

PROPERTY UPDATE

– Ontario Harmonized Sales Tax

FALL 2009

NON-RESIDENTIAL CONSTRUCTION HST Transitional Rules

By Maralynne A. Monteith

The following is a summary of the Ontario HST transitional rules affecting non-residential construction.

GST (5%) will continue to apply as usual subject to available exceptions. GST will become included in the HST as it commences to apply. GST registration will automatically extend to HST.

Progress Payments

HST (13%) will generally apply to progress payments made or due after October 14, 2009, to the extent the payment is reasonably attributable to property delivered or services provided after June 2010.

Progress payments made or due after October 14, 2009, that are subject to HST are considered to have become due and not to have been paid until July 1, 2010, for HST purposes.

Supplier must first account for HST in the GST/HST return for the reporting period including July 1, 2010.

Where a payment has not become due until after June 2010 under a written contract for construction, alterations, renovations or repairs that are at least 90% completed on June 1, 2010, then it will be considered to become payable no later than July 31, 2010. Only that portion of the payment that relates to property or services provided after June 2010 would be subject to HST. The remainder of the payment remains subject to GST in the ordinary course.

Holdbacks

A holdback from a progress payment is considered to be part of that progress payment and subject to HST in the same proportion as the progress payment to the extent it relates to property and services provided after June 2010.

Input tax credits for registrants will generally follow the existing GST treatment.

Information contained in this publication is strictly of a general nature and readers should not act on the information without seeking specific advice on the particular matters which are of concern to them. WeirFoulds LLP will be pleased to provide additional information on request and to discuss any specific matters.

WeirFoulds LLP
The Exchange Tower
Suite 1600, P.O. Box 480
130 King Street West
Toronto, Ontario, Canada
M5X 1J5
Office 416.365.1110
Facsimile 416.365.1876
www.weirfoulds.com

AUTHOR

Maralynne A. Monteith



Maralynne is a senior tax practitioner with a diverse practice founded on her in-depth experience in both income tax and commodity tax matters servicing domestic and international clients. Maralynne has a broad-based tax practice in the areas of income and commodity taxes, both federal and provincial, including domestic and international taxation, GST, financing, transfer pricing and other cross-border issues, both corporate and personal and both in-bound and out-bound Canada.

Contact Maralynne at 416-947-5089 or mmonteith@weirfoulds.com.