



Ontario HST:

# Planning For The Transition

# Agenda

- Background to the OHST
- Setting the Landscape
- Transitional Rules for OHST
- Planning for OHST
- Question/Answer Period



# Background to the OHST

- Part of Ontario's Comprehensive Tax Package
- Simultaneous decrease in rate of income tax for individuals, small businesses and corporations
- Intended to attract investment and employment to Ontario



# Background to the OHST

- Limited guidance issued so far
  - No legislation has been issued
  - Tentative issue date is set for March 31, 2010
  - Relying on budget comments and some pronouncements
- Ontario released an information notice October 14 outlining proposed transitional rules.



# Background to the OHST

- Effective July 1, 2010
- Combined 13% HST rate of 8% for the provincial component Ontario HST (“OHST”) and 5% for the federal component GST
- Administered federally and will use the same tax base and structure as the current GST with a few exceptions
- Elimination of the 8% Ontario Retail Sales Tax



# Background to the OHST

## Benefits of Replacing ORST with OHST:

- “Simpler” compliance
  - Deal with only one government tax authority
  - One potential compliance audit
- ORST is subject to interpretation
  - Results in many judgment calls made by auditors
  - Limited legislative guidance
- Will eliminate embedded ORST previously absorbed by persons engaged exclusively in commercial activities as OHST recoverable as ITC’s



# Background to the OHST

## Costs of Replacing ORST with OHST:

- Additional tax to consumers
- Expenditures not currently subject to ORST:
  - E.g. professional fees, commercial rents, real property purchases
- Additional tax on entities not exclusively engaged in commercial activities (i.e. Exempt supplies)
  - Health Care services
  - Financial institutions
- Cash flow impact
  - Like the GST, OHST will be remitted when billed, not when collected
  - Purchases taxed at 13%



# Background to the OHST

- Private transfers of used vehicles will be subject to 13% OHST
- 8% levy on certain types of insurance premiums which are current subject to RST – since no OHST then no ITC can be claimed.
- Adjustments to fees, levies, etc. for alcohol that is presently subject to 10% and 12% RST
- First Nations
  - Elimination of PST point-of-sale rebate with status card
  - Required to charge OHST unless goods delivered reserve to or services performed on a reserve



# Setting the Landscape

## When Do I Have to Register?

- Small supplier thresholds remain the same:
- Businesses with less than \$30,000 taxable sales are not required to register for OHST



# Setting the Landscape

## Point-of-Sale Rebates

- Tax Relief from the provincial tax for:
  - Books (including audio books)
  - Children's clothing and footwear
  - Car seats and car booster seats
  - Diapers
  - Feminine hygiene products
  - Qualifying prepared food and beverages that are ready for immediate consumption and are sold for under \$4.00



# Setting the Landscape

## Individual Transition Benefit

- Transition benefit for eligible individuals and families – up to \$300 for individuals with net incomes of \$80,000 or less and \$1,000 for single parents and couples with adjusted family net incomes of \$160,000 or less
- Payable in 3 installments starting June 2010 (2<sup>nd</sup> payment in December 2010 and last payment in June 2011)
- These credits will be based on prior year's adjusted taxable income.



# Setting the Landscape

## Small Business Transition Credit

- Available to businesses with annual sales under \$2 million
- Intended to help offset the cost of adjusting point of sale and accounting systems
- Credit of up to \$1,000 available
- Credit calculation will be based on taxable revenues for the first full quarter following the July 1, 2010 implementation date



# Setting the Landscape

## Small Business Transition Credit

<b>Total taxable revenues in first full fiscal quarter commencing after 30-Jun-10</b>	<b>Amount of transition credit</b>
<b>Up to and including \$15,000</b>	<b>\$300</b>
<b>Over \$15,000 and up to and including \$50,000</b>	<b>2% of taxable revenue for that quarter</b>
<b>Over \$50,000 and up to and including \$500,000</b>	<b>\$1,000</b>



# Setting the Landscape

## ITC Restrictions

- Recovery of ITC's restricted as follows:
- Financial institutions, "Large Businesses"
  - With TAXABLE sales over \$10,000,000 annually)
  - First 5 years
  - After first 5 years, phased in over next 3 years
- No restrictions for "farmers" as defined by the ITA



# Setting the Landscape

ITC restrictions related to:

- Energy (except for energy used for farming or for production of goods for sale)
  - Proxy may be available (Info Notice 5 – 02/01/10)
- Telecommunications services other than internet access or toll free numbers
- Road vehicles less than 3,000 kilograms and related fuel, parts and certain services
- Food, beverages and entertainment



# Setting the Landscape - Rebates

## GST/HST Rebates – OHST

- Qualifications for rebate unchanged
- Public service bodies will need to track federal portion and provincial portion separately to calculate eligible rebates

	GST	OHST
Municipalities	100%	78%
Universities/Colleges	67%	78%
School Boards	68%	93%
Hospitals	83%	87%
Charities, Qualifying Non-Profit Organizations	50%	82%



# Setting the Landscape

## New Home Builders:

- Sale of real property currently subject to GST but not PST
- Under OHST sale of new homes will be subject to an additional 8% tax
- Builders currently pay unrecoverable PST on building materials and supplies and pass through to consumers
- Under OHST builders will have ability to recover provincial components on materials and supplies
- Ontario has proposed a rebate of 75% of the province's portion of HST (6%) for new homes sold under \$400,000
- Rebate capped after \$400,000



# Setting the Landscape

## Harmonization Traps:

- 13% HST if not collected vs. 5%
- Significant contracts – what used to be a 5% mistake is now a 13% mistake
  - Commercial real estate deals
- Self-assessment liabilities



# Transitional Rules



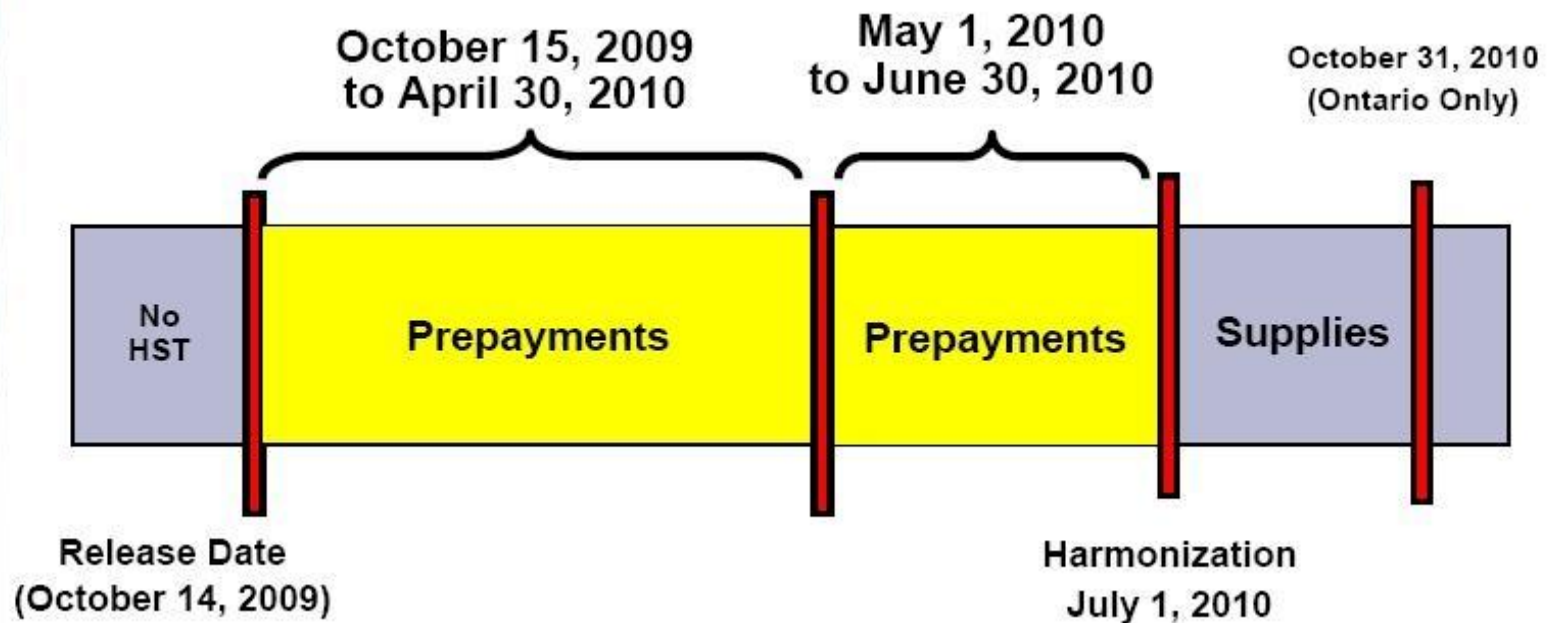
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# Transitional Rules for the OHST

- October 14, 2009 - Release date of Ontario information notice on “General Transitional Rules for Ontario HST”
  - Applicable to transactions that straddle the OHST implementation date
- July 1, 2010 - OHST implementation date
- May 1, 2010 – OHST due on consideration due or paid for after May 1 and before July 1 for property and services provided after July 1, 2010
- October 31, 2010 – RST due date for RST payable under the transitional rules



# Transitional Rules for the OHST



# Sale of Tangible Personal Property

- Rules for “TPP” (i.e. goods):
- General rule - When is GST Payable?
- Earlier of when the consideration for the supply:
  - Becomes due; or
  - Is paid without becoming due.
  - Subject to special over-ride rules
- Difference between a “deposit” and the payment of the consideration

# Sale of TPP

## General Rule for OHST

- OHST will generally apply (and ORST will cease to apply) to a sale of goods where the goods are delivered and ownership of goods are transferred after July 1, 2010
- Subject to certain override rules



# Transitional Rules for the OHST

## Tangible Personal Property (“TPP”)

- Paid for on or after July 1, 2010 – 13% OHST applies
- Paid for or due after May 1, 2010 and before July 1, 2010 for TPP transferred after July 1, 2010:
  - 13% OHST applies to sale
  - The 8% Ontario component is to be remitted in the first reporting period that includes the July 1, 2010 date.



# Transitional Rules for the OHST

## Tangible Personal Property (“TPP”)

- Paid for or due after October 14, 2009 and before May 1, 2010 for TPP transferred after July 1, 2010:
  - May require self assessment of the Ontario component of OHST
  - Self assessment does not include:
    - Consumers
    - Businesses entitled to full input tax credits
  - Examples where self assessment may be required:
    - Universities, colleges and similar exempt organizations prepaying for goods
    - Businesses subject to ITC restrictions (large businesses)
    - Using simplified procedures (e.g. quick method filers)



# Sale of TPP

- Example:
  - Sale of security system in April 2010 to a bank
  - Purchased for \$2,500
  - Pays for equipment in full at the time of purchase
  - Equipment gets delivered and ownership transfers on July 15, 2010



# Sale of TPP

- Result:
  - System was paid in full April (i.e. before May 1, 2010)
  - GST is triggered in April 2010
    - Earlier of when consideration becomes due, or
    - when paid without becoming due
  - Therefore, no requirement to collect OHST
  - Bank would be required to self-assess Ontario component of HST



# Transitional Rules for the OHST

## Tangible Personal Property ("TPP")

### Supplies Between Provinces:

- Supply made in the province in which the goods were delivered or made available to the recipient
- HST Participating Provinces:
  - Nova Scotia, New Brunswick, Newfoundland – 13%
  - Ontario – 13%
  - BC – 12%



# Sale of TPP

- Goods Brought Into a Participating Province:
- Current Rule:
  - Required to self-assess the provincial component of HST where you bring goods into an HST participating province from a non-participating province
- New - Expanded Rule:
  - Self-assessment rule also applies where you bring goods into Ontario from BC where the provincial component is lower



# Sale of Services

- General Rules
  - Starting May 1, 2010 need to collect OHST on transactions that straddle July 1, 2010
  - OHST applies to services provided after July 1, 2010
- Exception:
  - No OHST to be charged on a supply of a service that is 90% performed before July 1, 2010
- Billings will require adjustments to correctly apply tax to pre and post OHST services



# Transitional Rules for the OHST

## Services

- Services paid for or due after May 1, 2010 and before July 1, 2010:
  - 13% OHST applies to portion of service attributable to July 1, 2010 or after.
  - The 8% Ontario component is to be remitted in the first reporting period that includes the July 1, 2010 date.
  - 5% GST applies to portion of the service performed before July 1, 2010



# Sale of Services

- Example:
  - Security service contract purchased and paid in full on April 15, 2010
  - Service covers period from June 1, 2010 to December 31, 2010
  - Does OHST need to be collected?



# Sale of Services

- Result:
  - No OHST is collected since the service is paid for before May 1, 2010
  - However, self-assessment may be required on cost of maintenance package that relates to post July 1, 2010 period



# Sale of Services

- Example:
  - Security service contract entered
  - Invoice issued on August 15, 2010, for \$1,000
  - Service covers period from June 1, 2010 to December 31, 2010
  - Does OHST need to be collected?



# Sale of Services

- Result:
  - Consideration becomes due on August 15, 2010
    - Date of invoice
  - OHST and GST charged for period July 1, 2010 to December 31, 2010 ( $\$857.14 \times 13\% = \$111.43$ )
  - GST charged for the month of June, 2010 ( $\$142.86 \times 5\% = \$7.14$ )
  - \$118.57 remitted in return covering August 15, 2010



# Transitional Rules for the OHST

## Services

- Supplies Between Provinces: New Rules!
- Where the supplier obtains a business address of a customer in Canada, supply will be regarded as made in the province in which the particular address is located
- If no address is provided, sale is made in the province in which the greatest proportion of the work is performed
- If performed in equal proportions in two or more provinces, the highest tax rate applies



# Leases

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

# Leases

- Example:
  - 2008 lease
    - 5 years
    - “Lease interval” May 1, 2010 to October 31, 2010
  - Payment due March 31, 2010
  - Recipient uses the Quick Method
  - Does OHST apply? Does ORST apply?



# Leases

- Result:
  - Each lease payment is a separate supply
  - No “grandfathered” leases
  - No OHST to be collected since payment due before May 1, 2010. GST would be due on March invoice
  - Purchaser needs to self assess 8% portion of OHST on post July 1, 2010 period since on the Quick Method
  - ORST applies for the pre July 1, 2010 period
  - If ORST is paid on entire lease interval, eligible for rebate for post July 1, 2010 period



# Transitional Rules for the OHST

## Memberships

- Deemed to be a supply of a service
- Follow transitional rules for services
- Essentially HST is due on the consideration for the portion of the membership fee that is attributable to the July 1, 2010 implementation date and beyond.
- Separate rules for lifetime memberships



# Sale of Memberships

- Example:
  - Golf Membership for 2010
  - Membership to be billed in 3 equal installments
  - \$1,000 each on January 1, May 1 and September 1
  - Does the OHST apply?



# Sale of Memberships

- Result:
  - Considered to be a service
  - OHST to be collected on fees that become due or paid after April 2010 but relate to post July 1, 2010 period (May and September)
  - First payment not subject to OHST
  - No self assessment on fees required since OHST paid on post July 1, 2010 period
  - OHST to be collected on ½ of the May invoice (July and August portion)



# Planning for OHST



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# Planning for OHST

- Phase 1: OHST Impact Analysis
  - Tax status of supplies
  - Cash flows, budgets
  - Voluntary registration?
- Phase II: OHST Implementation Strategy
  - Accounting System
  - Review Contracts
- Phase III: Staff Training
  - A/P and Billing Functions
- Phase IV: Post-Implementation Review
  - Review Actual to Estimates
  - Test compliance



# Planning for OHST

## Phase I – Impact Analysis:

- Risk of error increases to 13% risk if GST/HST is not collected
  - Ensure comfortable with tax status of supplies
  - If unsure, contact a BDO advisor
- Contracts with Provincial Governments
  - Grants vs. Consideration for a Supply
  - Failure to collect 13% OHST
- Cash flow, budgets
- Changes to funding requirements
- Special Quick Method



# Planning for OHST

## Phase I – Impact Analysis:

### Planning Opportunities

- May voluntarily register for GST if small supplier
  - Input tax credits may become available in respect of the taxable supplies
  - OHST will be a 13% cost
- Consider whether to change filing frequency
  - Smaller entities have the choice to file annually, quarterly or monthly GST returns
  - Evaluate cash flow issues relating to the OHST on expenses and revenues



# Planning for OHST

## Phase I – Impact Analysis:

### Planning Opportunities

- Accelerate purchases before July 1, 2010 with no RST but Ontario HST
  - Most services (subject to transitional rules)
  - Where full recovery of OHST is not available
- Delay purchases that have RST charged
  - RST is an additional unrecoverable cost
  - OHST may be eligible for a rebate or ITC
  - Lease now; buy later? (contract structuring)



# Planning for OHST

## Phase II – Implementation Strategy:

### Accounting Issues

- Systems implementation to provide for HST and elimination of Ontario RST
  - Ensure picking up/charging correct tax rate
- Tracking ITC's is important again
  - A/P needs to separate GST and OHST paid
    - Ex. 50% rebate on GST, 82% rebate on OHST
  - On which expenses can you claim an ITC?



# Planning for OHST

Phase II – Implementation Strategy:

## Structuring of Contracts

- Current contracts that extend beyond July 1, 2010
  - Impact of the OHST?
  - “Tax excluded” or “tax included”
  - “Cost plus” contracts
  - Reduction in costs due to ORST elimination



# Planning for OHST

Phase II – Implementation Strategy:

## Structuring of Contracts

- New contracts that straddle July 1, 2010
  - Need to deal with both ORST and OHST
- New contracts starting after July 1, 2010
  - Need to provide for the OHST



# Planning for OHST

## Phase III – Staff Training:

- A/P and billing functions require training on tracking GST/OHST paid and
- Budgeting process with OHST

## Phase IV: Post-Implementation Review:

- Review Actual to Estimates
- Test compliance



# Question/Answer Period

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