

General Transitional Rules for Ontario HST

The 2009 Ontario Budget proposed a comprehensive package of tax changes. Central to this tax package is the proposed Harmonized Sales Tax for Ontario (HST), which, subject to legislative approval, would come into effect on July 1, 2010.

This Notice provides details of proposed measures that would build on Ontario's comprehensive tax package and help consumers and businesses transition to the HST.

The Notice provides general descriptions of transitional rules for the HST that will be proposed to be enacted in the federal *Excise Tax Act* (ETA). It also provides general descriptions of provincial measures that will be proposed to be enacted to wind down the applicable provisions of the *Ontario Retail Sales Tax Act* (RSTA).

TABLE OF CONTENTS

Overview	2	Direct Sellers.....	8
Introduction of HST	2	Continuous Supplies.....	8
Tangible Personal Property.....	2	Budget Payment Arrangements.....	8
General Rules.....	2	Combined Supplies.....	9
Subscriptions to Newspapers, Magazines or Other Periodical Publications.....	3	Progress Payments/Holdbacks.....	9
Services.....	3	Property and Services Brought into Ontario.....	10
General Rules.....	3	Imported Goods.....	11
Arrangements for Prepaid Funeral and Cemetery Services.....	4	Imported Taxable Supplies.....	11
Passenger Transportation Services.....	5	Winding Down the RST	11
Freight Transportation Services.....	5	General Rules.....	11
Leases and Licences.....	5	Disclosure Requirements for Tax-Included Pricing in Transitional Period.....	12
General Rules.....	5	Final RST Returns.....	12
Commercial Parking Passes.....	6	RST Refunds and Rebates.....	13
Intangible Personal Property.....	6	Assessments, Objections, Appeals and Enforcement.....	13
General Rule.....	6	Other Circumstances.....	13
Memberships.....	7	Transitional RST Inventory Rebate for Residential Real Property Contracts	13
Admissions.....	7	Returns and Exchanges	13
Passenger Transportation Passes.....	7	Anti-Avoidance	14
Real Property (Other than Residential Housing).....	8	Additional Information	14
Other Transitional Rules.....	8		

OVERVIEW

It is proposed that, effective July 1, 2010, Ontario's Retail Sales Tax (RST) be replaced with the HST. The HST would have a combined tax rate of 13 per cent — combining the existing five per cent federal Goods and Services Tax (GST) and an eight per cent Ontario component. The HST would be administered by the Canada Revenue Agency.

Transitional rules are required to determine which tax — the existing RST or the Ontario component of the HST — would apply to transactions that straddle the July 1, 2010 implementation date for the HST.

The transitional rules would operate on the basis of the following dates:

- **July 1, 2010** — Implementation date for the HST.
 - May 1, 2010 — The HST would generally apply to consideration that becomes due, or is paid without having become due, on or after this date for property and services provided on or after July 1, 2010.
 - October 14, 2009 — The release date of this Notice. The HST would not apply to consideration that becomes due, or is paid without having become due, on or before October 14, 2009. Certain businesses and public service bodies may be required to self-assess the Ontario component of the HST on consideration that becomes due, or is paid without having become due, after October 14, 2009 and before May 2010 for property and services provided on or after July 1, 2010.
- **October 31, 2010** — This is the date on which any outstanding RST would become payable under the transitional rules to facilitate the efficient wind-down of the RST.

The transactions described in this Notice are generally those that, for purposes of the ETA, would be considered to be taxable supplies made in Ontario.

These transitional rules generally operate on the basis of the earlier of when consideration for a supply becomes due or is paid without having become due. Under the ETA, consideration for a supply becomes due on the earliest of the day the supplier first issues an invoice with respect to the supply; the date of the invoice; the day the supplier would have, but for undue delay, issued an invoice with respect to the supply; and the day the recipient of the supply is required to pay the consideration pursuant to a written agreement.

Unless otherwise stated, or the circumstances otherwise require, the definitions and concepts in the ETA would apply to the transitional rules described in this Notice.

INTRODUCTION OF HST

This part of the Notice describes the general transitional rules for the introduction of the HST. These rules should be read in conjunction with the general transitional rules for the wind-down of the RST, as described in the RST wind-down part below. Taken together, the HST and RST transitional rules are complementary and would provide for a smooth transition to the HST.

TANGIBLE PERSONAL PROPERTY

This section describes general transitional rules for supplies of tangible personal property (i.e., goods) by way of sale, as well as specific transitional rules for subscriptions to periodical publications.

General Rules

The HST would generally apply to a supply of goods by way of sale to the extent that the goods are delivered, and ownership of the goods is transferred, to the recipient of the supply on or after July 1, 2010.

Consideration due or paid on or after July 1, 2010

The HST would generally apply to consideration that becomes due, or is paid without having become due, on or after July 1, 2010 for a supply of goods by way of sale, to the extent that the consideration is for goods that are delivered, and for which ownership is transferred, to the recipient of the supply on or after July 1, 2010.

Example 1:

In May 2010, a person enters into an agreement to purchase furniture. Under the agreement, the person takes delivery of the furniture in July 2010, makes 12 monthly payments between July 2010 and June 2011, and receives ownership of the furniture when all the payments have been made. The HST would apply to the sale of the furniture.

Consideration due or paid on or after May 1, 2010 and before July 2010

The HST would generally apply to consideration that becomes due, or is paid without having become due, on or after May 1, 2010 and before July 2010 for a supply of goods by way of sale, to the extent that the consideration is for goods that are delivered, and for which ownership is transferred, to the recipient of the supply on or after July 1, 2010.

General Transition Rules for Ontario HST

In such circumstances, the supplier would be required to account for the Ontario component of the HST in the GST/HST reporting period of the supplier that includes July 1, 2010. The recipient of the supply would be able to claim any available input tax credits with respect to the Ontario component of the HST in the GST/HST reporting period of the recipient that includes July 1, 2010.

Example 2:

In June 2010, a person pays for a sailboat, but the sailboat will not be delivered, and ownership will not be transferred, to the person until August 2010. The HST would apply to the sale and the supplier would account for the Ontario component of the HST in the GST/HST reporting period of the supplier that includes July 1, 2010.

Consideration due or paid after October 14, 2009 and before May 2010.

Persons who are not consumers — such as businesses and public service bodies — may be required to self-assess the Ontario component of the HST on consideration that becomes due, or is paid without having become due, after October 14, 2009 and before May 2010 for a supply of goods by way of sale, to the extent that the consideration is for goods that are delivered, and for which ownership is transferred, to the recipient of the supply on or after July 1, 2010.

The requirement to self-assess in these circumstances would generally apply only to:

- non-consumers acquiring the goods for consumption, use or supply otherwise than exclusively in the course of their commercial activities (e.g., a business, such as a financial institution, that is acquiring the goods to make GST/HST-exempt supplies);
- non-consumers acquiring the goods for consumption, use or supply exclusively in the course of their commercial activities but in circumstances where the goods would be subject to an input tax credit restriction or recapture (e.g., electricity subject to the proposed input tax credit restriction for large businesses that is described in the 2009 Ontario Budget);
- non-consumers that use simplified procedures available under the ETA for calculating their net tax (e.g., certain charities, public service bodies, and small businesses); and

- selected listed financial institutions, which use a special attribution method in determining their net tax. a person who is required to self-assess in these circumstances would be required to account for the tax either: (i) in the GST/HST return of the person for the reporting period that includes July 1, 2010, if the due date for that return is before November 2010, or (ii) in any other case, in prescribed form and before November 2010.

Example 3:

In February 2010, a selected listed financial institution (SLFI) that is a monthly GST/HST filer is invoiced for security equipment for which delivery occurs, and ownership is transferred, in July 2010. The SLFI must self-assess the Ontario component of the HST on the consideration for the equipment in its GST/HST return in which the self-assessed tax is required to be reported.

Subscriptions to Newspapers, Magazines or Other Periodical Publications

Notwithstanding the general transitional rules for supplies of goods by way of sale, the HST would generally not apply to consideration that is paid before July 2010 for a subscription to a newspaper, magazine or other periodical publication.

Example 4:

In June 2010, a person pays for an annual subscription to a magazine. Editions of the magazine will be delivered each month for 12 months starting in July 2010. The HST would not apply to payment for the subscription.

SERVICES

This section describes the general transitional rules for supplies of services, as well as specific transitional rules for funeral and cemetery services, passenger transportation services and freight transportation services.

General Rules

The HST would generally apply to a supply of a service to the extent that the service is performed on or after July 1, 2010. The HST would generally not apply, however, to a supply of a service if all or substantially all (90 per cent or more) of the service is performed before July 2010.

Consideration due or paid on or after July 1, 2010 the HST would generally apply to consideration that becomes due, or is paid without having become due, on or after July 1, 2010 for a supply of a service, to the extent that the consideration is for the part of the service that is performed on or after July 1, 2010.

Example 5:

A person hires a consulting firm to perform a service during the summer of 2010 but is not invoiced, and does not pay, for the service until August 2010. One-third of the service is performed in each of the months of June, July and August 2010. The HST would apply to the consideration that is for the part of the service performed in July and August (i.e., two-thirds of the consideration).

Consideration due or paid on or after May 1, 2010 and before July 2010. The HST would generally apply to consideration that becomes due, or is paid without having become due, on or after May 1, 2010 and before July 2010 for a supply of a service to the extent that the consideration is for the part of the service that is performed on or after July 1, 2010.

In such circumstances, the supplier would be required to account for the Ontario component of the HST in the GST/HST reporting period of the supplier that includes July 1, 2010. The recipient of the supply would be able to claim any available input tax credits with respect to the Ontario component of the HST in the GST/HST reporting period of the recipient that includes July 1, 2010.

Example 6:

In May 2010, a person pays for seasonal yard maintenance service, 50 per cent of which will be performed after June 2010. The HST would apply to 50 per cent of the consideration for that service and the supplier would account for the Ontario component of the HST in the GST/HST reporting period of the supplier that includes July 1, 2010.

Consideration due or paid after October 14, 2009 and before May 2010

Persons who are not consumers - such as businesses and public service bodies - may be required to self-assess the Ontario component of the HST on consideration that becomes due, or is paid without having become due, after October 14, 2009 and before May 2010 for a supply of a service, to the extent that the consideration is for the part of the service that is performed on or after July 1, 2010.

The requirement to self-assess in these circumstances would generally apply only to:

- non-consumers acquiring the service for consumption, use or supply otherwise than exclusively in the course of their commercial activities (e.g., a business, such as a financial institution, that is acquiring the service to make GST/HST-exempt supplies);
- non-consumers acquiring the service for consumption, use or supply exclusively in the course of their commercial activities but in circumstances where the service would be subject to an input tax credit restriction or recapture (e.g., certain entertainment expenses subject to the 50 per cent input tax credit recapture rules in the ETA);
- non-consumers that use simplified procedures available under the ETA for calculating their net tax (e.g., certain charities, public service bodies and small businesses); and
- selected listed financial institutions, which use a special attribution method in determining their net tax.
- A person who is required to self-assess in these circumstances would be required to account for the tax either: (i) in the GST/HST return of the person for the reporting period that includes July 1, 2010, if the due date for that return is before November 2010, or (ii) in any other case, in prescribed form and before November 2010.

Example 7:

In December 2009, a company making both taxable and exempt supplies is invoiced for a supply of a janitorial service, part of which will be performed after June 2010. The company must self-assess the Ontario component of the HST on the consideration that is for the part of the service to be performed after June 2010. The company could claim any available input tax credits with respect to that tax in the reporting period of the company that includes July 1, 2010.

Arrangements for Prepaid Funeral and Cemetery Services

Notwithstanding the general transitional rules for supplies of services, the HST would not apply to consideration for the part of a funeral or cemetery service that is performed on or after July 1, 2010 if the service is supplied pursuant to an arrangement in writing that was entered into before July 2010.

General Transition Rules for Ontario HST

This rule would only apply if it was reasonable, at the time the arrangement was entered into, to expect that all or a part of the consideration for the service would be paid (or put into trust) before the service is performed.

This rule would also apply to a supply of property relating to the funeral, burial or cremation of an individual if the property is provided under an arrangement for the provision of a prepaid funeral or cemetery service that is relieved under this rule.

Passenger Transportation Services

Notwithstanding the general transitional rules for supplies of services, the HST would not apply to consideration for the part of a passenger transportation service that is performed on or after July 1, 2010 if the passenger transportation service is part of a continuous journey that begins before July 2010.

Example 8:

In June 2010, a person pays for round-trip air travel as part of a continuous journey from Toronto to Ottawa on June 30, 2010, and from Ottawa to Toronto on July 2, 2010. The HST would not apply to the payment for the round-trip air travel.

For information about the transitional rules for passenger transportation passes, see the Intangible Personal Property section of this Notice.

Freight Transportation Services

Notwithstanding the general transitional rules for supplies of services, the HST would not apply to consideration for the part of a freight transportation service that is performed on or after July 1, 2010 if the service is part of a continuous freight movement of goods that begins before July 2010.

LEASES AND LICENCES

This section describes general transitional rules for property — including goods, intangible personal property, non-residential real property (including transient accommodations for RST purposes) and commercial real property — that is supplied by way of lease, licence or similar arrangement, the consideration for which is rent, royalties or similar payments.

This section does not apply to supplies of intangible personal property where the payments do not vary with the amount of use or profits from the property

(e.g., a lump-sum payment for a supply of a copyright). For such supplies, see the Intangible Personal Property section of this Notice.

General Rules

The HST would generally apply to a supply of property by way of lease, licence or similar arrangement for the part of a lease interval that occurs on or after July 1, 2010. The HST would not, however, apply to a supply of property by way of lease, licence or similar arrangement if the lease interval begins before July 2010 and ends before July 31, 2010.

Example 9:

A person makes a car lease payment for the lease interval from June 15, 2010 to July 14, 2010. The HST would not apply to the lease payment (regardless of when the payment was made).

Consideration due or paid on or after July 1, 2010

The HST would generally apply to consideration that becomes due, or is paid without having become due, on or after July 1, 2010 for a supply of property by way of lease, licence or similar arrangement, to the extent that the consideration is for the part of a lease interval that occurs on or after July 1, 2010 (unless the lease interval begins before July 2010 and ends before July 31, 2010).

Example 10:

A monthly car lease payment becomes due and is paid on July 1, 2010 for the lease interval from July 1, 2010 to July 31, 2010. The HST would apply to the lease payment.

Consideration due or paid on or after May 1, 2010 and before July 2010

The HST would generally apply to consideration that becomes due, or is paid without having become due, on or after May 1, 2010 and before July 2010 for a supply of property by way of lease, licence or similar arrangement, to the extent that the consideration is for the part of a lease interval that occurs on or after July 1, 2010 (unless the lease interval begins before July 2010 and ends before July 31, 2010).

In such circumstances, the supplier would be required to account for the Ontario component of the HST in the GST/HST reporting period of the supplier that includes July 1, 2010. The recipient of the supply would be able to claim any available input tax credits with respect to the

Ontario component of the HST in the GST/HST reporting period of the recipient that includes July 1, 2010.

Example 11:

On May 1, 2010, a lease payment becomes due and is paid for a site in a recreational campground. The lease interval is six months (May 1, 2010 through October 31, 2010). The part of the payment for the months of May and June would not be subject to the HST but the part of the payment for the months of July, August, September and October would be subject to the HST.

Consideration due or paid after October 14, 2009 and before May 2010

Persons who are not consumers — such as businesses and public service bodies — may be required to self-assess the Ontario component of the HST on consideration for a supply of property by way of lease, licence or similar arrangement that becomes due, or is paid without having become due, after October 14, 2009 and before May 2010, to the extent that the consideration is for the part of a lease interval that occurs on or after July 1, 2010 (unless the lease interval begins before July 2010 and ends before July 31, 2010).

The requirement to self-assess in these circumstances would generally apply only to:

- non-consumers acquiring the property for consumption, use or supply otherwise than exclusively in the course of their commercial activities (e.g., a business, such as a financial institution, that is acquiring the property to make GST/HST-exempt supplies);
- non-consumers acquiring the property for consumption, use or supply exclusively in the course of their commercial activities but in circumstances where the property would be subject to an input tax credit restriction or recapture (e.g., leased passenger vehicles where the monthly lease payment exceeds \$800);
- non-consumers that use simplified procedures available under the ETA for calculating their net tax (e.g., certain charities, public service bodies, and small businesses); and
- selected listed financial institutions, which use a special attribution method in determining their net tax.

A person who is required to self-assess in these circumstances would be required to account for the tax either: (i) in the GST/HST return of the person for the reporting period that includes July 1, 2010, if the due date for that return is before November 2010, or (ii) in any other case, in prescribed form and before November 2010.

Example 12:

In February 2010, a business using the Quick Method of accounting under the ETA leases equipment and makes a lease payment for a five-month lease interval that begins on May 1, 2010 and ends on September 30, 2010. The business would self-assess the Ontario component of the HST on the portion of the lease payment for the part of the lease interval that occurs on or after July 1, 2010 (i.e., three out of the five months or 60 per cent of the lease payment). Assuming the business has a calendar quarterly reporting period, it would be required to account for the Ontario component of the HST in its GST/HST return that is due on October 31, 2010.

Commercial Parking Passes

A supply of a commercial parking pass would be treated as a supply of non-residential real property by way of lease, licence or similar arrangement for the purposes of the transitional rules for the HST.

The special disclosure requirements for tax-included pricing may apply as described in the RST wind-down part of this Notice.

INTANGIBLE PERSONAL PROPERTY

This section describes a general transitional rule for supplies of intangible personal property (e.g., intellectual property or contractual rights) by way of sale, as well as specific transitional rules for memberships, admissions, and passenger transportation passes.

General Rule

The HST would generally apply to consideration that becomes due, or is paid without having become due, on or after July 1, 2010 for a supply of intangible personal property by way of sale.

Example 13:

In June 2010, a person pays a lump sum for the right to reproduce certain portions of a book. The HST would not apply to the payment.

Memberships

A supply of a membership in a club, organization or association would be deemed to be a supply of a service for purposes of the transitional rules. The general rules described in the Services section of this Notice would apply, with appropriate modifications, to a supply of such a membership (i.e., to the extent that the membership period occurs on or after July 1, 2010).

Example 14:

In June 2010, a person purchases a four-month membership in a fitness club for the months of June through September 2010. The HST would be payable with respect to three of the four months of the membership (i.e., on 75 per cent of the total consideration).

Lifetime memberships

If consideration for a lifetime membership in a club, organization or association becomes due, or is paid without having become due, after October 14, 2009 and before July 2010, and that consideration exceeds 25 per cent of the total consideration for the lifetime membership, the amount in excess of that 25 per cent portion would be treated as having become due on, and not to have been paid before, July 1, 2010 and would be subject to the HST.

In such circumstances, the supplier would be required to account for the Ontario component of the HST in the GST/HST reporting period of the supplier that includes July 1, 2010. The recipient of the supply would be able to claim any available input tax credits with respect to the Ontario component of the HST in the GST/HST reporting period of the recipient that includes July 1, 2010.

The requirement to pay the HST in these circumstances would apply both to a supply of a lifetime membership made in Ontario, and to a supply of a lifetime membership made outside the HST provinces to a person who is resident in Ontario.

Example 15:

Sixty per cent of the consideration for a lifetime membership is paid in January 2010 and 40 per cent is paid in July 2011. The July 2011 payment would be subject to the HST. In addition, the portion of the January 2010 payment that exceeds 25 per cent of the total consideration (i.e., 35 per cent of the total consideration) would also be subject to the HST.

Admissions

A supply of an admission to a place of amusement, a seminar, an event or an activity would be deemed to be a supply of a service for the purposes of the transitional rules. The general rules described in the Services section of this Notice would apply, with appropriate modifications, to a supply of such an admission (i.e., to the extent that the event or activity to which the admission relates occurs on or after July 1, 2010).

The disclosure requirements for tax-included pricing may apply as set out in the RST wind-down part of this Notice.

Example 16:

In May 2010, a vendor sells tickets to a professional hockey game that will take place in October 2010. The HST would apply to the sale.

Passenger Transportation Passes

Notwithstanding the general transitional rule for intangible personal property, the HST would generally apply to consideration that becomes due, or is paid without having become due, after October 14, 2009 for a supply of a passenger transportation pass that entitles an individual to passenger transportation services during a certain period (the pass period), to the extent that the consideration is for the part of the pass period that occurs on or after July 1, 2010. The HST would not, however, apply to a supply of a transportation pass if the pass period begins before July 2010 and ends before August 2010.

Example 17:

In May 2010, a vendor sells a bus pass that entitles the purchaser to unlimited access to commercial bus services between Toronto and Niagara Falls during a two-month pass period from June 1, 2010 to July 31, 2010. The HST would not apply to the consideration for the sale of the pass.

Subject to the specific transitional rules for passenger transportation passes described above, consideration that becomes due, or is paid without having become due, after October 14, 2009 and before July 2010 for a supply of a passenger transportation pass would be subject to transitional rules comparable to the general transitional rules described in the Services section of this Notice (i.e., to the extent that the pass period occurs on or after July 1, 2010).

For information about transitional rules for passenger transportation services, see the Services section of this Notice.

REAL PROPERTY (OTHER THAN RESIDENTIAL HOUSING)

The HST would generally apply to a supply of real property (other than residential housing) by way of sale in Ontario if both ownership and possession of the property are transferred to the purchaser on or after July 1, 2010.

Example 18:

In January 2010, a corporation enters into an agreement to sell a small shopping mall to an individual. Ownership and possession of the mall will transfer to the individual in August 2010. The HST would apply to the sale of the mall.

For information on transitional rules for commercial leases and non-residential rental property, see the Leases and Licences section of this Notice. For information about the transitional rules for new residential housing, see Information Notice No. 2, ***Helping Homebuyers and the Housing Industry with an Enhanced New Housing Rebate, a New Rental Housing Rebate and Transitional Rules***, dated June 18, 2009.

OTHER TRANSITIONAL RULES

Direct Sellers

If a direct seller (or approved distributor) is using the alternative collection method on July 1, 2010, and independent sales contractors (ISCs) of the direct seller hold exclusive products in their inventory at the beginning of that day that were sold to them by the direct seller and that are intended for sale in Ontario, the direct seller would be deemed to have made a supply of those products to the ISCs on July 1, 2010.

In such circumstances, the direct seller would be required to account for the applicable Ontario component of the HST on the suggested retail price of each of those products in the GST/HST return of the direct seller for the reporting period that includes July 1, 2010.

A direct seller would also be required to account for the Ontario component of the HST on the suggested retail price of exclusive products supplied to an ISC for which consideration becomes due, or is paid without having become due, after October 14, 2009 and before July 2010, to the extent that the products have not yet been delivered to the ISC as of July 1, 2010.

Continuous Supplies

The HST would generally apply to consideration for a supply of property or services delivered, performed or made available (as the case may be) on a continuous basis by means of a wire, pipeline or similar conduit or satellite or other telecommunications facility (e.g., natural gas, electricity, cable television, satellite television or cellular telephone services) to the extent that the consideration is for property or services that are delivered, performed or made available to the recipient of the supply on or after July 1, 2010.

If the supplier cannot reasonably determine when the property or services are delivered, performed or made available, the consideration for the supply would be prorated in equal parts according to the number of days in the period to which the consideration is attributable.

Example 19:

A supplier of electricity issues an invoice to a person for the period from June 16, 2010 to July 15, 2010 (inclusive). A meter reading was not done on June 30, 2010. The HST would apply to 50 per cent of the total amount payable, representing the 15 days out of the 30-day period that are on or after July 1, 2010.

Budget Payment Arrangements

If property (other than newspapers, magazines or other periodical publications supplied by way of subscription) or services are supplied under a budget payment arrangement (e.g., natural gas supplied under an equal-payments billing plan) during a period that straddles the July 1, 2010 implementation date, and the reconciliation of payments for that period of the budget payment arrangement occurs prior to July 2011, the supplier would be required to make an adjustment at the time of the reconciliation to account for any difference between:

- (a) the amount of the Ontario component of the HST that would have been payable for the property or services delivered, performed or made available on or after July 1, 2010 if the consideration for the property or services had become due on July 1, 2010 without having been paid before that date; and
- (b) the amount of the Ontario component of the HST that was payable by the recipient of the supply for the property or services during the period.

If the amount described in (b) is greater than the amount described in (a), the supplier would be required to refund or credit the difference to the recipient. If the amount

described in (a) is greater than the amount described in (b), the supplier would be required to collect the difference from the recipient.

If a supply of property or services delivered, performed or made available (as the case may be) on a continuous basis by means of a wire, pipeline or similar conduit or satellite or other telecommunications facility is made under a budget payment arrangement, and the time at which the property is delivered or the services are performed cannot reasonably be determined because of the method of recording the delivery of the property or the performance of the services, then the supply would, for the purposes of calculating the amount of the Ontario component of the HST that would be payable, be prorated in equal parts according to the number of days in the period to which the consideration is attributable.

Combined Supplies

If any combination of property and/or services is supplied together as a single supply and one of the items supplied is property of which ownership or possession has been transferred to the recipient of the supply before July 2010, and that property would not be subject to the HST under these general transitional rules if it were supplied separately, then the supply of that property would be deemed to be a separate supply from the other items for the purposes of the general transitional rules for the HST.

The combined supplies rule would not apply to sales of newly constructed or substantially renovated homes, which would be subject to the transitional rules for new residential housing. For information about the transitional rules for new residential housing, see **Information Notice No. 2, Helping Homebuyers and the Housing Industry with an Enhanced New Housing Rebate, a New Rental Housing Rebate and Transitional Rules**, dated June 18, 2009.

Example 20:

In May 2010, a contractor agrees to supply and install a dishwasher in a restaurant for a single consideration. The dishwasher is delivered, and possession transfers, in June 2010, and it is installed in July 2010. The HST would apply to the service of installing the dishwasher (because the service is performed on or after July 1, 2010), but it would not apply to the sale of the dishwasher (because delivery occurred before July 1, 2010). The contractor would pay RST on the dishwasher purchased for use in the supply- and- install contract.

Progress Payments/Holdbacks

The HST would generally apply to progress payments on contracts to construct, renovate, alter or repair (hereafter referred to as “construct”) real property or ships or other vessels to the extent that the progress payment can reasonably be attributed to property delivered or services performed on or after July 1, 2010.

For progress payments that become due or are paid without becoming due after October 14, 2009 and before July 1, 2010, the supplier would be required to account for the Ontario component of the HST, where applicable, in the GST/HST reporting period of the supplier that includes July 1, 2010. Similarly, the recipient of the supply would be able to claim any available input tax credits with respect to the Ontario component of the HST in the GST/HST reporting period of the recipient that includes July 1, 2010.

In the case of written contracts to construct real property, or to construct a ship or other vessel where it can be reasonably expected that the contract will require more than three months to complete, if the construction is substantially completed before June 2010, the construction would be deemed to have been substantially completed on June 1, 2010. Pursuant to the general GST rules¹, any consideration or part of the consideration payable on such a contract that had not been paid or becomes due on or before July 31, 2010 would be deemed to have become payable on July 31, 2010 and any portion of such payment attributable to construction on or after July 1, 2010 would be subject to the HST. In this context, “substantially completed” generally means 90 per cent or more.

A holdback from a progress payment would be considered to be part of the progress payment from which it was held back. The holdback would therefore be subject to the same allocation under the progress payment rule as the progress payment itself, even if the holdback becomes due or is paid on or after July 1, 2010².

The progress payments rule would not apply to sales of newly constructed or substantially renovated homes, which would be subject to the transitional rules for new residential housing. For information about the transitional rules for new residential housing, see

¹ Under the general GST/HST rules, where a construction, renovation, alteration or repair contract is substantially completed in a particular month and the consideration or part of the consideration has not been paid or becomes due on or before the last day of the month following the particular month, the consideration or part of the consideration is deemed to have become due on the last day of the month following the particular month.

² Under the general GST/HST rules, tax is payable on holdbacks made pursuant to statute law or contract on the earlier of the day the holdback, or any part thereof, is paid and the day it becomes payable.

Information Notice No. 2, **Helping Homebuyers and the Housing Industry with an Enhanced New Housing Rebate, a New Rental Housing Rebate and Transitional Rules**, dated June 18, 2009.

Example 21:

A contract to construct a small commercial mall with a value of \$1,500,000 is substantially complete on May 15, 2010. The contract specifies progress payments as follows:

- **Payment no. 1: \$500,000 due March 15, 2010; 0% attributable to property delivered and services performed on or after July 1, 2010;**
- **Payment no. 2: \$500,000 due May 15, 2010; 0% attributable to property delivered and services performed on or after July 1, 2010;**
- **Payment no. 3: \$500,000 (less a holdback amount) due August 15, 2010; 70% attributable to property delivered and services performed on or after July 1, 2010;**
- **Holdback: \$150,000 (i.e., 30% of progress payment no. 3) due September 15, 2010.**

All three progress payments and the holdback are paid when they become due.

With respect to the final progress payment, 70% of the payment would be subject to HST, representing the portion of the final progress payment attributable to property delivered and services performed on or after July 1, 2010. The holdback of \$150,000 withheld from progress payment no. 3 would be considered to be a part of that payment and, accordingly, 70% of it would be attributable to property delivered or services performed on or after July 1, 2010 and subject to HST.

HST with respect to the final progress payment would be payable on July 31, 2010, rather than on August 15, 2010, as a result of the rule that deems the construction to be substantially complete on June 1, 2010.

HST would therefore be payable on:

- **July 31, 2010, on \$245,000 (70% x (\$500,000 – \$150,000)); and**
- **September 15, 2010, on \$105,000 (70% x \$150,000).**

Property and Services Brought into Ontario

The Ontario component of the HST would generally apply to goods, mobile homes that are not affixed to land, and floating homes that are brought into Ontario on or after July 1, 2010, and to such property that is brought into Ontario before July 2010 by a carrier where the property is delivered in Ontario to a consignee on or after July 1, 2010.

The Ontario component of the HST would also generally apply to consideration that becomes due, or is paid without having become due, after October 14, 2009 for the part of a service performed on or after July 1, 2010 (unless 90 per cent or more of the service is performed before July 2010), if the service is supplied in a non-participating province to a resident of Ontario who acquires the service for consumption, use or supply primarily in the participating provinces. Consideration that becomes due, or is paid without having become due, after October 14, 2009 and before July 2010 for a supply of such a service would be deemed to become due on, and not to have been paid before, July 1, 2010. For consideration that becomes due, or is paid without having become due, after October 14, 2009 and before May 2010, this rule would only apply to non-consumers. The Ontario component of the HST would also generally apply to consideration that becomes due, or is paid without having become due, on or after July 1, 2010 for intangible personal property that is supplied by way of sale in a non-participating province to a resident of Ontario who acquires the property for consumption, use or supply primarily in the participating provinces.

The Ontario component of the HST would generally apply to consideration that becomes due, or is paid without having become due, after October 14, 2009 for the part of a lease interval that occurs on or after July 1, 2010 (unless the lease interval begins before July 2010 and ends before July 31, 2010), if the lease interval is with respect to intangible personal property supplied by way of lease, license or similar arrangement in a non-participating province to a resident of Ontario who acquires the property for consumption, use or supply primarily in the participating provinces. Consideration that becomes due, or is paid without having become due, after October 14, 2009 and before July 2010 for a supply of such a property would be deemed to become due on, and not to have been paid before, July 1, 2010. For consideration that becomes due, or is paid without having become due, after October 14, 2009 and before May 2010, this rule would only apply to non-consumers.

General Transition Rules for Ontario HST

The Ontario component of the HST would generally not apply to property and services that are brought into Ontario if they are acquired by a GST/HST registrant for consumption, use or supply exclusively in the course of commercial activities of the registrant.

Persons liable to pay the Ontario component of the HST in such circumstances would be required to self-assess the tax.

Imported Goods

The Ontario component of the HST would generally apply to non-commercial goods that are imported by a resident of Ontario on or after July 1, 2010, and to non-commercial goods imported by a resident of Ontario before that date that are accounted for under the relevant provisions of the federal Customs Act on or after July 1, 2010.

The Ontario component of the HST would also generally apply to a specified motor vehicle or commercial goods brought into Ontario from a place outside Canada on or after July 1, 2010.

This rule would generally not apply, however, to commercial goods that are brought into Ontario by a GST/HST registrant for consumption, use or supply exclusively in the course of commercial activities of the registrant. Persons liable to pay the Ontario component of the HST in these circumstances would generally be required to self-assess the tax.

Imported Taxable Supplies

The Ontario component of the HST would generally apply to consideration for an imported taxable supply of goods made to a resident of Ontario, or a GST/HST registrant to whom the goods are delivered or made available, or physical possession of the goods is transferred, in Ontario, to the extent that the consideration is for goods that are delivered or made available, or the physical possession of which is transferred, on or after July 1, 2010.

The Ontario component of the HST would generally apply to consideration for an imported taxable supply of a service made to a resident of Ontario who acquires the service for consumption, use or supply primarily in the participating provinces, to the extent that the consideration is for the part of the service that is performed on or after July 1, 2010.

The Ontario component of the HST would generally apply to consideration for an imported taxable supply of intangible personal property that is made by way of lease, licence or similar arrangement to a resident of Ontario who acquires the property for consumption, use or supply primarily in the participating provinces, to the extent that the consideration is for the part of the lease interval that occurs on or after July 1, 2010.

Consideration for imported taxable supplies would, with appropriate modifications, generally be subject to the transitional rules described in the Tangible Personal Property, Services, and Leases and Licences sections (as the case may be) of this Notice.

Persons liable to pay the Ontario component of the HST in such circumstances would be required to self-assess the tax.

WINDING DOWN THE RST

This part of the Notice describes the general transitional rules for the wind-down of RST. These rules should be read in conjunction with the transitional rules for the introduction of the HST, as described in the part above. Taken together, the HST and RST transitional rules are complementary and would provide for a smooth transition to the HST.

GENERAL RULES

On July 1, 2010, the existing Ontario RST would generally cease to apply to:

- a sale of goods where the goods are delivered, and ownership of the goods is transferred, to the purchaser on or after July 1, 2010;
- a sale of services to the extent the services are performed on or after July 1, 2010 (however, the RST would apply where all or substantially all of the service is provided before July 2010);
- a supply of property by way of lease, licence or similar arrangement for the part of the lease or licence interval that is on or after July 1, 2010 (however, the RST would apply if the lease interval begins before July 2010 and ends before July 31, 2010);
- a sale of property or a service delivered or performed on a continuous basis by means of a wire, pipeline or similar conduit or satellite or other telecommunications facility to the extent the property or service is delivered, performed or made available on or after July 1, 2010;

General Transition Rules for Ontario HST

- goods brought into Ontario or imported by a resident of Ontario on or after July 1, 2010; and
- a sale (including promotional distribution) of an admission, including any ticket sold on a subscription or season ticket basis, for entry to a place of amusement on or after July 1, 2010.

Consideration due or paid on or before October 14, 2009

Notwithstanding the general RST wind-down rules, the RSTA would apply where consideration for a sale of goods, services or admissions becomes due or is paid on or before October 14, 2009.

Example 22:

In September 2009, a vendor sells tickets to a circus show to be held in July 2010. The RST would apply to the price of admission.

Consideration due or paid after October 14, 2009 and before May 2010

Notwithstanding the general RST wind-down rules, the RSTA would apply where consideration for a sale of goods, services or admissions becomes due or is paid after October 14, 2009 and before May 2010.

However, this exception to the RST wind-down rules would not apply with respect to goods, services or admissions purchased for use exclusively in the course of commercial activities. It also would not apply with respect to goods, services or admissions for which the self-assessment rules in respect of consideration due or paid after October 14, 2009 and before May 2010 would apply (as described above in the HST part of this Notice). If an amount is paid in error as RST in these situations, the purchaser would be able to file a general application for refund with the Ontario Ministry of Revenue, subject to the refund conditions under the RSTA.

Consideration due or paid on or after May 1, 2010 and before July 2010

Where consideration becomes due or is paid on or after May 1, 2010 and before July 2010, the general RST wind-down rules would apply as set out above.

Example 23:

In June 2010, a vendor sells tickets to a rock concert to be held in November 2010. The RST would not apply to the price of admission.

RST payable on or before October 31, 2010

To facilitate the wind-down of the RSTA, a transitional rule would provide that any applicable RST not otherwise payable on or before October 31, 2010 would become payable on October 31, 2010.

Example 24:

A business gets vehicle repair work done in June 2010. The business does not pay for the repair work and does not receive an invoice until November 2010. The RST would become payable on October 31, 2010. The vendor would be required to account for the RST in a supplemental RST return for October 2010, which would be due on November 23, 2010.

DISCLOSURE REQUIREMENTS FOR TAX-INCLUDED PRICING IN TRANSITIONAL PERIOD

A transitional rule would help provide certainty and clarity to both vendors and purchasers with respect to the application of the RST for tax-included sales during the transitional period.

Where RST-included pricing is used for the sale of goods, a taxable service or an admission, the consideration for which becomes due or is paid after October 14, 2009 and before May 2010, and where the seller does not disclose in writing to the purchaser the amount, if any, included as or on account of RST in the stated price, the stated price would be deemed to include RST if the RST would have applied to the sale notwithstanding any other transitional rule that may apply.

Example 25:

In April 2010, a vendor sells tickets to a rock concert that will occur in September 2010. Tickets are sold on a tax-included basis without disclosing the amount of RST included. The ticket price would be deemed to include RST.

FINAL RST RETURNS

Final RST returns would generally be required to be filed with the Ontario Ministry of Revenue on or before July 23, 2010.

Where an amount is collected or becomes payable as or on account of RST after June 2010, the vendor would be required to account for that amount in a supplemental RST return to be filed on or before the 23rd day of the following month. All supplemental RST returns would be required to be filed no later than November 23, 2010.

Example 26:

A person obtains a wheel alignment service from a mechanic in June 2010, but does not pay for the service and does not receive an invoice for the service until August 2010. The mechanic would be required to account for the RST in a supplemental RST return for August 2010, to be filed on or before September 23, 2010.

RST REFUNDS AND REBATES

Generally, refunds and rebates of RST would remain in place until the existing time limits for claiming them have expired for the transactions to which they relate, or June 30, 2014, whichever is earlier. An exception would be provided for refunds for returned goods – see section on Returns and Exchanges below.

ASSESSMENTS, OBJECTIONS, APPEALS AND ENFORCEMENT

Assessment, objection, appeal and enforcement provisions under the RSTA would generally apply to past transactions where the applicable limitation periods have not expired.

OTHER CIRCUMSTANCES

Notwithstanding the general transitional rules proposed in this Notice, additional information will be provided in the near future about these and other circumstances, including the following provisions under the RSTA:

- tax on multi-jurisdictional vehicles; and
- tax on private sales of used vehicles.

TRANSITIONAL RST INVENTORY REBATE FOR RESIDENTIAL REAL PROPERTY CONTRACTS

An RST rebate would be available to provide relief with respect to the RST embedded in construction materials used in residential real property contracts that are subject to the HST.

This rebate would be available to a real property contractor for the RST paid on construction materials that are purchased or produced for the contractor's own use, held in inventory at the end of the day on June 30, 2010 and used in a residential real property contract to which the HST would apply.

The rebate would not be available with respect to inventory for which the RST is otherwise recoverable by the contractor or any other party.

Qualifying residential real property contracts would include contracts to repair or improve land and items permanently attached to land, such as buildings and patios. Residential real property contracts for repair or improvements to rental housing, condominium and apartment buildings and long-term residential care facilities may qualify for this rebate.

This rebate would be administered by Ontario. Contractors would be able to file an application for the rebate directly with the Ontario Ministry of Revenue. The application for the rebate would be required to be filed on or before December 31, 2010.

Example 27:

On June 27, 2010, a home renovation contractor purchases kitchen tiles and puts them in inventory. The contractor paid RST on the purchase of the tiles. The contractor uses the tiles in a home renovation contract in September 2010. The contractor charges the customer the HST for the renovation. The contractor would be eligible to apply for the transitional RST inventory rebate by December 31, 2010.

RETURNS AND EXCHANGES

The following rules would generally apply where a person purchases property before July 2010 that is subject to RST, but returns it on or after July 1, 2010 and before November 2010:

- if the property is returned and a full refund is given, the RST would be refunded;
- if an exchange is made resulting in neither a refund nor an additional payment, there would be no RST refund and the Ontario component of the HST would not be payable;
- if an exchange is made resulting in a partial refund, the Ontario component of the HST would generally not be payable on the replacement property and the purchaser would be entitled to recover the RST applicable to the amount refunded; and
- if an exchange is made resulting in an additional payment, no RST would apply but the HST would apply to the additional payment.

Example 28:

In July 2010, a person returns a shirt that was purchased in June 2010 for \$40. The vendor exchanges the returned shirt for another shirt that costs \$60. In this situation, the vendor would collect the Ontario component of the HST on \$20.

If the RST did not apply to property that was purchased before July 1, 2010, and it is exchanged on or after July 1, 2010, the Ontario component of the HST would apply to the full consideration for the replacement property.

Example 29:

In June 2010, a person purchases an RST-exempt bicycle for \$500. In July 2010, that person exchanges the bicycle for another bicycle that costs \$600.

In this situation, the vendor would collect the Ontario component of the HST on the full value (i.e., \$600) of the new bike.

If property is returned on or after November 1, 2010, no RST adjustments would be available at the point of sale. However, the purchaser may make an application for a refund of RST for tax paid in error. Purchasers would be able to file the application for refund with the Ontario Ministry of Revenue.

ANTI-AVOIDANCE

Existing anti-avoidance rules in the ETA would apply to transactions to which the general transitional rules for the HST apply. Additional anti-avoidance rules may be implemented in order to maintain the integrity of the GST/HST and the RST during the period of transition to the HST in Ontario.

ADDITIONAL INFORMATION

The province is continuing to work with the federal government to develop additional transitional rules for the HST. More information about these and other circumstances will be released in the near future to help taxpayers continue to prepare for the proposed changes.

For more information on the transitional rules for the HST, please call the Canada Revenue Agency:

- Personal property and services - 1 800 959-5525
- Real property - 1 800 959-8287

To speak with an information officer about the introduction of the HST in Ontario and wind-down of the Retail Sales Tax, please call 1 800 337-7222 or 1 800 263-7776 for teletypewriter (TTY).