed before 18 November 2009, where ownership transfers after 1 July, the old GST rules will continue to apply, but the builder will be required to pay a transitional tax adjustment depending on the stage of completion at 1 July. However where a traditional house or apartment is built by an owner for his personal use and the construction period straddles 1 July, then the normal transitional rule above will apply rather than this grandfathering rule.

In addition, purchasers of residential property may be entitled to rebates of GST, the provincial portion of the HST, and even portions of PST buried in the construction cost during this transitional period. You should consult your accountant as to which rebates might be available for property purchased in or around this period.

### HST Specific Transitional Rules

In addition to the above general transitional rules, special rules will apply for certain specific supplies such as subscriptions to a newspaper, magazine or other periodical, memberships in a club, organization or association, admissions (e.g. to theatres etc.), passenger transportation services, passenger transportation passes, or commercial parking passes.

## Other HST Transitional Rules

### Combined Supplies

There are situations in which a combination of property and/or services is supplied as a single supply (e.g. the supply and installation of a dishwasher). If ownership or possession of the property (the dishwasher) is transferred to the purchaser prior to 1 July 2010 and it will not attract HST under the general transitional rules if supplied separately, then HST will not apply to the consideration for the property. This rule does not apply to sales of newly constructed or substantially renovated homes.

### Progress Payments and Holdbacks

**Progress payments:** HST will apply to progress payments on contracts to "construct, renovate, alter or repair" real property to the extent that the progress payments relate to property delivered or services performed on or after 1 July 2010. These rules do not apply to sales of newly constructed or substantially renovated homes which are subject to the special transitional rules for new residential

housing. For progress payments made after 14 October 2009 and before 1 July 2010 that relate to property delivered or services performed on or after 1 July 2010, the supplier must account for the provincial part of the HST in the GST/HST reporting period that includes 1 July 2010. The recipient of the supply can also claim any input tax credits for the provincial part of the tax. There is no requirement to account for HST on progress payments that relate to property delivered or service performed on or after 1 July 2010 where the payments are made on or before 14 October 2009.

**Real property contracts > 3 months:** There are special rules for real property contracts that extend more than three months. Specifically, where it is reasonably expected that a written contract to construct real property will require more than three months to complete, and the construction is substantially completed (90% or more) before June 2010, the construction will be considered to have been substantially completed on 1 June 2010. Any consideration or part of the consideration payable on such a contract that had not been paid or becomes due on or before 31 July 2010, will be considered to have become payable on 31 July 2010 and any portion of such payment attributable to construction on or after 1 July 2010 will be subject to HST.

**Holdbacks:** A holdback from a progress payment is considered part of the progress payment from which it is held. The holdback will be subject to the same allocation as under the progress payment even if the holdback becomes due or is paid on or after 1 July 2010.

## Importing Property and Services into BC

The provincial part of the HST will generally apply to non-commercial goods that are imported by a resident of BC on or after 1 July 2010, and to non-commercial goods brought into BC before 1 July 2010 by a carrier if it is delivered to a BC consignee after 1 July 2010. This is also true for lease payments on property originally supplied outside BC which is subsequently brought into BC after 1 July by the lessee, or for the supply of an intangible asset originally made outside BC which is subsequently used inside BC after 1 July.

However such self-assessments by users would only be required to the extent that input tax credits would not be available for the amounts which would be self-assessed.

### Winding Down the PST

Generally PST will no longer apply for the supply of goods by sales, lease or license provided after 1 July 2010.

### Final PST Return

Final PST returns will generally be required to be filed with the BC Ministry of Finance on or before 23 July 2010. For PST collected or that becomes payable after 30 June 2010, a supplemental PST return will be required to be filed on or before the 23rd day of the following month.

### Returns and Exchanges

The following rules apply to returns and exchanges of property purchased before 1 July 2010 when the property is exchanged or returned on or after 1 July 2010 and before November 2010.

Scenarios	Outcome	
	PST	HST
Taxable property returned for a full refund	PST refund	No HST
Taxable property exchanged with 1:1 value	No PST refund	No HST
Taxable property exchanged with partial refund	Partial PST refund	No HST
Taxable property exchanged with additional payment	No PST refund	HST on additional amount
Exempt/non-taxable property exchanged with additional payment	No PST refund	HST on the full price of replacement property

There would be no PST adjustments available at point of sale if the property was purchased before 1 July 2010 and it is returned on or after 1 November 2010. However the purchaser will be able to file for a refund with the B.C. Ministry of Finance.

### Managing the Transition

All BC registrants will need to update their accounting and point of sale systems to accommodate the change in rate and new point of sale rebates for the implementation date of 1 July 2010.

The transitional rules are numerous, complex and many require some form of compliance on the part of the taxpayer and/or supplier. Consequently, affected persons should consider carefully the impact of these rules, for example:

- Businesses that sell services (e.g. lawn care) to consumers that are not currently PST taxable may have an opportunity to sell such services prior to 1 May 2010 for delivery on or after 1 July 2010 without triggering any PST or HST where the consumer pays for the services before 1 May 2010.
- Sellers and buyers must keep historic PST systems in place to continue to remit PST that becomes payable or that is collected after 1 July 2010.

Rolfe, Benson can assist in preparing and planning for the HST in BC. We can perform a diagnostic analysis to assist with forecasting the impact of harmonization, establishing priorities for necessary systems and process changes, and planning to minimize the cost and cash flow impacts. The time to begin preparing for these changes is now.