

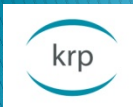
ONTARIO SALES TAX HARMONIZATION

PRESENTED BY
KESTENBERG • RABINOWICZ • PARTNERS LLP
TORONTO, CANADA
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- ▶ Ontario and British Columbia provincial sales taxes will be harmonized with the federal GST effective July 1, 2010
- ▶ Memorandum of Agreement - framework
- ▶ Administered by CRA under the Excise Tax Act
- ▶ Application mirrors the GST
- ▶ The unrecoverable PST eliminated and replaced with an HST that is recoverable by persons engaged in commercial activities



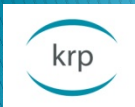
- ▶ One set of tax rules
- ▶ Elimination of difficult to administer PST concepts, e.g. TPP, software, manufacturing for own use
- ▶ Single return, one payment, one audit/administration/appeals process
- ▶ Savings of 8%!!!! - Removal of embedded PST in inputs to businesses engaged in commercial activities
- ▶ Corporate tax rate reductions

▶ PST will remain on:

- Insurance
- Used Motor Vehicles
- Alcohol
- Fuel and gasoline
- Tobacco

HST Implementation

- ▶ Rates of Tax
- ▶ Supply in Ontario, “Place of Supply”
- ▶ Transitional Rules



Rates of Tax

▶ Ontario 13%

- Federal component – 5%
- Provincial component – 8%

▶ B.C. 12%

- Federal component – 5%
- Provincial component – 7%

▶ Nfld/NS/NB 13%

- Federal component – 5%
- Provincial component – 8%

Place of Supply

- ▶ Ontario HST applies on supplies made in Ontario
- ▶ Separate and different rules from the GST to determine if HST applies
- ▶ Rules not yet provided by the government
- ▶ Tangible personal property
- ▶ Intangible Personal Property
- ▶ Services

Place of Supply - Tangible Personal Property (TPP)

- ▶ By way of sale – where TPP is delivered or made available
 - Rule applies for goods delivered by the vendor's own truck, common carrier, mail or courier

- ▶ By lease
 - Short Term (3 months or less) – location where possession or use is made available to the recipient
 - Long Term (more than 3 months) – ordinary location of the TPP at the beginning of each lease interval

Place of Supply - Intangible Personal Property (IPP)

- ▶ Intellectual property, inventions, patents, trade-marks, copyright, etc.
- ▶ IPP relating to real property – all or substantially all of the real property is situated in a province
- ▶ IPP relating to goods – all or substantially all of the goods are located in the province
- ▶ IPP relating to services – all or substantially all of services to be performed in the province
- ▶ Other IPP – all or substantially all of the “Canadian rights” can be used in a province

Place of Supply - Services

- ▶ Expected to be different than current HST rules:
 - Province service is performed exclusively (90%)
 - Province of negotiations
 - Province where the services are primarily provided
- ▶ Primary rule likely to be the residency/address of the recipient/client

Transitional Rules

- ▶ HST applies to supplies of goods and services made on or after July 1, 2010
- ▶ Generally, HST applies at the earlier of payment, invoice date or as per the terms of the contract
- ▶ Rule to cover “undue delay” in issuing an invoice
- ▶ Require rules to ensure that supplies made prior to July 1, 2010 are subject to GST and to ensure that supplies made on or after July 1, 2010 are subject to HST

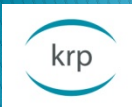
Transitional Rules

▶ Key Dates

- Announcement date – October 14, 2009
- Pre-Implementation Date – May 1, 2010
- Implementation Date – July 1, 2010
- Cut-off Date – October 31, 2010

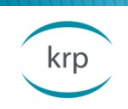
Transitional Rules - Tangible Personal Property

- ▶ TPP delivered and ownership transfers on or after July 1, 2010 and consideration due on or after July 1, 2010 – HST applies and no PST
- ▶ Prepayments prior to May 1, 2010 – GST and applicable PST regardless of when delivery and ownership transfers
- ▶ Prepayments made between May 1, 2010 to June 30, 2010 for TPP delivered and ownership occurs on or after July 1, 2010 – HST applies and no PST
- ▶ Payments made between May 1, 2010 to June 30, 2010 for TPP delivered and ownership transfers prior to July 1, 2010 – GST and PST applies



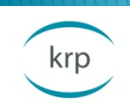
Transitional Rules - Services

- ▶ Services performed on or after July 1, 2010 and consideration due on or after July 1, 2010 – HST applies and no PST
- ▶ GST applies where all or substantially all (90%) of the service is performed prior to July 1, 2010. If applicable, PST applies.
- ▶ Prepayments prior to May 1, 2010 – GST and applicable PST regardless of when service is performed
- ▶ Prepayments made between May 1, 2010 to June 30, 2010 for services performed on or after July 1, 2010 – HST applies and no PST
- ▶ Payments made between May 1, 2010 to June 30, 2010 for services performed prior to July 1, 2010 – GST and applicable PST applies
- ▶ Prepayments made between May 1, 2010 to June 30, 2010 for services performed before and after July 1, 2010 – GST and applicable PST applies on the portion of the service performed prior to July 1, 2010 and HST applies to the portion of the service performed on or after July 1, 2010



Transitional Rules - Services - Example

- ▶ Vendor charges for annual maintenance of computer equipment in Ontario covering the period May 1, 2010 to April 30, 2011. Invoice is issued as follows:
 - ▶ April 30, 2010 – GST and PST
 - ▶ May 1, 2010
 - GST and PST for 2/12ths of the invoice.
 - HST on 10/12ths of the invoice amount.

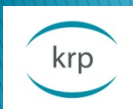


Transitional Rules - Real Property

- ▶ Sale – possession and ownership transfers on or after July 1, 2010 – HST Applies
- ▶ Sale – possession and ownership transfers prior to July 1, 2010 – GST Applies
- ▶ Lease intervals commencing on or after July 1, 2010 – HST Applies
- ▶ Lease intervals ending prior to July 1, 2010 – GST Applies
- ▶ Concession for leases that begin prior to July 1, 2010 and end before July 31, 2010 – GST Applies

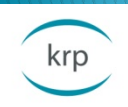
Transitional Rules - Ontario Rules for Residential Real Property

- ▶ Possession and ownership transfers on or after July 1, 2010 – HST applies
- ▶ Possession and ownership transfers prior to July 1, 2010 – GST applies
- ▶ Possession before July 1, 2010 and ownership transfers on or after July 1, 2010 – HST applies
- ▶ Builders renting new residential real property will be required to pay or self-assess HST on the entire complex upon the rental of the first unit (possession given to renter). If this occurs on or after July 1, 2010 HST applies.
- ▶ Grandparenting for the sale of new homes, constructed or renovated, where the agreement is entered into before June 18, 2009 and possession and ownership is transferred on or after July 1, 2010. GST applies.
- ▶ Builders selling grandfathered new homes required to pay a transitional tax adjustment to account for the PST embedded in the cost of the new homes.



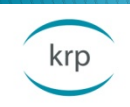
Transitional Rules – PST Wind-up

- ▶ October 31, 2010 – all PST deemed to be payable
- ▶ Final PST return on July 23, 2010
- ▶ Supplemental PST returns due on 23rd of the following month
- ▶ All supplemental PST returns would be required no later than November 23, 2010
- ▶ PST refunds and rebates – June 30, 2014
- ▶ PST refund for prepaid goods and services
- ▶ Assessments, audits and appeals
- ▶ Transitional PST rebate for Residential Real Property Contracts



Transitional Rules - Other

- ▶ Memberships – treated like a service
- ▶ Subscriptions
- ▶ Admissions
- ▶ Prepaid Funerals
- ▶ Progress Payments/Holdbacks
- ▶ Passenger Transportation
- ▶ Direct Sellers
- ▶ Refunds and Exchanges
- ▶ Goods and Services Brought into Ontario
- ▶ Imported Goods
- ▶ Imported Taxable Supplies (services/intangibles)



Impact On Persons Not Engaged in Commercial Activities

- ▶ Public Sector Bodies
 - Charities
 - Non-profit organizations
 - Hospitals
 - Universities and Colleges
 - Public elementary and secondary schools
 - Municipalities

- ▶ Financial Institutions

- ▶ Doctors and Dentists

- ▶ Residential leases/Condo Corporations

- ▶ Impacted due to limitations on claiming ITCs
- ▶ Elimination of PST and replaced with the combined federal and provincial HST on TPP and taxable services will have no impact
- ▶ Imposing HST on goods and services not previously subject to PST will mean a possible 8% increase in costs (rent, utilities, consulting, advisory and professional services)
- ▶ Working with suppliers to extract savings resulting from elimination of unrecoverable PST with a recoverable HST.

Ontario Specific Measures

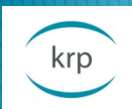
- ▶ Temporary Input Tax Credit (ITC) Restrictions
- ▶ Point of Sale Rebates
- ▶ Rebates for MUSH Sector
- ▶ Residential Real Property

Temporary ITC Restrictions

- ▶ Financial Institutions and “large businesses” with revenues in excess of \$10,000,000
- ▶ Similar to Quebec ITR restrictions
- ▶ Restriction for 5 years and then phase out equally over the next 3 years

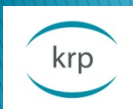
Temporary ITC Restrictions

- ▶ Telecommunications not including internet and 1-800
- ▶ Meals and entertainment
- ▶ Energy (exclusion for manufacturers and farmers)
- ▶ Licensed road vehicles
- ▶ Fuel for motor vehicles



Temporary ITC Restrictions – Telecommunication Services

- ▶ Internet access
- ▶ 1-800 and other toll-free services
- ▶ Telecommunications equipment
- ▶ Non-telecommunication services, e.g. security monitoring, database access, directory assistance



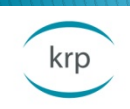
Temporary ITC Restrictions – Meals and Entertainment

- ▶ Expenses subject to the 50% income tax limitation for meals and entertainment



Temporary ITC Restrictions - Energy

- ▶ Energy
- ▶ Electricity, gas, steam
- ▶ Restriction does not apply for electricity, gas, steam used directly in the manufacturing process
- ▶ Apportionment of energy used for manufacturing and non-manufacturing
- ▶ Resale
- ▶ Additional rents



Temporary ITC Restrictions – Energy – Example

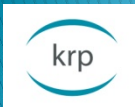
Currently, electricity is subject to 5% GST but not subject to Ontario PST. Commercial landlords who pay for electricity directly will recover that expense from their tenants as additional rent. Under the HST, the electricity is a restricted expense for ITC purposes for persons with \$10MM of revenues. This means that the landlord's cost of providing rent has increased because the additional 8% tax is not recoverable. The HST also applies to the rent charged to the tenant. Persons not engaged in commercial activities will be impacted doubly.

Temporary ITC Restrictions – Licensed Motor Vehicles

- ▶ Licensed road vehicles
- ▶ Vehicles weighing less than 3,000 kg
- ▶ Repairs and maintenance – one year
- ▶ Fuel

Point of Sale Rebates

- ▶ Books including audio books
- ▶ Children's clothing and footwear
- ▶ Children's car seats and car booster seats
- ▶ Diapers
- ▶ Feminine hygiene products
- ▶ Meals \$4.00 or less
- ▶ Newspaper subscriptions

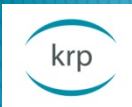


Rebates for MUSH sector

<u>Entity</u>	<u>GST</u>	<u>Ontario</u>	<u>B.C.</u>	
Municipalities	100%	78%	75%	
Universities/Colleges		67%	78%	0%
School Boards	68%	93%	0%	
Hospitals	83%	87%	0%	
Charities/NPOs	50%	82%	57%	

Residential Real Property

- ▶ Grandparenting – written agreements entered into June 18, 2009
- ▶ Builders of grandparented residential real property are required to pay a transitional tax adjustment
- ▶ PST Transitional Rebate – to rebate embedded PST in homes and condominiums subject to the HST
- ▶ Enhanced new housing rebate – additional tax not to apply on new homes priced up to \$400,000



Preparing For The HST

- ▶ Financial impact
- ▶ Impact on pricing
- ▶ IT/Systems changes
- ▶ Cash registers
- ▶ Point of sale rebates
- ▶ Transition credit of up to \$1,000 for businesses with less than \$2 Million in annual revenues
- ▶ Invoices
- ▶ Tracking the HST – manual/AP systems
- ▶ Expense claims
- ▶ Tracking restricted expenses
- ▶ PST exemptions no longer exist – provincial governments/manufacturers

Preparing For The HST - Transition

- ▶ Prepayment prior to May 1, 2010 for supplies that are not currently subject to PST.
- ▶ Delay purchases of TPP and taxable services until July 2010
- ▶ Delay construction until July 2010
- ▶ Lease taxable TPP instead of purchasing before July 2010
- ▶ Prepay for subscriptions before July 2010
- ▶ Delay importations or bringing TPP into Ontario or B.C. until July 2010
- ▶ Work with suppliers to ensure prices under HST reflect the removal of embedded PST
- ▶ PSBs – delay purchases of TPP until July 2010

Preparing For The HST – Transition - Example

- ▶ Techco (Ontario Company) has a call centre for which it has to refresh computer equipment and software. If Techco purchases the computer equipment and software prior to July 1, 2010, it will pay a combined 13% tax, i.e. GST and PST. The GST is recoverable but the PST of 8% is an unrecoverable cost to the Techco.
- ▶ Should Techco delay the purchase of the computer equipment and software to July 2010 or after, Techco would pay 13% HST to the vendor. However, the entire 13% is recoverable to Techco.