

Tax memo

Canadian tax updates



Eliminating the HST in British Columbia: Canada's Department of Finance proposes transitional rules

*Outlines
transitional rules
released by
Canada's
Department of
Finance for the
elimination of
the HST in
British Columbia.*

February 21, 2012

On February 17, 2012, Canada's Department of Finance proposed transitional rules relating to the elimination of the Harmonized Sales Tax (HST) in British Columbia. This *Tax memo* discusses the details. The proposals do not reflect any Provincial Sales Tax (PST) transitional provisions that British Columbia will enact separately.

Supplies of property or services

The general transitional rules to eliminate the HST in British Columbia are similar to those that applied when HST was originally implemented and are based on the time when the consideration becomes payable under the *Excise Tax Act* (ETA):

		Applicable tax
When tax is:	paid or payable before April 1, 2013	12% B.C. HST
	paid and payable after March 31, 2013	5% Goods and Services Tax (GST)

Under the ETA, amounts typically become payable (due) on the earliest of:

- when the supplier actually issues an invoice for the supply;
- the date of that invoice;
- the day the supplier would have issued the invoice but for an "undue delay"; and
- the day the recipient is required to pay pursuant to an agreement in writing.

When property is supplied by way of lease, licence or similar arrangement under an agreement in writing, the due date is the date amounts are required to be paid under the agreement.

Supplies of real property

Tax generally becomes payable on the earlier of the day on which:

- ownership is transferred to the recipient; and
- possession of the property is transferred under the agreement of purchase and sale.

Therefore, if ownership and possession occur after March 31, 2013, the supply of the real property will be subject to GST at 5%.

If the supply is that of a residential condominium unit that, at the time possession is transferred, has not been registered as a condominium, tax is not payable until the earlier of:

- transfer of ownership of the unit; and
- 60 days following the date of registration of the condominium complex.

Deemed self-supplies of real property

If there is a deemed self-supply of real property, such as when a builder constructs a residential complex and rents it out to others as a place of residence, the rules provide for a deemed sale and re-purchase, with attendant GST/HST consequences. Under self-supply scenarios, the transitional rules will be based on the date on which the self-supply occurs. Tax will be payable on the fair market value of the residential complex as follows:

		Tax
Self-supply is deemed to have been made	before April 1, 2013	HST
	after March 31, 2013	GST

HST on property and services brought into British Columbia

The 7% B.C. component of the HST will not apply to the following supplies:

- tangible personal property brought into British Columbia after March 31, 2013;
- tangible personal property brought into British Columbia by a carrier before April 1, 2013, if the property is delivered in the province to a consignee after March 31, 2013; and
- services or intangible personal property (IPP) acquired in a non-participating province (such as Alberta) by a B.C. resident for consumption, use or supply in British Columbia, if the consideration becomes due and is paid after March 31, 2013.

Imported goods

The 7% B.C. component of the HST will not apply to:

- non-commercial goods imported by a resident of British Columbia after March 31, 2013, including those imported before April 1, 2013, that are accounted for under the *Customs Act* after March 31, 2013; and
- specified motor vehicles or commercial goods brought into British Columbia from a place outside Canada after March 31, 2013.

Imported taxable supplies

When a person is required to self-assess tax on imported taxable supplies, such as certain supplies of services and IPP made outside Canada, the B.C. component of HST will not apply to an imported taxable supply made:

- after March 31, 2013; or
- before April 1, 2013, if the consideration for the supply becomes due and is paid after March 31, 2013.

Refunds and rebates

The general eligibility rules for refunds and rebates will remain in place. However, new limitations will apply when the circumstances giving rise to relief occur after March 31, 2013. For example, rebates for the B.C. component of the HST would be unavailable for goods removed from British Columbia after March 31, 2013.

Returns and exchanges

When a person purchases taxable goods before April 1, 2013 and returns or exchanges them after March 31, 2013, the following rules govern HST refunds:

	Credit or debit note issued	
	Yes	No
Refund is given	HST refund available	No HST refund
No refund is given on an exchange	n/a	

Basic tax content

In simplified terms, a formula in the ETA specifies that the “basic tax content” of property is:

- the tax paid on the purchase of and improvements to property; less
- tax recovered by way of rebate, remission and the like, (but not input tax credits) after taking into account any depreciation in value.

Basic tax content is used in many parts of the ETA as a measure of a person's liability for tax or eligibility to claim input tax credits, when, for example, there is a change in use of property, or a person registers or deregisters.

As of February 17, 2012, the B.C. component of the HST will not be included in calculating the basic tax content of real property situated in British Columbia or tangible personal property ordinarily situated in the province.

Industry-specific transitional provisions

Proposed transitional rules relating to the following industries or specific areas have also been released:

- financial institutions and pension plans;
- public service bodies;
- subsidized housing;
- taxable benefits, passenger vehicles and aircraft, and employee/partner rebates;
- performance bonds; and
- transitional measures relating to new housing.¹

PwC contacts

PwC has the experience and expertise to help you identify potential issues for your organization and develop strategies to ensure a seamless transition from the elimination of the HST in British Columbia to the re-instatement of the PST. Please contact us for more help.

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1. Member of PwC's Canadian National Tax Services (see www.pwc.com/ca/ents).

2012 budgets are coming!

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Go to www.pwc.com/ca/budget.

1. See our *Tax memo* “Returning to B.C.’s Provincial Sales Tax: Transitional rules for new housing” at www.pwc.com/ca/taxmemo.