

COURIER

Harmonized Sales Tax begins

On July 1, Ontario and British Columbia joined Nova Scotia, Newfoundland & Labrador, and New Brunswick in harmonizing their provincial sales taxes with the federal Goods and Services Tax (GST.)

The new Harmonized Sales Tax (HST) blends the current provincial sales tax (PST) with the GST to create a single sales tax to be applied to all applicable goods and services. In Ontario, which formerly had an eight per cent provincial sales tax, the new HST will amount to 13 per cent. In British Columbia, which had a seven per cent PST, the HST rate will total 12 per cent.

HST and group insurance

The impact of the new tax regime on group benefit plans will vary considerably. The following is an outline of the anticipated impact of the blended tax on group benefits plans:

- **"Pure" administrative services only (ASO) plans, cost plus accounts and health care spending accounts (HSAs) with no insurance element:** Services in these contracts that used to attract the five per cent federal GST will now be subject to the HST.
- **ASO plans with insurance elements such as stop-loss arrangements or large amount pooling:** These plans will continue to have the retail sales tax applied to them.
- **Consulting fees:** These fees, which used to be subject to the GST, will now be subject to the HST. However, they will continue to be eligible for the Input Tax Credit.
- **Disability (case) management fees:** Case management services in respect to disability claims will now be subject to the HST instead of the GST.
- **Insurance premiums:** Premiums paid under any insurance arrangement will *not* be subject to the HST. However, they will continue to be subject to the eight per cent retail sales tax in

Ontario. In British Columbia, insurance premiums are exempt from retail sales taxes.

- **Some medical and paramedical services claimed under employee benefit plans:** Prior to July 1, claims for these services were subject to the five per cent GST. Effective July 1, the full HST will now be applied to them. For example, before July 1, a service that cost \$100 would have been subject to a \$5.00 tax, for a total bill of \$105. Now, it will face a harmonized tax, with a total charge amounting to \$113 in Ontario or \$112 in British Columbia.



Exemptions

As was the case prior to July 1, various medical and dental services and procedures that were exempt from taxation will remain exempt. These include the following:

- visits to the doctor or dentist, provided the services are performed for medical reasons;
- prescription medications; and
- medical devices including hearing aids, wheelchairs, artificial teeth and walkers.

Available tax credit

As with the GST, employers may continue to recover the HST paid as part of the Input Tax Credit.

Place of supply reporting

The new tax will be applied based on the **place of supply** at billing.

The rules determining what constitutes the place of supply — and the tax that may be attributable as a result — are complex. Essentially, the federal Department of Finance uses a tiered approach to determine tax attribution, based on a number of scenarios. They are as follows:

1. Generally, the *contracting address* of the recipient of a supply or service should be used to determine the tax jurisdiction and if any HST is owed. When a recipient of a supply or service is a corporation, the company's head office could be used as the contracting address.
2. However, the situation could change if the organization uses two addresses in the course of performing a service. In such cases, the contracting address could be *the one that is most closely connected with the supply*. For example, if the company's head office and accounts payable office is located in Alberta, where there is no HST, but the service is primarily performed for the corporation's Ontario office, then the Ontario HST would be applied.
3. In situations where three or more addresses in different provinces may be involved, Rule #2 would still apply: The office where the services were *primarily performed* would be considered the contracting office for tax purposes, even if a number of services were provided to the other offices.
4. In cases where only one address is provided, then only that address should be used for HST calculations. For example, if a Quebec company provides a service for an organization that has only provided it with an address in Ontario, then the Ontario HST should be applied.
5. If the above rules cannot be applied, then the jurisdiction where the *greatest proportion of the service is primarily performed* will be considered the applicable jurisdiction for tax purposes. For example, if a service is performed in four provinces but more than 50 per cent is performed in one province, then that province's tax rules would apply.
6. If two or more provinces have the same proportion of service (for example, two provinces each have a 40 per cent share of the performed service while the remaining provinces comprise 20 per cent of the performed service), then the province where the business address of the supplier *that is most closely connected with the supply* will be used. If the supply is not located in one of the specified provinces, then the tax regime of the *province that is closest in proximity to the business address of the supplier* will be applied.

Trustee services for trusts governing RRSPs, RRIFs, RESPs, TFSAs, or RDSPs

Services or supplies of trusts governing registered retirement savings plans (RRSPs), registered retirement income funds (RRIFs), registered education savings plans (RESPs), tax-free savings accounts (TFSAs) and registered disability savings plans (RDSPs), will be applied based on the *mailing address of the annuitant* (or subscriber in the case of RESPs.)

For example, if a trustee in Quebec provides a service for trust governing an RRSP where the annuitant has a mailing address in Ontario, then the Ontario HST will be applied.

For more information on tax attribution relating to the HST, see the June 2010 **GST/HST Technical Information Bulletin B103: Harmonized Sales Tax place of supply rules for determining whether a supply is made in a province** published by the Canada Revenue Agency available at www.cra-arc.gc.ca. Key-in *Place of supply rules* in the on-site search engine.

Impact on plan sponsors

The new tax will result in some administrative modifications as any expenses that attract HST will now be excluded from the definition of taxable premium for RST purposes. This means that Coughlin's fees will now attract HST. On the other hand, those fees will no longer be included in the RST taxable premium base. As a result, the effect of this change will be negligible. If anything, the HST may actually reduce costs for some plan sponsors as the Input Tax Credit system will now include both the federal and provincial tax components. Plan sponsors are urged to consult their tax advisors for clarification on how they can claim ITCs.

It should be noted that the HST is still not legislated, nor are its various rules and administrative procedures or documents. We are continuing to receive memoranda from our insurance industry partners and other sources outlining their interpretations and positions based on the government's proposals. We expect the confusion on this issue to continue as new questions and amendments are generated. 🗨️

HST by province

Following are the applicable Harmonized Sales Tax rates by province.

Province	HST rate
British Columbia	12%
Ontario, New Brunswick and Newfoundland & Labrador	13%
Nova Scotia	15%
Alberta, Manitoba, Prince Edward Island, Quebec, Saskatchewan, Yukon, Nunavut, North-West Territories	Nil (Separate GST and PST taxes.)