



Harmonized Sales Tax

Technical Paper

Issued jointly by the
governments of Canada,
Nova Scotia, New Brunswick,
Newfoundland and Labrador.

Canada

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1

Introduction

On April 1, 1997, the current retail sales taxes in Nova Scotia, New Brunswick, and Newfoundland and Labrador and the federal Goods and Services Tax (GST) in those provinces will be replaced by a single, harmonized value-added tax, the Harmonized Sales Tax (HST). The HST will have the same basic operating rules as the existing GST and will apply at a single rate of 15 per cent to the same base of goods and services. Seven percentage points of the 15-per-cent rate will represent the federal component and 8 percentage points will represent the provincial component. For Nova Scotia and New Brunswick, this will represent a decrease in the effective sales tax rate of 3.77 percentage points. In Newfoundland and Labrador, the rate decrease will be 4.84 percentage points. The reduction of the tax rate applicable on many goods and the broadening of the tax base at the provincial level will result in a sales tax system that is more equitable in its treatment of goods and services.

This represents a significant step towards the goal of a fully harmonized sales tax system in Canada. It will result in a system that is fairer to consumers and small business, that minimizes disruption to small businesses, and that promotes fiscal co-operation and harmonization among federal and provincial governments.

This technical paper describes the key benefits of the new harmonized system and provides details on the operation of the tax. This document also outlines the rules that will govern transactions that straddle the implementation date of April 1, 1997.

Key benefits of a single harmonized tax system

The new, single harmonized tax system will be simpler, fairer and more economically efficient:

Consumers in the participating provinces will benefit from the removal of provincial retail sales tax from business inputs. This advantage, combined with the benefit of the lower rate and lower compliance costs for businesses, will lead to lower consumer prices on many goods. Tax-inclusive pricing rules will ensure that consumers know the full price of a good or service before paying for it, while keeping the amount or rate of sales tax payable visible on receipts.

Businesses will have to deal with only one set of sales tax forms, one set of operating rules, and one tax administration. This will reduce their compliance costs. In addition, since businesses will be entitled to recover the HST payable on business inputs, harmonization will promote the competitiveness of businesses – especially businesses located in participating provinces.

Economic benefits will flow from the removal of tax on business inputs. In addition to eliminating the tax cascading that is inherent in existing provincial retail sales tax systems, the harmonization of sales taxes will minimize distortions in investment decisions.

Lower administrative costs will be achieved through the elimination of overlap and duplication in the administration of federal and provincial sales taxes.

A *lower tax rate* is another key benefit. The single rate of 15 per cent represents a significant reduction from the effective 18.77-per-cent rate that currently applies in Nova Scotia and New Brunswick. For Newfoundland and Labrador, which has a combined effective rate of 19.84 per cent, the rate reduction will be even greater. These effective rates take into account that, in these provinces, provincial retail sales taxes, where applicable, are currently applied on the price of a purchase including GST.

One base, one rate, one set of rules

A key element of the new system will be a single set of rules and forms, and a single administration. The HST will apply at a single rate of 15 per cent to a common base of goods and services. The rules governing the operation of the HST will be set out in the *Excise Tax Act*, and will generally be those rules on which the GST currently operates.

This approach will ensure a smooth transition to the HST, and will maximize the compliance and administrative cost savings from harmonization. As a result:

- There will be no separate requirement to register for the HST. Accordingly, businesses that are registered for the GST will be required to collect and remit the tax at the HST rate of 15 per cent on any taxable (other than zero-rated) supplies they make in the participating provinces. Similarly, businesses engaged in commercial activities anywhere in Canada that purchase goods and services in participating provinces that are taxed at the harmonized rate will be entitled to recover tax payable at the HST rate.
- When reporting tax collected, or claiming input tax credits, there will generally be no need for registrants to separately identify the federal and provincial components of the HST at the 15-per-cent rate, or tax collected or payable at the 7-per-cent GST rate. Furthermore, registrants will continue to use the current GST return to calculate net tax remittances.

- Businesses in participating provinces will now deal with one, rather than two, tax administrations. The tax will initially be administered by Revenue Canada, with responsibility passing to the proposed Canada revenue and border agency once that body is established.

Removing embedded tax

Since the existing provincial retail sales taxes do not have a mechanism for removing taxes paid on purchases by businesses in the course of producing the goods and services that they sell, these taxes become embedded in the prices that businesses charge for the goods and services they produce. A key advantage of the HST will be the removal of embedded taxes. This will make the tax payable on goods and services more transparent to consumers. In addition, companies in the participating provinces will be able to price their goods more competitively. This will be particularly advantageous for exported goods, which will be completely relieved of the tax.

Promoting competitiveness

In addition to promoting the international competitiveness of businesses in the participating provinces by removing the tax from exports, steps will be taken to ensure that they and their competitors in non-participating provinces are treated equitably. The design of the tax will ensure that goods and services sold into a participating province from outside the province for consumption or use in the participating province are subject to the same level of tax as goods or services sold within the province. Registrants across Canada will be required to collect HST on goods or services sold in a participating province or shipped to that province. At the same time, such registrants will be eligible for input tax credits in respect of HST payable on inputs into their commercial activities.

Under current provincial sales tax rules in both participating and non-participating provinces, consumers are required to pay tax on any taxable purchase consumed in their home province.

If a purchase is made from a business located in another province, consumers are required to self-assess the applicable provincial sales tax. The requirement to collect tax on interprovincial sales will ensure that the application of provincial tax is continued under harmonization in an administratively efficient manner. In order to ensure a consistent and simple approach for businesses required to collect HST on interprovincial sales, a single set of rules will be provided in the *Excise Tax Act*. The federal government will apply this approach on behalf of any province that adopts a similar system.

Tax-inclusive pricing

New rules will ensure that consumers are aware of the full price they will have to pay before they make a purchase. Under this approach, vendors will be required to price on a tax-included basis to ensure that consumers are aware of the final price of goods or services offered for sale. At the same time, receipts and invoices will disclose either the amount of tax paid or the rate at which tax has been charged.

Next steps

In the coming months, proposed legislation will be tabled in Parliament and in the legislatures of the participating provinces to implement the harmonized tax effective April 1, 1997.

In the meantime, the participating governments will be working with the business community to prepare for the new tax. This will include providing further details on administrative aspects of the HST and on transitional measures associated with winding down the existing provincial retail sales taxes.

2

Overview of the System

Basic approach

The HST will operate as a single value-added tax based on the operating rules of the GST. The rules governing the HST will be found in the *Excise Tax Act*. Tax will be levied at the current GST rate of 7 per cent for supplies outside of the participating provinces and at the HST rate of 15 per cent for supplies in participating provinces. Initially, Revenue Canada will administer the HST.

Registration

The registration and collection requirements contained in the *Excise Tax Act* will be retained. There will be no requirement for GST registrants to obtain new registration numbers. Depending on where the supply is made, registrants will collect the tax at either the 7-per-cent GST rate or the HST rate.

Tax base

The tax will be levied on those goods and services that are currently subject to GST.

Liability for tax

The tax will be levied on the same basis as under GST. A recipient of a taxable supply made in Canada will be required to pay tax equal to the applicable rate times the amount paid for the supply.

New rules will be added to determine when a supply made in Canada is considered to be made in a participating province. These rules are discussed in detail in Chapter 4. Generally, they will provide that a supply will be considered to be made in a participating province where:

- In the case of sales of tangible personal property, i.e. goods, the property is delivered, made available or sent by mail, courier, or other common carrier to the recipient in the participating province.
- In the case of a supply of a service or intangible personal property, the service is to be performed, or the intangible personal property is for use, in the participating province.
- In the case of a supply of real property or a service in respect of real property, the real property is situated in the participating province.

In the vast majority of cases, general rules will provide a simple method for determining the place of supply. Special rules will deal with exceptional cases, prevent double taxation, and limit the potential for tax avoidance. Specific rules will be provided to determine the place of supply of certain “specified” services and intangible personal property, motor vehicles, passenger and freight transportation services, postage, telecommunication services and tour packages.

Self-assessment rules will ensure that the proper amount of HST is paid on property and services transferred from a non-participating province to a participating province. These rules will generally apply to persons engaged in non-commercial activities, unregistered small suppliers and consumers.

Registrants who do not make supplies in the participating provinces will continue to collect and remit tax at the current 7-per-cent GST rate.

Recovery of tax

The current input tax credit rules will apply under the harmonized tax system. All registrants will be entitled to claim input tax credits for tax payable at either the 7-per-cent GST rate or at the HST rate of 15 per cent on property or services that they acquire or import. The input tax credit will be based upon the extent to which the property or services are for consumption, use or supply in the course of the registrant's commercial activities.

The change-in-use rules for capital property and real property will be maintained subject to certain modifications to recognize that the tax may have been paid at either the harmonized or non-harmonized rate.

Rebates will be introduced for persons who are not entitled to full input tax credits and who pay tax at the 15-per-cent harmonized rate. A rebate in respect of the provincial component of the HST will be available where goods are removed from a participating province within 30 days of delivery, and the person provides proof that any applicable provincial retail sales tax has been paid in the province of destination.

A second rebate will allow recovery of tax on services or intangible personal property acquired for use primarily in non-participating provinces. This rebate will relate to the provincial component of the HST and will be based on the extent to which the property or service is consumed or used outside of the participating provinces.

A rebate of the provincial component of the HST on books will be available in participating provinces. This rebate will be provided at the point of sale.

The above rules relating to recovery of tax are discussed in detail in Chapter 6.

Rebates for charities and non-profit organizations

The participating provinces will provide rebates to charities and qualifying non-profit organizations (other than public institutions) resident in the participating provinces for the provincial component of the HST rate. As under the GST, the rebate rates will be 50 per cent of non-recoverable tax payable.

Rebates for provincial public sector bodies

Under the GST, provincial government emanations receive partial rebates in respect of tax payable that is not otherwise recoverable. The partial rebate factors for municipalities, hospital authorities, school authorities, public colleges and universities are 57.14 per cent, 83 per cent, 68 per cent, 67 per cent and 67 per cent respectively. The purpose of these rebates is to offset the adverse budgetary impact that would otherwise have resulted from moving from the manufacturer's sales tax to the GST and to prevent a fiscal transfer from the province to the federal government.

The impact of the HST on the budgets of these bodies will vary depending on the amount of provincial retail sales tax currently paid by each of these bodies, which is affected by factors such as their current tax status, provincial retail sales tax rates and exemptions.

In Newfoundland and Labrador, no rebate of the provincial component of the HST will be offered to these provincial government emanations as they will either pay less tax than they do currently and/or they are directly funded by the provincial government.

In New Brunswick, municipalities will be offered a rebate of 57.14 per cent of the non-recoverable tax payable in respect of the provincial component of the HST.

In Nova Scotia, municipalities, hospital authorities, school authorities, public colleges and universities will be eligible for rebates according to the rebate factors noted above that currently apply for GST purposes.

Housing rebate

A housing rebate will be available to buyers of new homes constructed in Nova Scotia who use their homes as their primary place of residence. Purchasers of single homes, semi-detached homes, condominium units and co-operative housing units will be eligible for the rebate. The rebate will apply to newly constructed homes. Chapter 9 contains further details about the housing rebate.

Reporting requirements

The current reporting requirements contained in the *Excise Tax Act* will apply under the HST. These will include the rules for remittance of tax, returns, fiscal periods and reporting periods. As is currently the case, registrants who file quarterly will have the option of filing monthly returns. Similarly, annual filers will be able to elect to file sales tax returns on a quarterly or monthly basis.

For each reporting period, a registrant will file one tax return and make a single determination of its net tax. The net tax will include all tax collectible and all input tax credits claimed. A registrant will not be required to separately account for the federal and provincial components of the tax.

As is currently the case, the reporting periods will be as follows:

- **Monthly** – registrants with annual revenue from taxable supplies greater than \$6 million.
- **Quarterly** – registrants with annual revenue from taxable supplies of \$6 million or less but greater than \$500,000, unless they elect for monthly filing periods.
- **Annual filing and quarterly instalments** – registrant listed financial institutions and registrants with annual revenue from taxable supplies not exceeding \$500,000 will have annual filing with quarterly instalments unless they elect for monthly or quarterly filing periods. Quarterly instalments will not be required where the tax remittable for the current or previous fiscal year is less than \$1,500. For fiscal years beginning after 1996, charities are annual filers unless they elect to file quarterly or monthly.

Input tax credit documentation requirements

The current rules prescribing the information required to be included on invoices and receipts for input tax credit purposes (i.e. the information requirements set out in the *Input Tax Credit Information (GST) Regulations*) will be modified to accommodate tax-inclusive pricing.

Transition

Transitional rules have been designed to ensure that the current provincial retail sales tax systems do not overlap with the HST. Accordingly, where a transaction is not subject to HST by virtue of the transitional rules, the existing GST will apply along with any applicable provincial retail sales tax.

3

Tax-Inclusive Pricing

Basic approach

Pricing requirements under harmonization are designed to ensure that consumers purchasing a good or service in the three participating Atlantic provinces know the full price of the good or service in advance of its purchase. Consumers have expressed a strong preference for full disclosure of the tax-included price in advance of their purchases. Broader consumer awareness of full, tax-included prices was also a key recommendation of the House of Commons Standing Committee on Finance in its 1994 report, *Replacing the GST*.

At the same time, the Finance Committee recognized the importance of ensuring that consumers remain aware of the amount of tax paid on each and every purchase, and recommended that receipts and invoices clearly display either the amount of tax paid or that the total purchase price includes sales tax at the applicable rate. Participating governments fully support this objective and are acting to ensure that tax-inclusive pricing is consistent with the Committee's recommendations regarding the disclosure of tax on receipts.

Tax-inclusive pricing requirements will affect mainly those businesses that deal with final consumers.

Result of consultations

Over the past few months, governments consulted with consumers and a broad range of national and local businesses to seek their views on tax-inclusive pricing. The requirements for tax-inclusive pricing have been designed to minimize businesses' costs and maintain a level playing field for businesses while ensuring that consumers know the full price of goods and services before their purchase.

Tax-inclusive pricing requirements

Federal and provincial legislation providing for tax-inclusive pricing will be developed to allow for tax-inclusive pricing in respect of goods or services sold to consumers located in each of the three participating provinces. As noted below, federal legislation will apply across Canada to industries subject to federal regulation.

The proposed requirements will accommodate various business practices. They will apply to in-store pricing, price advertising, catalogues, flyers, as well as receipts and invoices.

In-store pricing

The rules will ensure that the full price of a good or service is apparent to consumers. In-store prices for all goods and services will have to be shown on a tax-included basis, although vendors will have the option of displaying before-tax prices alongside tax-included prices.

Various pricing methods are discussed below. These methods include shelf labels, price tags, pre-priced goods, and posted price lists.

Shelf or bin pricing: The rules will require that shelf or bin prices be expressed on a tax-included basis. Retailers will, however, have the option of displaying both the tax-included and before-tax prices on the same sign or label.

For example, a retailer selling a hammer at a tax-excluded price of \$10 will have to show, at a minimum, a posted shelf price of \$11.50 (HST-included). The same shelf label could also show the tax-excluded price of \$10 in addition to the HST-included price.

Individually priced items: Merchants selling individually priced items will have to show, at a minimum, the full tax-included price. However, these retailers will have the option of displaying both the tax-included and before-tax prices on each item.

For example, a retailer selling a compact disc at a tax-excluded price of \$20 will, at a minimum, have to show on the package a posted price of \$23 (including tax). In addition to the tax-included price, the tax-excluded price of \$20 can be shown on the package.

Menus and price lists: Restaurants and other merchants using price lists will be able to comply with the new pricing requirements by displaying the tax-included price of meals or articles on all menus and price lists. These merchants will be able to disclose the tax-included price by itself or along with the tax-excluded price.

For example, the posted price of a hamburger in a restaurant will be able to be displayed as:

- \$3.45 (including HST); or
- \$3.45 (including HST) / \$3 (excluding HST).

Price advertising

Advertisements that display or mention prices and that are directed at consumers located in the three participating provinces, for example, through newspapers, television or

billboards, will be required to prominently display the tax-included price that will be charged in that region. Business will also have the option of displaying the tax-excluded price along with the tax-included price.

Telemarketers will also be required to disclose, before a sale is made, the tax-included prices of goods or services that they are offering for sale.

Catalogues and flyers: Regional catalogues and national and regional flyers will be required to show, at a minimum, the full tax-included price of goods or services offered for sale.

National catalogues (i.e. those that are distributed in most provinces and offer products at the same price for the whole country) will be required to prominently indicate, for consumers located in participating provinces, that advertised prices do not include sales tax. At a minimum, this will require highly visible and explicit notices regarding tax-excluded prices on the front page and on every second page.

Moreover, with respect to national catalogues advertising a telephone number for product orders, full prices will have to be disclosed to consumers at the time of ordering. Catalogues will also have to alert consumers to the fact that full price disclosure can be obtained by calling that number.

Receipts and invoices

The current GST rules prescribing the information required on receipts and invoices for input tax credit purposes will be modified to accommodate tax-inclusive pricing. Businesses will not have to replace their current cash registers and other point-of-sale equipment to meet the tax-inclusive pricing requirements.

Businesses that issue cash register receipts and invoices will be required to show on these receipts that sales tax has been charged. This requirement will be able to be met either by displaying the actual value of tax charged, or by noting on the receipt that the total price charged includes the HST where applicable.

Businesses will have three options for disclosing the tax on invoices or receipts. Since existing cash register systems are capable of handling at least one of these disclosure options, reprogramming requirements for businesses will be minimal. The option chosen will ultimately depend on the vendor's preference or the type of cash registers currently used.

The following examples illustrate how receipts might appear under the various disclosure options.

- \$6 (excluding HST) plus \$0.75 (HST) = \$6.75 (HST included)

| XYZ VARIETY STORE | |
|--------------------------|-----------------|
| <i>GST # R123456789</i> | |
| <i>2:36 PM Apr 15.97</i> | |
| <i>detergent</i> | <i>\$5.00 T</i> |
| <i>bread</i> | <i>\$1.00</i> |
| | |
| <i>Total purchase</i> | <i>\$6.00</i> |
| <i>HST</i> | <i>\$.75</i> |
| <i>Amount due</i> | <i>\$6.75</i> |
| <i>Thank you</i> | |

This option is similar to the current method of disclosing tax on receipts and invoices. It will allow retailers to enter the tax-excluded amount, and the cash register will calculate the tax-included amount. This option assumes that retailers will display both tax-included and tax-excluded prices in their stores.

- \$6.75 (includes HST at 15 per cent where applicable)

| XYZ VARIETY STORE | |
|---|-----------------|
| <i>GST # R123456789</i> | |
| <i>2:36 PM Apr 15.97</i> | |
| <i>detergent</i> | <i>\$5.75 T</i> |
| <i>bread</i> | <i>\$1.00</i> |
| | |
| <i>Amount due</i> | <i>\$6.75</i> |
| <i>(includes HST at 15% where applicable)</i> | |
| | |
| <i>Thank you</i> | |

This option allows only the tax-included amount to be entered into the cash register. It also assumes that the cash register is programmed to indicate on the receipt that tax has been applied at a rate of 15 per cent on those items identified as taxable. This option would allow retailers to display only the tax-included price.

- \$6.75 (includes 75 cents of HST)

| XYZ VARIETY STORE | |
|--------------------------|-----------------|
| <i>GST # R123456789</i> | |
| <i>2:36 PM Apr 15.97</i> | |
| <i>detergent</i> | <i>\$5.75 T</i> |
| <i>bread</i> | <i>\$1.00</i> |
| <i>HST Included</i> | <i>\$0.75</i> |
| | |
| <i>Amount due</i> | <i>\$6.75</i> |
| | |
| <i>Thank you</i> | |

This option will be possible for retailers using cash registers that can break out the tax component of a tax-included price. In such circumstances, the tax-included price could be the only price displayed in the store.

Coupons

To facilitate the introduction of tax-inclusive pricing, additional flexibility will be introduced for percentage discount coupons that are issued by a retailer. The new rules are described in Chapter 12.

Commissions

Taxable commissions that are calculated as a percentage of the total price of a sale will not have to be shown on a tax-included basis. This means that commissions such as those charged by real estate agents will not have to include the tax.

Federally regulated industries

Proposed legislation will be tabled in Parliament covering industries under federal regulatory authority, such as air transportation and telecommunications. To the greatest possible extent, these industries will be required to implement tax-inclusive pricing on a national basis. The national application of tax-inclusive pricing to federally regulated industries will be governed by the same rules applicable in participating provinces.

Implementation date

Tax-inclusive pricing will become mandatory on April 7, 1997. During the start-up of the harmonized sales tax, the federal and provincial governments will work together to ensure that consumers and businesses are fully informed of the tax-inclusive pricing requirements. Details regarding the mechanism for monitoring and enforcing these requirements will be made available in the near future.

4

Tax on Supplies Made in a Participating Province

Basic approach

The HST will apply to goods, services and intangible personal property consumed, used or supplied in the participating provinces. Thus, all registrants will be required to collect HST on supplies made in participating provinces unless the supplies are zero-rated or exempt. The application of HST to all taxable interprovincial supplies made in the participating provinces will improve the effectiveness of the taxation of interprovincial sales at the provincial level and ensure a level playing field for businesses supplying goods or services in participating provinces.

Registrants will continue to collect tax at the 7-per-cent GST rate on taxable supplies made in Canada that are not made in a participating province.

Rules will be put in place to determine whether or not a supply is made in a participating province. These place-of-supply rules will be complemented by rules requiring self-assessment of the provincial component of the HST where

tax at the harmonized rate has not been charged on goods and services brought into the participating provinces from elsewhere for consumption, use or supply in the participating provinces.

The place-of-supply rules are intended to be simple for businesses and consumers to understand and comply with. For most businesses and for most transactions, only the general rules dealing with the supply of property or services will be relevant. Other rules are provided to deal with less common cases in order to avoid double taxation and to limit the potential for tax avoidance. Also, the place-of-supply rules have been designed to minimize the circumstances in which the application of HST will influence decisions to purchase goods and services in or outside a participating province.

In determining whether a supply is made in or outside a participating province, specific rules will apply depending on the nature of the supply. This chapter provides place-of-supply rules for the following types of supplies:

- supplies of tangible personal property by way of sale;
- supplies of tangible personal property otherwise than by way of sale, such as leases or rentals;
- supplies of services;
- supplies of real property and supplies of services in relation to real property;
- supplies of intangible personal property; and
- specified services and specified intangible personal property.

Special rules are provided for supplies of particular kinds of goods and services:

- supplies of motor vehicles;
- supplies of conveyances and fuel to commercial carriers;
- transportation – passenger, freight and postage; and
- telecommunications.

Supplies of tangible personal property

Supplies of tangible personal property by way of sale

A supply by way of sale of tangible personal property will be considered to be made in a particular participating province if the property is delivered or made available in that province to the recipient of the supply.

Example 4-1

A retailer in St. John's, Newfoundland, sells a stereo to a customer who picks up the stereo at the retailer's store. Newfoundland will be considered the place of supply, and the retailer will be required to collect HST on the sale.

Example 4-2

A parts manufacturer in Ontario sells components to an assembler in Fredericton, New Brunswick, under a sales agreement specifying terms of delivery f.o.b. (i.e. "free on board") the purchaser's plant. The components will be regarded as supplied in New Brunswick and will therefore be subject to HST.

A supply by way of sale of tangible personal property will also be considered to be made in a given participating province if the vendor ships the property to the province or transfers the property to a common carrier retained by the vendor on behalf of the purchaser for shipment to that province.

Example 4-3

A parts manufacturer in Ontario sells components to an assembler in Halifax and uses its own truck, hires a common carrier or retains a common carrier on behalf of the purchaser to deliver the components to the assembler in Halifax. In each case, the parts will be treated as supplied in Nova Scotia, even if the terms of delivery under the agreement for the sale are f.o.b. the supplier's place of business in Ontario. Therefore, the parts will be subject to HST.

Example 4-4

A national bank orders specified quantities of cheques to be delivered by the supplier directly to a number of the bank's branches across Canada, including branches in the three participating provinces. HST will apply only to the payment relating to the cheques delivered by the supplier to the branches in the participating provinces. Tax at the 7-per-cent GST rate will apply to cheques delivered to branches in non-participating provinces.

Further, a supply by way of sale of tangible personal property will be considered to be made in a particular participating province if the vendor transfers the property to a courier, or places the property in the mail, for shipment to that province.

Example 4-5

A mail-order company located in Victoria, British Columbia, sells seeds to customers across Canada. The company places seed packets in the mail for delivery to its customers in the participating provinces. These supplies will be regarded as made in the participating provinces, and HST will apply.

Similarly, a supply by way of sale of tangible personal property will be considered to be made in a given non-participating province if the property is delivered or made available in that province to the recipient of the supply.

Example 4-6

A manufacturer in British Columbia sells merchandise to a business in New Waterford, Nova Scotia with terms of delivery f.o.b. the manufacturer's plant. The business in New Waterford arranges for shipment of the goods. The place of supply will be regarded as being in British Columbia. Since the terms of delivery are f.o.b. the manufacturer's plant in a non-participating province, and the manufacturer did not arrange for the carrier to ship the goods to New Waterford, tax at the 7-per-cent GST rate will apply. Depending on the circumstances, the self-assessment rules described in Chapter 5 may apply to the purchaser.

Also, a supply by way of sale of tangible personal property will be regarded as made in a particular non-participating province if the vendor ships the property to the non-participating province or transfers the property to a common carrier retained by the vendor on behalf of the purchaser for shipment to that province.

Example 4-7

A parts manufacturer in New Brunswick sells parts to an assembler in Ontario, with terms of delivery f.o.b. the vendor's plant. The parts manufacturer retains a common carrier to ship the parts to the assembler in Ontario. The supply will be regarded as made in Ontario, which is a non-participating province, and tax at the 7-per-cent GST rate will apply.

Finally, a supply by way of sale of tangible personal property will be considered to be made in a given non-participating province if the vendor transfers the property to a courier, or places the property in the mail, for shipment to the non-participating province.

Example 4-8

A mail-order company located in Corner Brook, Newfoundland sells CD ROMs to customers across Canada. The company mails the CD ROMs to its customers. The CD ROMs sent by mail to customers in non-participating provinces will be subject to tax at the 7-per-cent GST rate.

Supplies of tangible personal property otherwise than by way of sale

Rentals

For purposes of the place-of-supply rules, a supply by way of lease, licence or similar arrangement will be regarded as a “rental” if the rental is for three months or less.

A supply of tangible personal property by way of rental will be considered to be made in a particular participating province if possession or use of the property is given or made available in that province to the recipient of the supply.

Example 4-9

An individual rents and takes possession of a video camera in Truro, Nova Scotia to use while travelling through several provinces. The rental agreement is for a one-week period. Nova Scotia will be considered the place of supply, and HST will apply.

A supply of tangible personal property by way of rental will also be considered to be made in a particular province where:

- the supplier ships the property to that province;

- the supplier transfers the property to a common carrier retained by the supplier on behalf of the customer for shipment to that province; or
- the supplier sends the property by mail or courier to the province.

Leases

Supplies of tangible personal property by way of lease, licence or similar arrangement that are not “rentals”, as defined above, will be treated as a series of separate supplies for each period (i.e. “lease interval”) to which a particular payment is attributable.

Each such supply will be considered to be made in a particular participating province if the ordinary location of the property, as determined at the beginning of the lease interval, is in that province.

Example 4-10

A salesperson working out of an office in Moncton, New Brunswick, leases a laptop computer for a two-year period. The computer is used in a variety of places both within and outside New Brunswick. The leased computer will be regarded as supplied in New Brunswick, the province in which it is ordinarily located. Accordingly, the lease payments will be subject to HST.

Example 4-11

A generator is leased for a four-year period by a national leasing company to a construction company operating in Nova Scotia. The generator will usually be stored and maintained at the construction company's facilities in Nova Scotia. During the second lease interval, the company expands its operations to Ontario. The generator is relocated to the company's new facilities in Ontario. In this case, the first two lease payments will be subject to HST. The lease payment attributable to the third lease interval will be subject to tax at the 7-per-cent GST rate.

Similarly, a supply of tangible personal property by way of lease, licence or similar arrangement will be regarded as made in a given non-participating province and, therefore, subject to tax at the 7-per-cent GST rate, if the ordinary location of the property, as determined at the beginning of the lease interval, is in that province.

Example 4-12

Cash registers are leased to a national retailer for use in a number of its outlets across Canada, including the three participating provinces. The lessor will be required to collect HST only on lease payments relating to those cash registers ordinarily located in the participating provinces at the beginning of each lease interval. The GST rate of 7 per cent will apply to lease payments relating to those cash registers ordinarily located in the non-participating provinces.

**Tangible personal property removed
from the participating provinces**

A rebate will, in certain circumstances, provide for the recovery of the provincial component of the HST paid on goods that are supplied in a participating province but subsequently removed from the participating province to a non-participating province. This will help ensure that businesses located in

participating provinces are not at a disadvantage relative to competitors in non-participating provinces when selling goods to purchasers that are not entitled to full input tax credits. Chapter 6 provides details about this rebate.

To enhance the international competitiveness of businesses located in the participating provinces, the zero-rating provisions that currently apply in respect of goods exported from Canada will apply for HST purposes. In addition, the rebates available to non-residents of Canada for exported goods and certain services will apply to the harmonized tax. Additional details regarding taxable supplies made in a participating province for export from Canada are provided in Chapters 8 and 10.

Supplies of services

General rule for supplies of services

All or substantially all of the service is performed in a participating province

Generally, a supply of a service will be regarded as made in a particular participating province if all or substantially all of the service is performed in that province. This will mean that, in the vast majority of cases, the place of supply will correspond to where the supplier is established. For example, a service of repairing an automobile or of cutting a person's hair in a particular participating province will be regarded as supplied in that province and will be subject to HST.

Conversely, a supply of a service will be regarded as made in a non-participating province and subject to tax at the 7-per-cent GST rate if all or substantially all of the service is performed in that province.

A supply of a service performed partly in and partly outside of Canada is regarded as supplied in Canada. For HST purposes, such a supply will be regarded as made in a given participating province if all or substantially all of the portion of the services performed in Canada are performed in that province.

The general place-of-supply rule for services is described in terms of all or substantially all of the service being performed in a particular province. However, it is also the case that a supply of a service will be subject to HST if all or substantially all of the service is performed in the three participating provinces. The treatment of services performed in more than one province is discussed in the next section.

Services partly performed in a participating province

The general place-of-supply rule for services will not apply where a significant part (i.e. 10 per cent or more) of the service is performed in each of two or more provinces.

Example 4-13

An accounting firm in Halifax, Nova Scotia is hired to conduct a financial audit of a company headquartered in Halifax with outlets in Ontario, Quebec and New Brunswick. The agreement is negotiated with one of the firm's partners working out of the firm's Halifax office. In the course of the audit, 60 per cent of the work is performed in Nova Scotia and the remaining 40 per cent is evenly distributed between the three other provinces in which the company has outlets.

The place of supply of the audit service described in Example 4-13 cannot be determined under the general rule because all or substantially all of the service is not performed in Nova Scotia or any other particular province.

A special place-of-supply rule is required in these circumstances. The supply will be regarded as made in a particular province if that is the location of the permanent

establishment of the supplier at which the individual principally involved in negotiating the agreement for the supplier ordinarily works or to which the individual ordinarily reports. If the individual works out of, or reports to, a permanent establishment of the supplier that is located in a participating province, as in Example 4-13, HST will be collected, subject to the override rule described below. On the other hand, if the individual works out of, or reports to, a permanent establishment of a registrant supplier located in a non-participating province or outside Canada, as in Example 4-14, the 7-per-cent GST rate will apply, again, subject to the override rule described below.

Example 4-14

A Canadian bank is retained by Can Co., headquartered in Alberta, to provide payroll services for all of the company's Canadian employees. The company has employees located across the country including the participating provinces. A significant portion of the services are performed in different provinces, including Alberta and at least one participating province. The agreement between the Canadian bank and the company is negotiated with employees of the bank working out of a branch of the bank in Alberta. The supply by the bank will be regarded as having been made in Alberta, a non-participating province. Accordingly, the services will be taxed at the 7-per-cent GST rate.

However, an override rule will address the situation where the individual principally involved in negotiating the agreement for the supplier ordinarily works out of, or reports to, a permanent establishment of the supplier located in a particular province, and all or substantially all of the services relating to the supply that are performed in Canada are performed in other provinces. The override rule will also apply where that permanent establishment of a registrant supplier is located outside Canada, and all or substantially all of the services are performed in Canada. In these circumstances, the supply will be deemed to be made in a participating province if the services performed in Canada are performed primarily in the

participating provinces. The supply will be deemed to be made in a non-participating province if the services performed in Canada are performed primarily in the non-participating provinces.

Example 4-15

A human resources consulting firm with offices in a number of provinces is hired to conduct an executive search in the participating provinces for a company resident in New Brunswick. An employee of the firm working out of the Toronto office is principally involved in negotiating the agreement for the supply, but substantially all of the services are performed in the three participating provinces. The service will be subject to HST.

If, in Example 4-15, a significant portion, for example, 30 per cent, of the services were performed in Ontario with the remaining 70 per cent distributed evenly among the participating provinces, the supplier would collect tax at the 7-per-cent GST rate. However, the self-assessment rules described in Chapter 5 may apply to the purchaser in certain circumstances.

Example 4-16

An advertising agency in Nova Scotia is hired to supply a national advertising campaign to a Canadian company. A partner in the agency, working out of the Nova Scotia office, negotiates the agreement. Less than 10 per cent of the advertising service will actually be performed in Nova Scotia. The balance, generally for media coverage, is attributable to the other provinces as follows: approximately 10 per cent in the other Atlantic provinces and approximately 80 per cent in the non-participating provinces. The agency will collect tax at the 7-per-cent GST rate.

If, in Example 4-16, a significant part of the service were performed in Nova Scotia, the agency would be required to collect the 15-per-cent HST. In these circumstances, if the recipient of the supply were a registrant, the recipient would be entitled to an input tax credit to the extent that the service is consumed or used in the recipient's commercial activities. If the services were acquired for consumption or use primarily outside the participating provinces, the rebate for services outlined in Chapter 6 may apply.

Supplies of real property and supplies of services in relation to real property

General rules

Supplies of real property

A supply of real property will be regarded as made in a particular participating province if the real property in Canada is situated entirely in that province. For example, the sale of a warehouse situated in Goose Bay, Labrador will be subject to HST.

Conversely, a supply of real property will be regarded as made in a particular non-participating province if the real property in Canada is situated entirely in that province. In such a case, tax will apply at the 7-per-cent GST rate.

Supplies of services in relation to real property

In the case of a supply of a service in relation to real property, the supply will be regarded as made in a particular participating province if all or substantially all of the real property in Canada is situated in that province. For example, a service of painting the above-noted warehouse in Goose Bay will be subject to HST.

Example 4-17

A Canadian engineering firm is hired to supervise the repair of a bridge over the Saint John River along the border between Maine and New Brunswick. The supply is considered to be made in Canada. Further, the supply will be regarded as made in New Brunswick. HST will therefore apply.

Conversely, a supply of a service in relation to real property will be regarded as made in a particular non-participating province if all or substantially all of the real property in Canada is situated in that province. In such a case, tax at the 7-per-cent GST rate will apply.

Real property situated partly in and partly outside a participating province

Supplies of real property

The general place-of-supply rule for supplies of real property will not apply where the real property is situated partly in and partly outside a particular participating province. For example, a single supply of a right to use campgrounds situated across Canada will not be deemed, under the general rules, to be in a particular province.

Where a single taxable supply of real property includes property situated in and outside a particular participating province, a payment for the supply will be regarded as consideration for separate supplies to the extent that the real property is situated in different provinces. HST will be calculated on the value of the consideration for the supply reasonably attributable to the property situated in the participating provinces. Tax at the 7-per-cent GST rate will be payable on the remaining consideration.

Supplies of services in relation to real property

A single supply of a service in relation to real property situated partly in and partly outside a given participating province may not be deemed, under the general place-of-supply rule for services in relation to real property, to be made in a particular province. In such a situation, the supply will be regarded as made in a particular province if that province is the location of the permanent establishment of the supplier at which the individual principally involved in negotiating the agreement for the supplier ordinarily works or to which the individual ordinarily reports. If the individual ordinarily works out of, or reports to, a permanent establishment of the supplier that is located in a participating province, the HST will apply subject to the override rule described below. On the other hand, if the individual ordinarily works out of, or reports to, a permanent establishment of a registrant supplier located in a non-participating province or outside Canada, the 7-per-cent GST rate will apply, again, subject to the override rule.

Example 4-18

A property management business headquartered in Campbellton, New Brunswick with offices in other provinces provides its services to a company with one commercial building in New Brunswick and another in Quebec. The agreement is negotiated by an employee of the business working out of the Campbellton office. The property management services will be regarded as supplied in New Brunswick.

An override rule will address the situation where the individual principally involved in negotiating the agreement for the supplier ordinarily works out of, or reports to, a permanent establishment of the supplier located in a particular province and all or substantially all of the real property in respect of which the services are performed is not situated in that province. The override rule will also apply where that permanent establishment of a registrant supplier is located outside Canada, and all or substantially all of the real property is situated in Canada. The supply will be deemed to be made in

a participating province if the real property in Canada relating to the supply is situated primarily in the participating provinces. The supply will be deemed to be made in a non-participating province if the real property in Canada relating to the supply is situated primarily in the non-participating provinces.

Supplies of intangible personal property

General rule

In general, a supply of intangible personal property, such as a franchise right, is regarded as made in Canada if it relates to:

- rights that may be used in whole or in part in Canada;
- real property situated in Canada;
- tangible personal property ordinarily situated in Canada; or
- services performed at least partly in Canada.

In these circumstances, the supply will be regarded as made in a particular participating province if:

- all or substantially all of the rights that may be used or exercised in Canada can be used only in that province; or
- where the intangible personal property relates to real property, tangible personal property or services, all or substantially all of the real property in Canada is situated in the province, all or substantially all of the tangible personal property ordinarily situated in Canada is ordinarily situated in the province, or all or substantially all of the services to be performed in Canada are to be performed in the province.

Example 4-19

A franchise to operate a retail establishment and sell the franchisor's product in Sydney, Nova Scotia and the surrounding area will be regarded as supplied in Nova Scotia and will be subject to HST.

Example 4-20

A single option to purchase recreational property situated in New Brunswick, Prince Edward Island and Maine is regarded, under the current rules, as supplied in Canada. For HST purposes, the supply will be regarded as made in New Brunswick if substantially all of the property in Canada is in New Brunswick.

Intangible personal property for use partly in, or relating partly to, a participating province

If the general rule above does not apply, the supply of intangible personal property will be regarded as made in a particular province if that is the location of the permanent establishment of the supplier at which the individual principally involved in negotiating the agreement for the supplier ordinarily works or to which the individual ordinarily reports. If the individual works out of, or reports to, a permanent establishment of the supplier that is located in a participating province, the HST will be collected, subject to the override rule described below. On the other hand, if the individual works out of, or reports to, a permanent establishment of a registrant supplier located in a non-participating province or outside Canada, the 7-per-cent GST rate will apply, again, subject to the override rule.

An override rule will address the situation where the individual principally involved in negotiating the agreement for the supplier ordinarily works out of, or reports to, a permanent establishment of the supplier located in a particular province in which none or an insignificant portion of the rights can be exercised, either none or an insignificant amount of the real property or tangible personal property relating to the intangible personal property is situated, or none or an insignificant amount of the services are to be performed. The override rule will also apply where the permanent establishment of the registrant supplier is located outside Canada, and all or substantially all of the rights can be used only in Canada.

In these circumstances, the supply will be deemed to be made in a participating province if the rights exercisable in Canada must be exercised primarily in the participating provinces; the real property or tangible personal property in Canada relating to the intangible personal property is situated primarily in the participating provinces; or the services performed in Canada relating to the intangible personal property are to be performed primarily in the participating provinces.

On the other hand, the supply will be deemed to be made in a non-participating province if the rights exercisable in Canada must be exercised primarily in the non-participating provinces; the real property or tangible personal property in Canada relating to the intangible personal property is situated primarily in the non-participating provinces; or the services performed in Canada relating to the intangible personal property are to be performed primarily in the non-participating provinces.

A special rule will apply in the case of supplies to individuals of memberships that confer rights exercisable in more than one province, including a participating province. This rule is described in the section on specified services and specified intangible personal property.

Services and intangible personal property supplied in participating provinces, but primarily for consumption, use or supply elsewhere

A rebate will provide for the recovery of the provincial component of the HST paid that is not otherwise recoverable through the input tax credit mechanism and that has been paid on supplies of services and intangible personal property made in a participating province, but that are acquired primarily for consumption, use or supply in non-participating provinces. This provision will help ensure that suppliers located in participating provinces are not at a disadvantage relative to competitors in non-participating provinces when providing services or intangible personal property to purchasers that are

not entitled to full input tax credits. Chapter 6 contains details about this rebate.

To enhance the international competitiveness of businesses located in the participating provinces, the current zero-rating provisions will apply to supplies of services and intangible personal property made in the participating provinces for export from Canada. Additional details regarding taxable supplies made in a participating province for export from Canada are provided in Chapter 8.

Specified services and specified intangible personal property

The place where certain services are performed or intangible personal property can be used may have no more than an incidental relationship to where the services or rights are actually consumed or used.

In order to minimize the impact of the HST on the decisions of purchasers with respect to where to acquire services and intangible personal property that cross provincial boundaries, the place of supply of certain specified services and intangible personal property will be determined according to special rules. These rules will protect the competitive position of businesses located in participating provinces.

Supplies to individuals of memberships that confer rights exercisable in more than one province, including a participating province, will be regarded as supplied in the province in which the individual is resident.

Example 4-21

An individual living in Gander, Newfoundland acquires a membership in a professional organization. The supply of the membership will be regarded as made in Newfoundland and will be subject to HST.

For the purposes of this rule, the residence of the recipient will be deemed to be the recipient's mailing address.

The place of supply of a service supplied by means of a 1-900 telephone call will be determined based on the province in which the call originates.

Also, a special rule will be introduced for supplies of cleaning, adjustment, alteration, maintenance, repair or photo finishing services in respect of tangible personal property where the property is delivered to the supplier of the service in a particular province and the supplier arranges for the service to be performed in another province. The supply of the service will be regarded as made in a particular province if that is the location of the permanent establishment of the supplier at which the individual principally involved in negotiating the agreement for the supplier ordinarily works or to which the individual ordinarily reports.

Example 4-22

A consumer in Edmunston, New Brunswick brings a stereo needing repair to an electronics store in Edmunston. In turn, the electronics store sends the stereo to a service provider in Ontario who actually performs the repair service for the electronics store in New Brunswick. The electronics store will be regarded as having supplied the repair service to the person in New Brunswick. Accordingly, the store will charge HST to the consumer on the repair service.

The legislation will provide authority to prescribe additional services and intangible personal property that may require special place-of-supply rules.

Other special rules

Motor vehicles

Sales

The general place-of-supply rules described above for supplies of tangible personal property by way of sale will apply to sales of new and used vehicles by registrants. Accordingly, HST will apply to new or used vehicles sold by registrants where these general rules determine the place of supply to be in a participating province.

With respect to motor vehicles supplied outside a participating province that are subsequently brought into a participating province, if the motor vehicle is acquired from a registrant in a non-participating province and the registrant collects tax at the GST rate of 7 per cent, the purchaser will be required to pay the 8-per-cent provincial component of the HST at a provincial licensing office when registering the vehicle in a participating province.

Similarly, if the motor vehicle is acquired outside Canada, and tax at the 7-per-cent rate is collected by Canada Customs at the border, the purchaser will be required to pay the 8-per-cent provincial component of the HST when registering the vehicle in a participating province.

On the other hand, if a motor vehicle is acquired from a person in a non-participating province who is not required to collect tax at the 7-per-cent GST rate, and the vehicle is brought into a participating province, the purchaser will be required to pay the 15-per-cent special provincial levy when registering the vehicle in the participating province. Similarly, if a motor vehicle is acquired from a person in a participating province who is not required to collect tax at the 7-per-cent GST rate, the purchaser will be required to pay the 15-per-cent provincial levy when registering the vehicle in the participating province.

The provincial levy will not be recoverable as an input tax credit by a registrant purchaser of a motor vehicle, even if the vehicle is for use in a commercial activity.

Further details regarding the application of HST to property brought into a participating province are provided in Chapter 5.

Rentals

The treatment of rentals (i.e. leases or licences for a period of three months or less) of registrable vehicles will be governed by the general place-of-supply rules for rentals of tangible personal property, which are outlined earlier in this chapter.

Leases

A supply by way of lease (i.e. a supply that is not a “rental” as described above) of a motor vehicle will be treated as a series of separate supplies for each “lease interval” to which a lease payment is attributable. This is consistent with the general approach outlined earlier in this chapter for supplies of tangible personal property by way of lease, licence or similar arrangement.

In the case of a leased registrable vehicle, however, each deemed supply will be considered to be made in a particular participating province if, at the beginning of the lease interval for that supply, the vehicle is required to be registered in that province.

Example 4-23

A car leasing company located in Ontario leases a car to a person for 24 months with monthly lease payments. The lessee registers the vehicle in Newfoundland. Each of the lease payments will be subject to HST provided the car remains registered in Newfoundland at the beginning of each lease interval, i.e. each month. If, however, in the middle of the 18th month, the lessee moves to Ontario and registers the leased car in Ontario, the six remaining monthly lease payments will be subject to tax at the 7-per-cent GST rate.

Interprovincial Sales Tax Arrangement

The purposes of the existing Interprovincial Sales Tax Arrangement (ISTA) is to minimize the multiple application of provincial retail sales taxes on commercial motor vehicles operated in more than one province. Under this arrangement, certain carriers determine their provincial retail sales tax liabilities in respect of certain equipment and repair parts. Since provincial retail sales tax must be paid to each province where the carrier operates, ISTA requires carriers to pay provincial retail sales tax on a prorated basis to the provinces that apply retail sales tax, based on the percentage of distance travelled in those provinces. Once licensed under ISTA, the carrier is entitled to a provincial retail sales tax exemption in respect of purchases of motor vehicles, trailers and repair parts used in the provision of interprovincial transportation services.

Businesses licensed under ISTA that purchase motor vehicles, trailers and repair parts in a participating province will be required to pay tax at the HST rate. If they are registrants for the tax, they will be entitled to claim an input tax credit to the extent of the conveyances' use in their commercial activities. Further, they will be required, pursuant to the ISTA rules, to remit provincial retail sales tax to non-participating provinces based on the percentage of distance travelled in the non-participating provinces.

Businesses licensed under ISTA who purchase motor vehicles, trailers and repair parts in non-participating provinces will continue to be exempt at the time of sale from provincial retail sales tax and will be required to remit provincial retail sales tax to non-participating provinces based on the percentage of distance travelled in those provinces. The provincial component of the HST will be payable by the business if the conveyance is registered, i.e. plated, in a participating province. The carrier, if a registrant, will be entitled to an input tax credit to the extent of the conveyance's use in the carrier's commercial activities.

International Fuel Tax Agreement

The International Fuel Tax Agreement (IFTA) facilitates the compliance, by inter-jurisdictional motor carriers, with the fuel taxes imposed by American states and Canadian provinces. Each carrier selects a base jurisdiction in which it registers and to which it submits a fuel tax return of its activities based on distance travelled in various jurisdictions.

Motor carriers that purchase fuel in a participating province will pay HST and any applicable provincial fuel taxes. The motor carrier, if a registrant for the tax, will be entitled to claim an input tax credit for the HST to the extent of the use of the fuel in its commercial activities. Motor carriers will continue to account for the provincial fuel taxes under the terms of IFTA.

Passenger transportation services

General rule

A passenger transportation service that is part of a continuous journey taken within Canada will be regarded as supplied in a particular participating province if the origin of the continuous journey is in that province.

Example 4-24

A person purchases a return air ticket for a flight from Halifax to Toronto. The person will be charged HST because the origin of the continuous journey is within a participating province.

International travel

Where a passenger transportation service that is part of a continuous journey that originates in a particular participating province, and the termination or any stopover in respect of the continuous journey is at a place outside Canada, the supply will be regarded as made outside that province.

Example 4-25

A person purchases a return air ticket with a routing Halifax to Boston. The person will be charged tax at the 7-per-cent GST rate because the flight is within the taxation area for GST purposes. However, HST will not apply because there is a stopover at a place outside Canada.

Transportation passes

Transportation passes will be subject to HST at the 15-per-cent rate where the origin of the continuous journey is within a participating province. A special rule will apply where the origin of the continuous journey is not identified when the transportation pass is purchased. In this case, the supply will be regarded as made in a particular province if that is the location of the permanent establishment of the supplier or the supplier's representative at which the individual principally involved in negotiating the agreement for the supplier ordinarily works or to which the individual ordinarily reports.

Example 4-26

A person purchases a motor coach pass at a bus station in Moncton, New Brunswick that allows the person unlimited bus travel for 60 days. The pass does not specify the origin of the continuous journey. However, given that the transportation pass was purchased in a participating province, tax will be charged at the HST rate.

Supplies on board conveyances

Tangible personal property or services supplied on board a conveyance will be regarded as supplied in a participating province if the supply is made by a person in the course of a business of providing passenger transportation services, and the particular passenger transportation service or leg thereof begins and ends in any participating province. For example, alcoholic beverages sold on a flight from St. John's, Newfoundland to Halifax, Nova Scotia will be subject to HST. However, alcoholic beverages sold on the second leg of the same continuous journey, which is from Halifax to Ottawa, will be subject to tax at the 7-per-cent GST rate.

Excess baggage charges

A service of transporting excess baggage in connection with a passenger transportation service that is part of a continuous journey will be regarded as supplied in a particular participating province if the origin of the continuous journey is in that province. However, if such a service is part of a continuous journey, and there is a termination or any stopover outside Canada, the service of transporting the excess baggage will be regarded as supplied outside the province. Accordingly, the service will not be subject to HST.

Freight transportation services

General rule

A supply of a freight transportation service will be regarded as made in a particular participating province if the destination of the freight transportation service is in that province. Consequently, a freight transportation service from Winnipeg to Fredericton will be regarded as supplied in New Brunswick and will therefore be subject to HST.

Further, consistent with the current rules, interline settlements between freight carriers will not be subject to tax.

International freight transportation services

The zero-rating provisions that currently apply to international freight transportation services will also apply for purposes of the HST.

Example 4-27

A freight transportation service that originates in Las Vegas, Nevada with a destination of Sydney, Nova Scotia will be zero-rated for HST purposes. Although the destination of the international inbound freight transportation service is within a participating province, the charge for the freight service will not be subject to HST.

Supplies of postage

A supply of postage will be considered to be made in a particular participating province if a person purchases the postage at an outlet, facility or establishment of the supplier that is situated in a participating province.

Telecommunication services***General rule***

A supply of a telecommunication service will be considered to be made in a particular participating province if one of the following tests is met:

- The transmission originates and terminates in that province.

Example 4-28

An individual makes a telephone call from one location in a participating province to another location in that province. The call will be regarded as supplied in that province and will be subject to HST even if the telecommunications facility used to make the call is normally located outside the province (such as a cellular phone with a billing location outside the province).

- The transmission either originates or terminates in the particular participating province, and the billing location for the service is located in that province.

The billing location for a telecommunication service is considered to be in a participating province if the fee for the service is charged to an account with the carrier that relates to a telecommunications facility ordinarily located in a participating province. It is not necessarily the place to which the invoice is sent.

Example 4-29

An individual makes a telephone call from a location in a participating province to a location in another province. If the billing location for the service is located in the province from which the telephone call originated, the call would be regarded as supplied in that province and subject to HST.

- If the telecommunication service is deemed to be supplied in Canada but does not meet the above tests because it originates and terminates in two different jurisdictions and the billing location is in a third jurisdiction, the supply of the telecommunication service will be considered to be made in the province in which the telecommunication service originates.

The making available of a telecommunication facility

Generally, the supply of making available a telecommunications facility, other than the supply of making available telecommunication channel capacity, will be taxed at the HST rate if the charge is made to an account with the carrier relating to a telecommunications facility ordinarily located in the participating province. For example, the supply of making local telephone services available, for which a telecommunication carrier will charge a basic monthly fee, will be located where the telephone to which the fee relates is ordinarily located.

The making available of leased telecommunication channel capacity

A supply of making available leased telecommunication channel capacity (e.g., a dedicated line) will be deemed to be made in a province based on the proportional distance over which the telecommunication would be transmitted in the province if the telecommunication were transmitted over land, relative to the total distance over which the telecommunication is transmitted.

Example 4-30

If a telecommunication carrier leased channel capacity between Toronto and Halifax, a proportion of the supply will be deemed to be made in New Brunswick and in Nova Scotia (and therefore subject to HST) based on the proportion of the capacity that is transmitted in those provinces.

5

Tax on Property and Services Brought Into Participating Provinces

Basic approach

In order to protect the competitive position of businesses in participating provinces, self-assessment may be required in those circumstances where a supply of property or a service is made in a non-participating province, but consumption, use or subsequent provision of that property or service takes place within the participating provinces.

There are several situations where self-assessment may be required, including where:

- a resident of a participating province purchases goods in a non-participating province and brings these goods into the participating province;

- a resident of a participating province arranges for a person in a non-participating province to provide a service (e.g., advertising, legal, etc.) that will be rendered outside the participating province but consumed or used primarily within the participating provinces;
- a resident of a participating province acquires intangible personal property (e.g., rights to operate a franchise) in a non-participating province that will be consumed or used primarily in the participating provinces.

The purpose of self-assessment is to avoid distorting decisions to purchase within or outside the participating provinces. In this regard, self-assessment will ensure that, where a property or service is acquired for consumption, use or supply in the participating provinces, tax at the 15-per-cent HST rate is accounted for regardless of whether that good or service was supplied in a participating or a non-participating province.

The self-assessment rules will apply to non-registrants as well as registrants who acquire property or services for consumption or use in both commercial and non-commercial activities. Nonetheless, if a registrant is required to self-assess tax, the registrant would be able to claim an input tax credit with respect to such tax to the extent that the property or service is consumed, used or supplied in the course of the registrant's commercial activity.

General exclusions from self-assessment

Self-assessment will not be required where HST was payable in respect of the property or service.

Where a property or service will be consumed, used or supplied by a registrant exclusively in the course of the registrant's commercial activity, self-assessment will not be required, as any tax self-assessed would be offset by a corresponding input tax credit. However, this exception will not apply in the case of registrable motor vehicles subject to the provincial component of the HST or to persons using a streamlined accounting method.

Listed financial institutions that are required to use the attribution method to determine their net tax remittance, as described in Chapter 11, will not be subject to the general rules for self-assessment.

Tangible personal property

Self-assessment will be required in respect of tangible personal property supplied in a non-participating province if a person subsequently brings, or causes someone else to bring, the property into a participating province. The person will be required to self-assess tax equal to the provincial component of the HST. Generally, the value on which tax will be self-assessed will be the lesser of the consideration paid for the good and the fair-market value of the good.

Specific relief from self-assessment in respect of goods will mirror the exceptions provided for goods imported into Canada, including prorated relief from self-assessment for certain temporary importations. However, the exceptions relating to goods imported into Canada under an individual's personal exemptions (e.g., souvenirs, etc.), or for goods imported from outside Canada by mail or courier with a value of less than \$20, will not be extended to the self-assessment rules.

Services

A resident of a participating province will be required to self-assess tax, equal to the provincial component of the HST, in respect of taxable (other than zero-rated) services supplied outside the participating provinces that were acquired for consumption, use or supply primarily in the participating provinces. Generally, the value on which tax will be self-assessed will be that percentage of the total consideration paid for the service that the consumption, use or supply of the service by the recipient in the participating provinces is of the total consumption, use or supply of the services.

Telecommunications services provided in a non-participating province will not be subject to self-assessment. Details regarding the place-of-supply rules for telecommunications services are provided in Chapter 4.

Intangible personal property

For the most part, the self-assessment rules for intangible personal property will mirror the rules for self-assessment in respect of services. Therefore, a resident of a participating province will be required to self-assess tax, equal to the provincial component of the HST in respect of a taxable (other than zero-rated) supply of intangible property made outside the participating provinces where the property is acquired primarily for consumption, use or supply in the participating provinces. Generally, the value on which the tax will be self-assessed will be that percentage of the total consideration paid for the intangible property that the consumption, use or supply of the property in the participating provinces is of the total consumption, use or supply of the property.

Self-assessment will not be required where the intangible personal property relates primarily to tangible personal property or real property situated outside the participating provinces, or primarily to a service performed outside those provinces.

Drop-shipped tangible personal property

The existing drop-shipment rules contained in the *Excise Tax Act* will apply for purposes of the HST. Therefore, where self-assessment is required by a person under those rules in respect of property that is transferred to the person in a participating province, the person will self-assess both the federal and provincial component of the HST.

Settlers' effects

As is currently the case under the GST, settlers' effects that are relieved under Schedule I to the *Customs Tariff* will not be subject to self-assessment of HST when brought into a participating province from outside Canada.

For settlers' effects brought into a participating province from elsewhere in Canada, self-assessment will not be required where an individual is setting up permanent residence in a participating province, and the property had been for the individual's personal use. Where the property was acquired less than 31 days prior to entering the province, relief will be provided only where the individual has paid any retail sales tax applicable to the property in the province from which the property is being moved, and the individual is not entitled to a rebate or a refund of that tax.

6

Recovery of Tax

Basic approach

Registrants will be entitled to recover tax payable at the HST rate of 15 per cent on goods and services to the extent that they are acquired for consumption, use or supply in a commercial activity. This will eliminate the tax cascading inherent in the existing retail sales taxes in participating provinces. The removal of tax on business inputs will enhance the competitive position of businesses operating in those provinces.

Similarly, special rebate mechanisms will apply where property or services are acquired in participating provinces, and the property is removed, or the services are for use, outside these provinces by certain persons that are not able to claim input tax credits.

Input tax credits

Registrants, regardless of where they are located, will be able to claim input tax credits in respect of tax paid or payable at either the 7-per-cent GST rate or 15-per-cent HST rate on property and services they acquire or import into Canada as

inputs into their commercial activities. Entitlement to input tax credits will be based on the current rules.

By allowing registrants located in participating or non-participating provinces to claim input tax credits for tax paid or payable, regardless of whether it was charged at the 7-per-cent GST rate or at the 15-per-cent HST rate, the dual objectives of eliminating tax cascading and maintaining competitive equity can be achieved in a way that is both simple and effective.

Rebates

Rebate for goods removed from participating provinces

A rebate of the provincial component of the HST will be available to certain persons who remove eligible goods from a participating province. To qualify for the rebate, the goods that were acquired must be for consumption, use or supply exclusively outside the participating provinces. The goods must also be removed from the participating province to a non-participating province within 30 days after the goods are delivered to the person, and the person must provide proof that applicable provincial retail sales tax, in the province to which the goods were taken, has been paid. Generally, this rebate is not available to consumers resident in a participating province or to listed financial institutions using the attribution method discussed in Chapter 11.

Special rules will apply where a person stores goods in a participating province prior to removing them from the province. In this case the storage period will not be taken into account when calculating whether the goods were removed from the participating province within 30 days.

Also, consumers resident in a participating province will be entitled to claim a rebate of the provincial component of the HST paid by them on a supply made in the province of a registrable motor vehicle removed to and registered in a non-participating province, subject to the conditions noted above.

The application for the rebate will be required to be filed within one year after the day that the person removes the property from the participating provinces. In addition, the amount of provincial component of the HST will have to be at least \$4 per sales invoice, and the total amount of the rebate claim at least \$16.

Rebate for services and intangible personal property for use in non-participating provinces

A rebate of the provincial portion of the HST will be available for certain persons who are not entitled to recover, through the input tax credit mechanism, HST payable on purchases of services or intangible personal property. This rebate will be available where the service or intangible personal property was acquired for consumption, use or supply primarily outside of the participating provinces. The amount of the rebate will be based on the consideration for the supply prorated for the extent of consumption, use or supply in non-participating provinces. The rebate will be available to persons regardless of whether they are resident in participating or non-participating provinces.

As is the case for the rebate for goods removed from participating provinces, listed financial institutions that are required to use the attribution method when determining their net tax will not be entitled to claim the rebate for services and intangible property (see separate discussion in Chapter 11).

Employee and partner rebates

The existing employee and partner rebate will apply under the HST. The rebate amount will depend upon the actual amount of tax paid (i.e. 7 per cent or 15 per cent) regardless of the

place of work or place of residence of the employee or partner. The same rules and conditions under the GST will apply to the HST rebate for employees and partners.

Rebate for books

A rebate of the provincial component of the HST on books will be available in the participating provinces. The rebate will be provided at the point of sale.

The point-of-sale rebate will extend to printed books and subscriptions of periodicals that contain less than 5 per cent advertising. Audio recordings of printed books, or “talking books”, will also qualify for the rebate. This measure will not apply to newspapers, other periodicals and magazines.

Change-in-use rules

As is the case under the current rules, there may be tax consequences where there has been a change in how capital property is used. Generally, such “changes in use” occur when capital property last acquired for use in commercial activities is subsequently used in exempt activities or for personal use, or vice versa. For example, full input tax credits may have been claimed based on the intent to use the property entirely in commercial activities at the time the property was acquired, but subsequently the use changed so that it was used in exempt activities. In such a case, the rules provide for recapture of all or a portion of the input tax credits previously claimed. Conversely, where the extent of use in commercial activities has increased significantly from the time when the property was purchased, a registrant is generally able to claim additional input tax credits.

These principles will also apply under the HST. However, the manner of calculating the amount of tax payable or collectible where a change in use has occurred will be modified to take into consideration the fact that property may have been purchased at either the HST rate of 15 per cent or at the 7-per-cent GST rate.

7

International Imports

Basic approach

One of the key benefits of the HST is the ability of participating provinces to collect their share of sales tax payable on imported goods. This will improve the competitive position of businesses in participating provinces. Imported goods destined for participating provinces will be taxed as follows:

- All non-commercial importations by residents of participating provinces (including persons who are considered seasonal residents under the *Seasonal Residents Remission Order, 1991*) will, at the time of importation, be subject to tax at the 15-per-cent HST rate. The term “seasonal resident” generally refers to a non-resident who leases a residence in Canada for at least three years or who owns such a residence for seasonal use.
- All commercial importations will be subject to tax at the 7-per-cent GST rate. Depending on the circumstances, however, commercial goods destined for the participating provinces may be subject to the self-assessment rules with respect to the 8-per-cent provincial component of the HST.

Imported commercial goods

All taxable commercial importations will be subject to tax at the 7-per-cent GST rate, including goods destined for or imported into a participating province. The tax will be collected at the time of importation pursuant to the rules currently contained in the *Excise Tax Act*.

Generally, commercial goods are those goods that are for sale or for any other commercial, industrial, occupational, institutional or other like use.

In certain situations, importers are unable to determine, at the time of importation, whether specific goods are in fact destined for a participating province. This approach will avoid the administrative complications that would arise if, for example, an importer were required to specify the final destination of each item included in large consolidated commercial shipments of imported goods. It is not uncommon for shipments to contain goods that are initially destined to a central warehousing facility for subsequent distribution to various parts of Canada.

Although the provincial portion of the HST will not be payable at the time of importation on goods that are accounted for as commercial goods at that time and destined for the participating provinces, the goods will be subject to the self-assessment rules discussed in Chapter 5.

Imported non-commercial goods

Tax at the HST rate will be levied on all taxable non-commercial importations (other than registrable motor vehicles) by residents of a participating province, regardless of where the resident enters Canada. The tax will be payable at the time of importation.

The application of the tax to non-commercial importations is illustrated by the following examples:

Example 7-1

A New Brunswick resident returning to Canada through Halifax International Airport with taxable non-commercial goods exceeding the allowable personal exemption limits (e.g., \$200 after 48 hours absence from Canada) will be assessed the HST on the amount exceeding the limit.

Example 7-2

A Nova Scotia resident entering Canada through Toronto's Pearson International Airport will be assessed the HST on the value of any taxable non-commercial goods exceeding the established personal exemption limits.

Example 7-3

An Ontario resident returning to Canada at the St. Stephen, New Brunswick border crossing with taxable non-commercial importations exceeding the personal exemption limits will be assessed tax at the 7-per-cent GST rate on amounts exceeding the established personal exemption limits.

With respect to importations of registrable motor vehicles, participating provinces will apply the provincial component of the HST when the vehicle is registered in the province. Tax at the 7-per-cent GST rate will continue to be assessed on these vehicles at the time of importation.

Imported services and intangible personal property

Where a service or intangible personal property is imported into Canada for consumption, use or supply in Canada, the self-assessment rules in Division IV of the *Excise Tax Act* will continue to apply. The rules in the Act relating to the timing and manner of payment of tax applicable to imported services and intangible personal property will also continue to apply.

In addition, services and intangible personal property imported into Canada for use in a participating province will be subject to the provincial component of the HST under the self-assessment rules discussed in Chapter 5.

Direct mail and courier imports

The HST will generally apply to non-commercial importations sent by mail or courier to an address in a participating province. The current relieving provisions for imported goods with a value for duty not exceeding \$20 will be extended to the HST. However, foreign publishers who are required to be registered for purposes of the tax will have to account for the HST on most newspapers, periodicals, magazines and similar publications destined for the participating provinces.

Non-taxable importations

The HST will not apply to importations of zero-rated goods such as prescription drugs, medical devices and basic groceries.

The HST will also not apply to imported non-commercial goods that are non-taxable because they are included in Schedule VII of the *Excise Tax Act*. This schedule includes, for example, goods imported by returning residents (subject to personal exemption thresholds), settlers' effects and certain temporary importations.

8

Other International Transactions

Basic approach

The removal of HST on business inputs through the input tax credit mechanism and the zero-rating of goods and services exported from Canada will strengthen the international competitiveness of businesses in the participating provinces.

Supplies made outside of Canada

The current rules for determining when supplies are made outside of Canada will continue to apply for purposes of the HST. A supply will not be subject to tax at the 15-per-cent HST rate if it is made outside Canada; however, the supplier will still be eligible for input tax credits for tax payable at either the 15-per-cent HST rate or 7-per-cent GST rate.

Example 8-1

A mine in Labrador sells iron ore to a steel mill in Pennsylvania. The terms of delivery are f.o.b. the purchaser's plant. The supply will be regarded as made outside Canada, and HST will not apply. The mining company will be eligible for input tax credits for taxes payable at either the 15-per-cent HST rate or 7-per-cent GST rate on inputs relating to the iron ore supplied outside of Canada.

Zero-rated exports

The current zero-rating export provisions will apply to supplies made in a participating province.

Example 8-2

An engineering consulting company in Dartmouth, Nova Scotia provides advisory and consulting services to a consortium of non-resident companies and foreign governments constructing harbour facilities in the Mediterranean region. The service will be zero-rated. Also, the company will be entitled to input tax credits in respect of taxes payable at either the 15-per-cent HST rate or the 7-per-cent GST rate.

**Rebates for goods and services
exported from Canada**

Several rebate provisions currently apply when certain goods or services supplied in Canada are exported in specified circumstances. In general, these provisions will also apply for purposes of rebating the HST paid.

For example, the non-resident rebate for goods exported from Canada will apply to HST paid. The rebates for artistic works produced for export, certain installation services, short-term accommodation, non-resident tour operators and

charity exports will also apply. Additional details respecting the non-resident rebate for goods, short-term accommodation and tour operators are set out in Chapter 10. The treatment of charities is discussed in Chapter 12.

Drop-shipment rules

The rules for goods drop-shipped in Canada on behalf of unregistered non-residents will apply for supplies made in a participating province.

The drop-shipment rules will operate to ensure that HST is payable in respect of goods transferred by registrant businesses on behalf of unregistered non-resident persons to consumers and other unregistered persons in the participating provinces. The rules will also apply to goods transferred to registered persons who do not issue drop-shipment certificates.

Also, the relieving provisions in the drop-shipment rules will operate to relieve goods transferred, and taxable commercial services in respect of such goods, to registrant businesses in the participating provinces.

9

Housing

Basic approach

Currently, provincial retail sales taxes do not apply directly to the sale or rental of residential real property. Nonetheless, a substantial amount of provincial retail sales tax is embedded in housing prices because of the application of unrecoverable tax to materials such as lumber, paint, kitchen cabinets and built-in appliances. In addition, contractors incur provincial retail sales tax on building equipment and other capital goods.

With the introduction of the HST, builders will be entitled to input tax credits for tax payable on inputs used in building the home before charging tax to the buyer on the final price of the new home. The rules that currently apply to housing will apply for the purposes of the HST.

Housing rebates

The housing rebate in respect of the federal component of the HST will continue to apply.

In addition, a rebate for new homes will be available to buyers of new homes constructed in Nova Scotia who use the home as their primary place of residence. The amount of the rebate will equal 18.75 per cent of the provincial component of the HST to a maximum of \$2,250. Purchasers of single homes, semi-detached homes, condominium units, and co-operative housing units will be eligible for the rebate. Guidelines will be developed for owner-built housing.

10

Tourism

Basic approach

The current rules in the *Excise Tax Act* relating to tourist rebates, foreign conventions and the tax treatment of tour packages will apply for HST purposes, with modifications to reflect the 15-per-cent tax rate. This will ensure that the participating provinces remain an attractive destination for foreign visitors.

Tourist rebates

As is currently the case under the GST, foreign visitors and businesses will be entitled to claim a rebate of the HST paid on eligible goods that are subsequently exported or taken out of Canada by the person within 60 days of purchase. Eligible goods will include most goods except excisable items, such as alcohol and tobacco products. In addition, a rebate of the HST paid by foreign visitors and businesses in respect of short-term accommodation will be available. The current dollar thresholds for the minimum claim per invoice and application will be modified to reflect the 15-per-cent rate.

Example 10-1

A German tourist purchases souvenirs during her vacation in Newfoundland and takes them with her when she returns to Germany. She will be entitled to a rebate of 15-per-cent HST paid on these items. She will also be entitled to a rebate in respect of the HST paid on hotel accommodation during her stay.

A rebate of the provincial portion of the HST will be available to persons who remove eligible goods from the participating provinces to a non-participating province within 30 days after the goods are delivered to the person. However, the person must provide proof that any sales tax payable to another province has been paid. This rebate will not be available to consumers resident in the participating provinces or to listed financial institutions using the attribution method described in Chapter 11. Details of the rebate are provided in Chapter 6.

Conventions

Rebates currently available in respect of foreign conventions will apply for HST purposes. Non-registered organizers of foreign conventions convened in a participating province will be eligible for rebates in respect of any HST paid on the acquisition of convention facilities and related convention supplies. The rebate will also be available to sponsors of foreign conventions in respect of:

- supplies of property or services relating to the convention made by a registrant who is the organizer of the convention;
- property or services acquired for consumption, use or supply as convention supplies or the convention facility, where the property or services are supplied by a registrant who is not the organizer; or
- property or services that are imported for consumption, use or supply as convention-related supplies.

Furthermore, non-resident unregistered convention exhibitors will be entitled to a rebate equal to the HST paid on exhibit space and convention-related supplies.

Travel agents

Travel agents generally sell travel services on behalf of travel service providers such as airlines, hotels, cruise lines and tour operators. Travel agents' services that are paid for by travel service providers through commissions will be subject to HST when provided in a participating province. Travel service providers who are registrants will be entitled to claim input tax credits for any tax paid at the 15-per-cent HST rate on travel agents' commissions.

Example 10-2

An individual in Moncton, New Brunswick asks a travel agent to reserve a room for him at a hotel in British Columbia. Since the hotel room is not located in a participating province, no HST will apply to the individual's hotel bill. Nonetheless, the hotel will be required to pay HST on the travel agent's commission because the travel agent's service was performed in New Brunswick.

Tour operators

Tour operators differ from travel agents in that they purchase travel services for resale purposes. Generally, a tour operator will purchase blocks of hotel rooms, airline seats and sightseeing tours. These are then assembled into individual tour packages, and sold to travellers for a single price.

Tour operators will charge HST on the selling price of tours comprised entirely of components that will be provided within the participating provinces. Conversely, if a tour operator sells a tour package, and the package's components are to be provided entirely outside the participating provinces, HST will

not apply. However, tax at the GST rate of 7 per cent will apply to the components of a tour package that are provided in non-participating provinces.

Tour operators selling tours involving a combination of travel services, only a portion of which is taxable at the HST rate, will be required to prorate their selling prices according to the value of the components subject to tax at the harmonized rate. Consistent with the current rules, the proration will be based on the relative cost to the tour operator of each of the travel service components.

Example 10-3

A registered tour operator sells a 10-day package that includes a flight from Vancouver to Halifax, hotel accommodation in Halifax, and a sightseeing tour from Halifax to Peggy’s Cove, Nova Scotia. HST will not apply to the airfare component of the package since the flight originates in a non-participating province. The other components of the package will be subject to HST.

| | Cost | % |
|---|----------------------|-------------------|
| <i>Round trip from Vancouver to Halifax</i> | <i>\$600</i> | <i>40</i> |
| <i>Accommodation and sightseeing tour</i> | <i>\$900</i> | <i>60</i> |
| <i>Total</i> | <i>\$1500</i> | <i>100</i> |

Assuming a 20-per-cent profit margin, the tour operator’s selling price would be \$1,800. Tax at the 7-per-cent GST rate will apply to 40 per cent of the tour operator’s selling price or \$720, i.e. \$50.40. Tax at the 15-per-cent HST rate will apply to the remaining 60 per cent of the package – the accommodation and sightseeing portion or \$1,080, i.e. \$162.

11

Financial Services

Basic approach

Consistent with the GST, the supply of financial services in participating provinces will be treated as exempt from tax. As such, financial service providers will not charge HST on their supplies of exempt financial services.

Financial service providers will not be eligible to claim input tax credits for tax paid on goods and services acquired for consumption, use or supply in the course of supplying exempt financial services.

Although the overall sales tax rate on goods will be lower, the tax base will be broadened to include services and certain goods not currently subject to provincial sales tax. Since financial service providers are not entitled to claim input tax credits for most of the tax they pay, this could create an incentive for them to purchase these goods and services outside the participating provinces. In addition, the application of exempt treatment under the HST to the financial services sector could be particularly complex, especially if financial service providers were required to track the extent of the consumption within and outside the participating provinces on an "item-by-item" basis.

Accordingly, measures will be introduced to ensure that:

- the application of the HST does not create a competitive disadvantage for businesses located in participating provinces that supply goods and services to financial service providers;
- financial institutions will not be disadvantaged as a result of locating branches, processing facilities, call centres or any other business operation in a participating province; and
- compliance costs are minimized.

Special attribution method

For listed financial institutions operating within both participating and non-participating provinces, a special attribution method will be provided to determine their net tax liability in respect of the provincial component of the HST. Under this approach, financial institutions will determine the amount of the provincial component of the HST based on where they supply financial services rather than where they purchase their inputs.

This approach will apply to listed financial institutions that operate in the participating provinces and that allocate income to the participating provinces as well as to at least one non-participating province under the *Income Tax Regulations*, or would make such an allocation if the listed financial institution were a corporation and had taxable income. These listed financial institutions will determine their net liability for the provincial component of the HST for a period on the basis of a formula similar to the formulas set out in sections 402 to 405 of the *Income Tax Regulations*. These regulations are used to determine the allocation of corporate taxable income to provinces. They provide a general allocation formula for corporations as well as specific formulas applicable to chartered banks, trusts and loan corporations and insurance corporations.

For listed financial institutions, the first step in computing the provincial component of the HST will be to determine the amount of unrecoverable tax that became payable at the 7-per-cent rate in the period. The financial institution will then apply to that amount the total of the percentages for the participating provinces determined under a formula based on the applicable *Income Tax Regulation* allocation formula. Finally, the product will be grossed up by a factor of 8/7 to reflect the provincial component of the HST.

If the amount determined under the formula is less than the provincial component of the HST payable in the period, the listed financial institution will be entitled to a refund. Conversely, if the amount determined under the formula is more than the actual provincial component of the HST payable, an additional liability will arise.

The following formula illustrates the calculation of the net liability for the provincial component of the HST:

$$A - [(B-C) \times D \times 8/7]$$

where:

- A is the actual provincial portion of the HST payable in the period;
- B is the 7-per-cent tax (including the federal component of the HST) payable in that period across Canada;
- C is the total of input tax credits claimed in that period in respect of the 7-per-cent tax (including the federal component of the HST); and
- D is the percentage determined in respect of the participating provinces calculated by a formula based on the applicable income allocation formula in the *Income Tax Regulations*.

Listed financial institutions that are required to use the special attribution method will not be subject to the general self-assessment rules (discussed in Chapter 5). In addition, these financial institutions will not be entitled to use certain recovery-of-tax rules relating to the provincial component of the HST (discussed in Chapter 6).

Financial institutions that are not required to use the special attribution method will be subject to the general provisions of self-assessment and recovery of tax.

12

Other Operational Aspects

Basic approach

Generally, the operating rules and administrative policies applicable to the GST will apply equally under the HST, with appropriate modifications to reflect the HST rate of 15 per cent. This section highlights the application of the rules in specific areas.

Employee and shareholder benefits, allowances and reimbursements

Taxable benefits

Generally, the application of HST to employee and shareholder benefits will be the same as under the current rules.

The application of HST to employee benefits will depend on the province in which the employee last reported for work in relation to a particular employer before the end of the taxation year of the employee. Where the place at which employee last

reported for work in relation to a particular employer is located in a participating province, HST will apply to the employee benefit.

For shareholder benefits, the determining factor will be where the shareholder resides at the end of the taxation year of the shareholder. Accordingly, HST will apply to benefits provided to a shareholder whose place of residence is located in a participating province.

Under the current rules, 5 per cent of an automobile operating expense benefit is regarded as the amount of tax collectible by the employer or corporation. Where the benefit is any other type of taxable benefit, including a standby charge, 6/106ths of the benefit is regarded as the amount of tax collectible by the employer or corporation. Under the HST, the amounts deemed to be tax collectible by the employer or corporation will be 11 per cent in the case of automobile operating expenses and 14/114ths in the case of other benefits, including standby charges.

Transitional rule

A special transitional rule will be provided for taxable benefits conferred during 1997. This special rule will apply to taxable benefits conferred on employees whose place of work or shareholders whose place of residence is located in a participating province on December 31, 1997. For the 1997 taxation year of the employee or the shareholder, the provincial portion of the HST on taxable benefits will be 75 per cent of the tax that would otherwise have been calculated on such benefits for an entire year. Thus, the combined tax rate of 9.5 per cent in the case of automobile operating expense benefits, or the tax fraction of 12/112, in the case of other taxable benefits including standby charges, will apply. This reflects the fact that the HST will be in effect for only three-quarters of the 1997 calendar year.

Allowances and reimbursements

For the most part, the criteria for claiming input tax credits or rebates of HST in respect of allowances and reimbursements paid to employees, partners or volunteers (of a charity) will be the same as under the GST. In the case of allowances, the rules will require that, for claims in respect of the provincial portion of the tax, the allowance must be for supplies all or substantially all of which are taxable (other than zero-rated) at the HST rate or, in the case of a motor vehicle allowance, the use of the motor vehicle is in participating provinces.

The amount of the input tax credit or rebate in respect of a reimbursement will depend on the actual tax paid for expenses reimbursed. Therefore, the place of work or place of residence of the employee, partner or volunteer will not be a factor when claiming input tax credits or rebates in respect of reimbursements.

Government purchases

Participating provinces and the federal government have agreed to set up a reciprocal rebate mechanism for HST purposes. Under this system, these governments (including all departments and certain government entities) will pay HST on their purchases. Generally, where those departments or entities are agents of the Crown, any tax paid will be rebated.

This mechanism will simplify tax compliance for vendors as they will no longer have to deal with the complexity associated with making sales to tax-exempt agencies of participating governments.

Purchases by Indians and Indian bands

Under the *Indian Act*, the personal property of an Indian or an Indian band situated on a reserve is exempt from taxation. Consistent with this exemption, GST does not apply to on-reserve purchases of goods by Indians and Indian bands, or

to off-reserve purchases by Indians and Indian bands of goods delivered to the reserve by vendors or their agents. In addition, the GST does not apply to services purchased on reserves by Indians where the benefit is realized totally on a reserve.

The HST will operate in the same manner as the GST and, as such, will be consistent with the provisions of the *Indian Act*.

Coupons and manufacturers' rebates

For the purposes of the HST, the rules governing the tax treatment of coupons and manufacturers' rebates will be the same as those applicable under the GST. To facilitate the introduction of tax-inclusive pricing, additional flexibility will be introduced for percentage discount coupons that are issued by a retailer.

Currently, retailers issuing a percentage discount coupon are required to treat this type of coupon as non-redeemable, that is, one that reduces the price payable by the recipient before calculating applicable taxes. Retailers will now have the option of treating this type of coupon in the same manner as a fixed dollar amount retailer coupon, i.e. retailers will now have the option of treating their percentage discount coupons as reducing the total amount payable including taxes. A retailer using such a coupon will be eligible to claim an input tax credit equal to the tax fraction of the coupon value.

Streamlined accounting methods

Under the GST, several streamlined accounting methods are available to simplify the way eligible small businesses, public service bodies and charities may calculate their GST net tax liability.

These methods include:

- the Streamlined Accounting Quick Method for Small Businesses;
- the Special Quick Method for Public Service Bodies (other than charities);
- the Streamlined Accounting Method for Charities;
- the Streamlined Input Tax Credit Method; and
- the Prescribed Method for Calculating Rebates.

These methods will be available under the HST, although some modifications to the rules will be necessary to address the fact that, in certain circumstances, some sales or purchases may have been subject to tax at the HST rate of 15 per cent while others may have been taxed at the 7-per-cent GST rate.

In particular, any registrant using the Quick Method for Small Businesses or the Special Quick Method for Public Service Bodies will be required to account for tax separately in respect of their sales made in participating provinces and those made in non-participating provinces, and will be required to remit a portion of the taxes charged based on two different rates.

Similarly, any registrant using the Streamlined Input Tax Credit Method will be required to account for tax separately in respect of their purchases and claim input tax credits at the two different rates.

In Newfoundland and New Brunswick, different tax remittance rates will have to be determined for certain registrants using the Special Quick Method for Public Service Bodies.

These new rates will account for the fact that:

- in Newfoundland, MUSH rebates will not be available in respect of the provincial portion of tax paid on inputs; and

- in New Brunswick, rebates in respect of the provincial portion of tax paid on inputs will not be available for universities, schools and hospitals.

Registrants who use the Quick Method for Businesses, the Streamlined Accounting Method for Charities or the Special Quick Method for Public Service Bodies are subject to the self-assessment rules for property or services brought into a participating province. The self-assessment rules are outlined in Chapter 5. However, they will not be able to avail themselves of the special exclusion from self-assessment for property or services for consumption, use or supply exclusively in the course of commercial activities. The other exclusions from self-assessment will apply.

13

Transitional Issues

Basic approach

This section outlines the key provisions that will be put in place to ensure a smooth transition from the participating provinces' existing provincial retail sales taxes to the HST. These include:

- transactions straddling the HST implementation date;
- transitional rebates;
- price adjustments made following the start-up of the HST in respect of supplies made under the existing provincial retail sales tax systems;
- goods in transit; and
- other miscellaneous provisions, such as anti-avoidance rules and the winding-down of existing provincial retail sales taxes.

The transitional rules are designed to ensure that the current GST and provincial retail sales tax systems do not overlap with the HST. Accordingly, where a transaction described in this chapter is not subject to HST by virtue of the transitional rules, it is to be assumed that the existing GST will apply along with any applicable provincial retail sales tax.

Transactions straddling the start-up date

Rules are required to determine the tax status of transactions that straddle April 1, 1997. It is important to know which tax system applies to these types of transactions, i.e. the provincial retail sales tax or the HST. To understand these rules, it is helpful to bear in mind the significance of certain key dates that are referred to frequently throughout this chapter:

- ***April 1, 1997*** is the HST implementation date. Generally, the intent is to apply HST to consumption occurring on or after this date but not to consumption taking place beforehand. Conversely, provincial retail sales taxes that currently exist in the participating provinces will continue to apply until they are replaced by the HST.
- ***ANNOUNCEMENT DATE*** should be read as the date of the release of this technical paper. This is the date before which one could not reasonably be expected to know the tax consequences of transactions subject to HST.
- ***February 1, 1997*** is the date on which suppliers will have to begin pre-collecting HST on goods and services that are either paid for or invoiced before April 1, 1997, but delivered or performed after the HST is implemented.
- ***August 1, 1997*** is the date on which the HST will generally begin to apply to pre-April 1997 supplies for which the consideration has neither become due nor has been paid.

Sales of real property

General rule

Generally, the 15-per-cent HST will apply only to sales of real property where both ownership and possession of the property are transferred to the purchaser after March 1997. Any sale of real property that closes before April 1997 will not be subject to HST. If possession of real property is transferred before April 1997 to the purchaser under an agreement of purchase and sale, HST will not apply even if title to the property does not transfer until after March 1997.

Under the current system, the price of a newly constructed residence reflects a significant provincial retail sales tax component as a result of the application of tax to building materials and other related purchases. Since newly built residences will be subject to HST, new residences that are partially constructed prior to the implementation of the HST but not sold until afterwards would be subject to a degree of double taxation unless special measures are taken to address this. Accordingly, where provincial retail sales tax has been paid, builders will be entitled to transitional rebates in respect of residential complexes (such as houses, condominium units, condominium complexes and apartment buildings) where neither ownership nor possession has been transferred before April 1, 1997 to a person who is not a builder.

As outlined in the following table, the rebate will be calculated as a percentage of the estimated provincial retail sales tax content. For these purposes, the estimated provincial retail sales tax content will be \$50 per square metre in Nova Scotia and New Brunswick and \$55 per square metre in Newfoundland. The percentage factor will depend on the degree of completion of the residence as of April 1, 1997.

Table
Transitional housing rebate for residential complexes

| Degree of completion of residence on April 1, 1997 | Rebate amount |
|---|--|
| 25 to 50 per cent | 50 per cent of estimated provincial retail sales tax content |
| More than 50 per cent but less than 90 per cent | 75 per cent of estimated provincial retail sales tax content |
| 90 per cent or more | 90 per cent of estimated provincial retail sales tax content |

All transitional housing rebate applications must be filed before January 1998.

Pre-announcement date agreements

Where an agreement of purchase and sale has been entered into on or before ANNOUNCEMENT DATE, but ownership or possession of a single unit residence or new residential condominium is transferred after March 1997, the sale will have been agreed upon without knowledge of the HST rules and with the expectation that provincial retail sales tax would be incurred during construction.

Sales of single unit residential complexes, residential condominium units or condominium complexes will not be subject to HST where an agreement in writing has been entered into on or before ANNOUNCEMENT DATE for the sale, and ownership and possession of the complex or unit is not transferred to the person before April 1997, and possession is transferred to the person after March 1997.

Builders of these grandfathered residences will not be entitled to claim input tax credits for the provincial component of the HST on property and services acquired to complete the units. No transitional housing rebate of the provincial retail sales tax will be provided for these grandfathered residences.

Where an individual has entered into an agreement in writing for the construction or substantial renovation of a single unit residential complex on or before ANNOUNCEMENT DATE, and possession is transferred after March 1997, HST will not be payable on progress payments becoming due after March 1997. The builder will not be entitled to input tax credits for the provincial component of the HST on property and services acquired to complete the construction or substantial renovation. No transitional rebate of the provincial retail sales tax will be provided for these grandfathered residences.

Supplies of tangible personal property

General rule

Generally, the HST will apply to the sale of tangible personal property, i.e. goods – where ownership and possession are transferred after March 1997. Where either ownership or possession of a good is transferred to the purchaser before April 1997, HST will not apply. In this case, the sale will be subject to provincial retail sales tax where applicable.

Prepayments for goods

For tangible personal property, any prepayment made or becoming due on or before ANNOUNCEMENT DATE will not be subject to HST.

Example 13-1

On August 18, 1996 a person receives an invoice for a swimming pool but does not take ownership and possession until after March 1997. HST will not be payable on the invoiced amount.

Where the prepayment becomes due after ANNOUNCEMENT DATE but before February 1997, and ownership and possession are transferred to a purchaser after March 1997, the prepayment will be subject to HST if the supply is made in a

participating province to a person who is not a consumer. In this case, the person will be subject to the self-assessment rules set out in Chapter 5 as if the goods were brought into the participating province by the person after March 1997. The person may therefore be required to self-assess the provincial component of the HST. The exclusion from self-assessment for listed financial institutions that follow the attribution method described in Chapter 11 will not apply to self-assessment on transitional transactions. This tax must be accounted for and remitted on or before the due date of the person's first return due after March 1997 or by August 1997, whichever is earlier.

Example 13-2

In December 1996, a public sector body receives an invoice for a photocopier. The public sector body receives title to and possession of the photocopier after March 1997. The public sector body must report and remit the provincial component of the HST on the purchase.

Any prepayment becoming due after January 1997 but before April 1997 for a good where ownership and possession are transferred to the purchaser after March 1997 will be subject to HST, and the provincial component of the HST will be considered to have become collectible by the supplier on April 1, 1997. The supplier will be required to account for and remit the provincial component of the HST by the due date of the return for the supplier's first reporting period ending after March 1997.

Example 13-3

On February 3, 1997 a person is invoiced for a custom sailboat that is to be delivered after March 1997. Ownership of the sailboat passes to the person after March 1997. The merchant will not collect provincial retail sales tax but will collect the HST, and will report and remit the provincial component of the HST by the due date of the merchant's return for the first reporting period ending after March 1997.

Subscriptions

Prepayments for newspaper, magazine or other periodical subscriptions will be treated in the same manner as prepayments for services.

Example 13-4

In February 1997, a subscriber prepays for magazines to be delivered at the end of each month for one year. HST will apply to 83 per cent of the prepayment. This part of the prepayment reflects the issues delivered from April 1997 to January 1998, i.e. 10 of the 12 issues.

Continuous supplies

The HST will not be payable in respect of a supply of property delivered on a continuous basis by means of a wire, pipeline or other conduit before April 1997 to the extent that consideration is paid or becomes due before August 1997. Nonetheless, HST will be payable on the consideration due after July 1997, regardless of when the property was delivered.

Where the time at which the property is supplied cannot be determined, the supply will be prorated in equal parts according to the number of days in the billing period.

Example 13-5

A person receives an electrical bill for service that includes a period ending after March 1997. A meter reading was not done on March 31, 1997. The electricity used during the billing period will be prorated, and HST will be payable on the portion attributable to the period after March 1997. HST will not apply to the portion attributable to the period before April 1997 provided the consideration is paid or becomes due before August 1997.

Budget arrangements

A special transitional rule will apply to budget arrangement plans under which property is delivered during a period straddling the April 1, 1997 implementation date and according to which a reconciliation takes place before April 1998. HST will apply only to those goods delivered under the arrangement after March 1997.

The rule will require that HST be charged on amounts that become due after March 1997. The supplier will then make an adjustment at the end of the period for the difference between the tax payable at the harmonized rate for the property supplied after March 1997 and the amount of such tax the supplier collected in respect of that property. If the tax collected is higher than the tax payable, the supplier will be required to issue a credit note to the recipient and refund the difference. The net tax payable on the supplier's return would then be adjusted accordingly. If the tax collected is lower than the tax payable, the supplier will collect from the recipient the amount, representing the difference, as tax.

Instalment contracts

Where a contract is entered into for the sale of goods, the purchase price is to be paid in instalments, and ownership or possession of the goods is transferred to the purchaser before April 1997, HST will not be payable on any of the instalments. Under the existing provincial retail sales tax rules, if these goods are currently subject to provincial retail sales tax, this transaction is defined as a "sale", and provincial retail sales tax would be payable on the fair value of the goods.

Where ownership and possession of the goods are transferred after March 1997, provincial retail sales tax will not apply. The transition rules for prepayments will apply to payments made after ANNOUNCEMENT DATE and before April 1997, and HST will apply to the remaining instalments in accordance with the general rules for the HST.

Leases, licences or similar arrangements

The HST will not apply to any part of the consideration for a supply of property by way of lease, licence or similar arrangement that is attributable to a period before April 1997, provided the amount becomes due or is paid before August 1997. Nonetheless, provincial retail sales tax will apply to the amount if the property is subject to that tax.

Example 13-6

A person makes a monthly car lease payment on April 15, 1997 attributable to the period March 15 to April 14, 1997. Provincial retail sales tax will apply to the payment attributable to the period before April 1997, and HST will apply to the payment attributable to the period after March 1997.

The HST will apply to consideration for a supply in participating provinces by way of lease, licence or similar arrangement that becomes due from a person who is not a consumer to the extent that the consideration is attributable to a period after March 1997 and becomes due after ANNOUNCEMENT DATE but before February 1998. The person will be subject to the self-assessment rules set out in Chapter 5 as if the goods were brought into the participating province by the person after March 1997. Accordingly, the person may be required to self-assess the provincial component of the HST on those payments. The exclusion from self-assessment for listed financial institutions will not apply to self-assessment on transitional transactions. Where self-assessment is required, the person would have to account for this tax in the person's first return filed after March 1997 or by August 1997, whichever is earlier, and remit the tax at the same time.

Example 13-7

On December 16, 1996, a charity leases machinery and makes a lease payment covering a period ending after March 1997. The charity will be required to self-assess the provincial component of the HST on the portion of the lease payment attributable to the period following March 1997.

The HST will also apply to any consideration for a taxable supply by way of lease, licence or similar arrangement attributable to a period after March 1997 that becomes due after January 1997 but before April 1997. In these cases, the provincial component of the HST will be considered to have become collectible by the supplier on April 1, 1997. The supplier will therefore be required to account for this tax by the due date of the supplier's return for the first reporting period ending after March 1997.

Example 13-8

A company in St. John's leases a car to a customer under an agreement entered into on March 1, 1997 and receives a lease payment for March and one for April. The lease payment attributable to March will be taxed at the current combined GST and provincial retail sales tax rate of 19.84 per cent. The lease payment attributable to April will be taxed at the HST rate of 15 per cent.

Supplies of services

General rule

Generally, HST will apply to payments becoming due after March 1997 for services performed after March 1997. Where all or substantially all of the service is performed before April 1997, HST will not apply to payments that become due or are made before August 1997. Payments becoming due after July 1997 will be subject to HST regardless of when the

service was performed. Special rules for passenger and freight transportation services are described below.

Example 13-9

A person hires a consulting firm in January 1997 for a project to be carried out in March 1997. Although, payment is made in June 1997, HST will not be payable because the service is substantially performed before April 1997 and is paid for before August 1997. Payments for such a service would be subject to HST if they became due after July 1997.

Continuous supplies of services

The HST will not apply to services performed or made available on a continuous basis by means of a wire or other conduit before April 1997 to the extent that consideration is paid or becomes due before August 1997.

Where the time at which the services are supplied cannot be determined, the supply will be prorated in equal parts according to the number of days in the period covered by the payment.

The HST will be payable on any payment becoming due after July 1997, regardless of when the service is delivered, performed or made available.

Budget arrangements for services

A special transitional rule will apply to budget arrangement plans under which services are supplied during a period straddling the April 1, 1997 implementation date and according to which a reconciliation takes place before April 1998. The HST will apply only to those services performed under the arrangement after March 1997.

The rule will require that HST be charged on amounts that become due after March 1997 for services performed after this date. The supplier will then make an adjustment at the end of

the period for the difference between the tax at the harmonized rate payable for the services performed after March 1997 and the tax the supplier collected in respect of those services. If the tax collected is higher than the tax payable, the supplier will be required to issue a credit note to the recipient and refund the difference. The net tax payable on the supplier's return would then be adjusted accordingly. If the tax collected is lower than the tax payable, the supplier will collect from the recipient the amount, representing the difference, as tax.

Prepayments for services

For services in a participating province, prepayments made or becoming due on or before ANNOUNCEMENT DATE will not be subject to HST, even where the services are performed after March 1997.

Where the prepayment becomes due after ANNOUNCEMENT DATE but before February 1997, HST will be self-assessed on the portion of the prepayment attributable to services performed after March 1997 where the person acquiring the services is not a consumer. In this case, the person acquiring the services will be subject to the self-assessment rules set out in Chapter 5 as if the services had been acquired primarily for consumption, use or supply in the participating province. Accordingly, the person may be required to self-assess the provincial component of the HST on those payments. The exclusion from self-assessment for listed financial institutions will not apply to self-assessment on transitional transactions. Where self-assessment is required, the person would have to account for this tax in the person's first return filed after March 1997 or by August 1997, whichever is earlier, and remit the tax at the same time.

Where the prepayment becomes due after January 1997 but before April 1997, HST will be payable to the supplier on the portion of the prepayment attributable to services performed after March 1997. The provincial component of the HST will be considered to have become collectible by the supplier on April 1, 1997. The supplier will be required to account for and remit the provincial component of the HST by the due date of

the return for the first reporting period ending after March 1997.

Legal services and other specified services

As indicated above, HST will generally apply to services for which the consideration is neither paid nor invoiced before August 1997, even where the services are performed before April 1997. There will be an exception to this general rule for certain services, such as legal services or the services of a personal representative or trustee, receiver or liquidator. Specifically, where a person provides such services before April 1997 but is prevented under certain circumstances (e.g., until directed by a court) from having the payment become due before August 1997, HST will not apply.

For the purpose of this rule, all of the service will be considered to have been provided before April 1997 if substantially all of such services are performed before April 1997.

Passenger transportation

The general rule for passenger transportation is that HST does not apply where a passenger transportation service is commenced before April 1997, provided that the payment for the service becomes due before August 1997.

Example 13-10

A traveller purchases a round-trip ticket for travel from St. John's to Halifax on March 31, 1997 and returning to St. John's on April 5, 1997. HST does not apply provided that the consideration for the ticket becomes due before August 1997.

Where a prepayment is made without becoming due or becomes due after January 1997 but before April 1997 for a passenger transportation service to commence after March 1997 (other than for a transportation pass as discussed below), the consideration will be deemed to have become due

and to have been paid on April 1, 1997 and will therefore be subject to HST. The supplier will be required to collect and remit the provincial component of the HST with the return for its first reporting period ending after March 1997.

HST will not be payable on the sale of a transportation pass that entitles an individual to transportation services during a period beginning before April 1997 and ending before May 1997.

Where a transportation pass entitles an individual to transportation services during a period beginning before April 1997 and ending after April 1997, HST will apply only to the portion of the consideration that is attributable to services made available after March 1997, provided the consideration becomes due after January 1997 but before August 1997. Any consideration for a taxable transportation service that becomes due after July 1997 will be fully subject to HST regardless of when the service is provided.

Freight transportation

HST will not apply to a continuous freight transportation service beginning before April 1997 provided the payment for the service becomes due or is paid before August 1997.

Funeral services

HST will not be payable on funeral services provided after March 1997 where an individual entered into an arrangement in writing for the services before April 1997. If a new agreement is made after March 1997, HST will apply to services that are rendered after March 1997.

Supplies of intangible personal property

General rule

HST will not be payable on any consideration for intangible personal property that becomes due before April 1997. Any

consideration that becomes due after March 1997 will be subject to HST regardless of when the ownership of the property is transferred.

Example 13-11

A lump-sum payment made in March 1997 to an author for rights associated with a book written by the author will not be subject to HST.

There will be exceptions to this general rule for memberships, admissions, rents, royalties and similar payments. These exceptions are described under the following three subheadings.

Memberships and admissions

For purposes of the transitional rules, memberships in a club, organization or association and admissions will generally be treated like services. Special rules for lifetime memberships are described under the next subheading.

Example 13-12

On March 1, 1997, a person purchases a membership in a fitness club for the period from March 1, 1997 to June 30, 1997. The provincial component of the HST is payable on 75 per cent of the consideration, i.e. representing three of the four months.

Notwithstanding the general rule for admissions, where any admissions to an event are sold on or before ANNOUNCEMENT DATE, HST will not apply to any of the admissions to that event. This will ensure that the same treatment applies to all admissions to a particular event.

Lifetime memberships

Payments for lifetime memberships becoming due after March 1997 will be subject to HST.

Where the amount paid as consideration for a lifetime membership after ANNOUNCEMENT DATE but before April 1997 exceeds 25 per cent of the total consideration for the membership, the excess will be treated as having become due on April 1, 1997 and as not having been paid before that date. Accordingly, it will be subject to HST.

Example 13-13

60 per cent of the consideration for a taxable lifetime membership is paid in March 1997 and 40 per cent is paid after March. The post-March payment will be subject to the HST, which will also apply to that part of the pre-April payment that exceeds 25 per cent of the total contribution, i.e. 35 per cent. As a result, 75 per cent of the total consideration will be subject to the HST.

Rents and royalties and similar payments

Rents, royalties or similar payments becoming due after ANNOUNCEMENT DATE but before February 1997 from a person other than a consumer will be subject to HST to the extent that the payment is attributable to a period after March 1997. In these cases, the person will be subject to the self-assessment rules in Chapter 5 as if the intangible personal property had been acquired primarily for consumption, use or supply in the participating province after March 1997. Accordingly, the person may be required to self-assess the provincial component of the HST on those payments. The exclusion from self-assessment for listed financial institutions will not apply to self-assessment on transitional transactions. Where self-assessment is required, the person would have to account for this tax in the person's first return after March 1997 or by August 1997, whichever is earlier, and remit the tax at the same time.

The HST will also apply to the portion of a prepayment made or becoming due after January 1997 but before April 1997 to the extent that the payment is attributable to a period after March 1997. In these cases, the provincial

component of the HST will be considered to have become collectible by the supplier on April 1, 1997. The supplier will therefore be required to account for the provincial component of the HST by the due date of the return for the supplier's first reporting period ending after March 1997.

HST will not apply to any prepayment that became due on or before ANNOUNCEMENT DATE.

Direct sellers

Direct sellers distribute their products to final purchasers through independent sales contractors (ISCs) rather than through retail establishments. The alternate collection method (ACM) provides direct sellers (or alternatively their distributors) with the option of ignoring, for sales tax purposes, sales to ISCs of exclusive products of the direct seller and, instead, calculating their net tax liability as if the sales had been made directly to final purchasers for the suggested retail price of the products.

Where the ACM is in use on April 1, 1997 and exclusive products of the direct seller are held in the inventory of ISCs for sale in a participating province, all those ISCs (other than a distributor who has elected under the ACM to account for tax) will be deemed to have made a supply of each of those exclusive products to the direct seller (or distributor where applicable) immediately before April 1997 and to have received immediately after March 1997 a supply by way of sale of each of the products. The direct seller (or the distributor where applicable) will be entitled to a refund of any provincial retail sales tax that may have been pre-collected on those products. The direct seller (or distributor) will then calculate the provincial component of the HST on the suggested retail price of each of these products and report and remit that tax with the return for the first reporting period ending after March 1997.

Price adjustments

The following transitional rules will apply where a person purchases goods before April 1997 that are subject to provincial retail sales tax, but returns them after April 1997 and before August 1997:

- where the good is returned and a full refund is given, the provincial retail sales tax will be refunded;
- there will be no provincial retail sales tax refund, and the provincial component of the HST will not be payable if the property is exchanged for other property of equal consideration;
- where the exchange is made before August 1997 and results in a partial refund to the purchaser, the provincial component of the HST will not be payable on the replacement article. Moreover, the purchaser will be entitled to recover the provincial retail sales tax on the partial refund;
- where the exchange is made before August 1997 and results in an extra payment to the vendor, no provincial retail sales tax will apply; however, HST will apply to the additional payment; and
- no provincial retail sales tax adjustments will be allowed for returns made after July 1997.

The following rules will apply where a person purchases goods before April 1997 that are not subject to provincial retail sales tax and returns them in April 1997:

- the provincial component of the HST will not apply if the exchange is invoiced or paid for before August 1997 and the property is exchanged for property of equal consideration; and
- if the exchange of goods results in an extra payment to the vendor, HST will apply only on the additional payment.

Goods in transit on April 1, 1997

For goods in transit on April 1, 1997 purchased without the payment of HST and brought into a participating province on or after that date, the self-assessment rules set out in Chapter 5 will apply.

Winding down the provincial retail sales tax systems

After March 1997, existing provincial retail sales taxes in the participating provinces will cease to apply to:

- any sale of goods where ownership and possession are transferred to the purchaser after March 1997;
- the sale of goods or a service delivered, performed or made available on a continuous basis by means of a wire, pipeline or other conduit, to the extent that the property or service is delivered, performed or made available, as the case may be, after March 1997;
- payments or the portion thereof for leases or rentals of goods that are attributable to a period after March 1997; and
- any goods brought into the province after March 1997.

All final provincial retail sales tax returns must be filed on or before the existing filing due date or by a date to be determined by the individual provinces, whichever is earlier.

Assessment, appeal and enforcement provisions under the provincial retail sales tax systems will remain in place to apply to past transactions where the statute-barred periods have not expired.

Generally, refunds and rebates of provincial tax will remain in place until the existing time limits for claiming them have expired for the transactions to which they relate. An exception is provided for refunds for returned goods (see section on Price Adjustments).

The current *Excise Tax Act* general anti-avoidance rule will also apply to any transaction to which the transitional provisions apply for purposes of the HST.

Glossary of Terms

The *Excise Tax Act* contains definitions of many of the terms listed below. Other new terms will be defined in legislation implementing the HST. The definitions contained in this appendix are intended only to assist the reader in understanding the concepts described in this document. These explanations do not replace the definitions that are or will be included in legislation.

All or substantially all is generally taken to mean at least 90 per cent. Compare: *primarily; exclusively*.

Commercial activity means a business carried on by a person or an adventure or concern in the nature of trade (other than a business, or adventure or concern, engaged in by an individual, a personal trust, or a partnership comprised solely of individuals, without a reasonable expectation of profit) except to the extent that the business or adventure involves the making of exempt supplies by the person. The definition also includes the making of a supply (other than an exempt supply) of real property and anything done in the course of or in connection with the making of the supply.

Consideration for a supply includes any amount (whether money, property or a service), net of sales tax, paid or payable to the supplier by the recipient in respect of the supply.

Consumer means an individual who acquires or imports property or a service for the personal use or consumption of that individual (or of another individual) and not for use in a commercial activity or in the making of an exempt supply by the individual.

Drop-shipment generally refers to a situation involving the transfer of physical possession of tangible personal property by a registrant to a person in Canada on behalf of an unregistered non-resident. The drop-shipment rules are contained in section 179 of the *Excise Tax Act*.

Exclusively means all or substantially all (i.e. generally 90 per cent or more) except in the case of financial institutions, for which it means all (i.e. 100 per cent). Compare: ***all or substantially all; primarily***.

Exempt supplies are supplies listed in Schedule V to the *Excise Tax Act*, such as those relating to used residential real property, health care services, educational services, child and personal care services, public sector bodies, and financial services. A person who makes exempt supplies is not required to charge GST or HST in respect of the supply and is not entitled to claim input tax credits to recover tax paid on inputs used in making those supplies. Compare: ***taxable supplies; zero-rated supplies***.

Financial services are those services that would be commonly associated with the supply of financial instruments such as debt securities, equity securities and insurance policies. Generally, any person involved in the provision of, arranging for, or the agreeing to provide an exempt financial service is not eligible to claim input tax credits in respect of tax paid on the inputs used in the making of that exempt supply.

f.o.b. is an acronym for ***free on board***, which is a common way of stating the terms of delivery for sales of goods. Terms of delivery are relevant for purposes of the place-of-supply rules outlined in Chapter 4.

Harmonized Sales Tax (HST) is the single harmonized value-added tax that will replace the Goods and Services Tax (GST) and the provincial retail sales taxes in Nova Scotia, New Brunswick, and Newfoundland and Labrador on April 1, 1997. It will apply at a rate of 15 per cent to those goods and services that are currently subject to GST.

HST (see Harmonized Sales Tax).

Intangible personal property generally refers to property that is a “right” rather than a physical object. Examples include goodwill, trademarks, copyrights and franchises. Compare: **tangible personal property; real property; service.**

Non-commercial goods are goods that are neither for sale nor for any other commercial, industrial, occupational, institutional or other like use. This term is relevant for purposes of the rules relating to goods imported into Canada.

Non-participating provinces include Prince Edward Island, Quebec, Ontario, Manitoba, Saskatchewan, Alberta, British Columbia, the Northwest Territories and the Yukon.

Non-resident, means not resident in Canada

Participating provinces refers to Nova Scotia, New Brunswick, and Newfoundland and Labrador.

Permanent establishment is defined for purposes of the GST in subsection 123(1) of the *Excise Tax Act*. The definition refers to a fixed place of business of a particular person and, in some circumstances, a fixed place of business of another person, through which the particular person makes supplies. For certain purposes under the HST, the definition of permanent establishment will be based on the definitions in the *Income Tax Act Regulations* that are used for the allocation of taxable income to the provinces.

Person means an individual, partnership, corporation, trust or estate, or a body that is a society, union, club, association, commission or other organization of any kind.

Primarily is generally taken to mean more than 50 per cent. Compare: *all or substantially all; exclusively*.

Property means any property, whether real or personal, but does not include money.

Real property includes:

- (a) in respect of property in the Province of Quebec, immovable property and every lease thereof;
- (b) in respect of property in any other place in Canada, messuages, lands and tenements, of every nature and description and every estate or interest in real property, whether legal or equitable; and
- (c) a mobile home, a floating home and any leasehold or proprietary interest therein.

Recipient of a supply of property or a service means the person who is liable to pay the consideration for the supply. Where no consideration is payable for the supply, the recipient is the person to whom the property is delivered or made available or, in the case of a service, the person to whom the service is rendered.

Registrant means a person who is, or is required to be, registered under Part IX of the *Excise Tax Act*.

Resident For purposes of the HST, certain persons will be deemed to be resident in a particular province in specified circumstances. These rules will be based on the deeming rules contained in subsection 132(1) of the *Excise Tax Act*. For example, a corporation will be deemed to be resident in a particular province if it is incorporated in that province. In addition, for some purposes, as noted in this paper, the residence of an individual will be deemed to be the individual's mailing address. Also, a person will be regarded as resident in a particular province if the person has a permanent establishment in that province. Finally, a person may be regarded as resident in a particular province based on general legal principles.

Sale, in respect of property, includes any transfer of ownership of the property or transfer of possession under an agreement to transfer ownership of the property.

Service means anything other than property, money or a service rendered by an employee to an employer. Compare: **tangible personal property; intangible personal property; real property.**

Settlers' effects refers to imported property that is relieved of customs duty under tariff heading 9807, and relieved of GST under section 1 of Schedule VII to the *Excise Tax Act*. This includes most goods imported by a settler for personal or household use that were owned, possessed and used abroad by the settler prior to arrival in Canada. The rules relating to settlers' effects brought into a participating province from elsewhere in Canada are described in Chapter 5.

Small supplier generally refers to a person whose total revenue from taxable supplies (other than supplies of financial services and sale of capital property) made inside and outside Canada in the four preceding calendar quarters did not exceed \$30,000. The \$30,000 threshold is determined by reference to the aggregate of the taxable supplies made by the person and any associates of the person in that period. Special rules apply to taxi businesses, charities and non-profit organizations.

Stopover in respect of a continuous journey means any place an individual embarks or disembarks a conveyance used in the provision of a passenger transportation service for any reason other than transferring to another mode of conveyance or to allow for servicing or refuelling of the conveyance.

Substantially all (see *All or substantially all*).

Supplier, in respect of a supply, means the person making the supply (e.g. the vendor).

Supply means the provision of property or a service in any manner, including sale, transfer, barter, exchange, licence, rental, lease, gift or disposition.

Tangible personal property generally refers to property that can be touched or felt, but does not include real property. Compare ***intangible personal property; real property; service.***

Taxable supplies are supplies (including zero-rated supplies) that are made in the course of a commercial activity. Compare: ***exempt supplies; zero-rated supplies.***

Transportation pass means a pass that entitles an individual to passenger transportation services for a specific period of time.

Zero-rated supplies are supplies listed in Schedule VI to the *Excise Tax Act*, to which a tax rate of zero per cent applies, such as supplies of prescription drugs, medical devices, basic groceries, exported goods, and certain agriculture and fishing equipment. A registrant who makes zero-rated supplies in the course of a commercial activity is entitled to claim input tax credits for tax payable on purchases relating to the making of those supplies. Compare: ***exempt supplies; taxable supplies.***