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Newfoundland and Labrador— transitional rules for HST increase

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After cancelling a 2% HST rate increase that was supposed to come into effect on January 1, 2016, the 2016-17 Newfoundland and Labrador provincial budget has again announced an increase in the HST rate from 13% to 15%, effective July 1, 2016. Transitional rules have recently been released to outline how this increase will apply to a number of specific situations. The purpose of these rules is to determine whether the existing 8% provincial component of the HST or the new 10% rate will apply to transactions that straddle the July 1, 2016 implementation date.

Transitional rules—overview

The general rule is that suppliers will be required to charge the 15% HST for any amount that becomes due without having been paid, or is paid without having become due, on or after July 1, 2016.¹ Conversely, the 13% HST will apply to any consideration that becomes due or is paid before July 1, 2016. Specific transitional rules will apply to certain real property transactions.

The following provides additional details on how the transitional rules will apply to different types of situations.

Tangible personal property

The following rules will apply to sales of tangible personal property (which includes subscriptions to periodical publications, such as newspapers and magazines):

- If consideration is due, or paid without having become due, before July 1, 2016: 13% HST will apply.
- If consideration is due, or paid without having become due, after June 30, 2016: 15% HST will apply.

Example

On June 10, 2016, a person pays for furniture that will not be delivered until July 15, 2016. The HST rate of 13% will apply to the sale.

Services

The HST rate of 15% will generally apply to any consideration that becomes due without having been paid, or is paid without having become due, after June 30, 2016. Conversely, the HST rate of 13% will apply to any consideration that becomes due or is paid before July 1, 2016.

Example

On July 15, 2016, a supplier first issues an invoice for unpaid landscaping services, which are performed between June 20, 2016 and July 8, 2016. The HST rate of 15% will apply to the invoiced amount.

Example

In June 2016, a person pays for round-trip air travel from St. John's to Toronto, departing on July 3, 2016 and returning on July 9, 2016. The HST rate of 13% will apply to the payment for the round-trip air travel.

Leases and licenses

Where a lease or licence of goods, intangible property or real property straddles the July 1, 2016 implementation date, the 15% HST will apply to any consideration that becomes due without having been paid, or is paid without having become due, after June 30, 2016. Conversely, the HST rate of 13% will apply to any consideration that becomes due or is paid before July 1, 2016.

Example

Payments for leased computer equipment are made on the 15th of each month. 13% HST will apply to the payment for the period from June 15, 2016 to July 15, 2016. The HST rate of 15% will apply to the lease payment that becomes due on July 15, 2016, unless the payment was made before July 2016.

Intangible personal property

Intangible personal property (e.g. intellectual property or contractual rights) includes memberships, admissions and passenger transportation passes. The HST rate of 15% will apply to any consideration that becomes due without having been paid, or is paid without having become due, after June 30, 2016. Conversely, the HST rate of 13% will apply to any consideration that becomes due or is paid before July 1, 2016.

Example

On May 17, 2016, a vendor sells tickets to a concert that will take place in October 2016. The HST rate of 13% will apply.

Real property

Sales of real property

Subject to special “grandparenting” rules for sales of new homes, the HST rate of 15% will generally apply if both ownership and possession of the property are transferred after June 30, 2016. Conversely, the HST rate of 13% will apply to the sale if either ownership or possession of the property is transferred to the purchaser before July 1, 2016.

Example

In April 2016, a land developer enters into an agreement to sell a small commercial property to a business. Ownership and possession of the property will transfer in August 2016. The HST rate of 15% will apply.

For deemed taxable supplies of real property by way of sale (e.g., leases of new or substantially renovated housing or leases of land for residential use), HST at the rate of 15% will generally apply if the supply is deemed to have been made after June 30, 2016. Conversely, HST at the rate of 13% will apply if the supply is deemed to have been made before July 1, 2016.

Grandparenting rules provide that sales of new homes will not be subject to the increased HST rate where the written agreement of purchase and sale is entered into before May 4, 2016. For grandparenting to apply, both the land and building portion of the housing must be supplied by the builder under the same agreement. Grandparenting will not apply to sales of traditional apartment buildings. There are certain other exceptions to the application of this grandparenting rule.

If a person enters into an agreement to have new housing constructed on land that the person owns or purchases separately, the transitional rules for supplies of services will apply (see above: [supply of services](#)) and the transitional rules for sales of real property will apply to the purchase of the land.

Builder disclosure requirements

If a written agreement of purchase and sale for a newly constructed or substantially renovated home is entered into after May 3, 2016 and before July 1, 2016, the builder will be required to disclose in the written agreement of purchase and sale either the total tax payable in respect of the sale and whether that total is net of the GST new housing rebate, if applicable, or the total of the rates at which tax is payable in respect of the sale (i.e., either 13% or 15% HST).

If the builder does not make a disclosure as outlined above and ownership and possession of the home are transferred after June 30, 2016, the builder will be deemed to have collected 15% HST and the purchaser will not be liable to pay any additional HST in respect of the sale.

Builder reporting requirements

Builders affected by these proposed transitional housing measures may be required to file their GST/HST returns electronically¹. Non-registrant builders affected by these proposed transitional housing measures will be required to report the same transitional information on Form GST62.²

Other transitional rules

Returns and exchanges

The following rules will generally apply where a person purchases property before July 2016 that is subject to the 13% HST, but returns it after June 30, 2016:

¹ See “GST/HST Info Sheet GI-118, Builders and GST/HST NETFILE”

² “Goods and Services Tax/Harmonized Sales Tax (GST/HST) Return (Non-Personalized).” The CRA will also publish a GST/HST info sheet entitled “Newfoundland and Labrador HST Rate Increase: Information for Non-Registrant Builders.”

- If the property is returned and a refund of all or part of the consideration for the property is given, the HST at a rate of 13% will be refunded in respect of the consideration or part thereof.
- If a straight exchange is made resulting in neither a refund nor an additional payment, HST will neither be refundable on the exchanged property nor payable on the replacement property.
- In the case of any other exchange, the HST at a rate of 13% will be refunded in respect of the consideration or part thereof for the exchanged property and the HST at a rate of 15% will be payable on the replacement property.

Property and services brought into Newfoundland and Labrador

Persons bringing property and services into Newfoundland and Labrador from another province after June 30, 2016 may be required to self-assess the provincial component of the HST (or a part thereof, where the provincial component was not previously paid at a rate equal to or greater than the rate for Newfoundland and Labrador (10%)).³

Where consideration is due or paid after June 30, 2016, the 10% rate will apply to a service or intangible personal property supplied in another province to a resident of Newfoundland and Labrador.

Imported goods

The 15% HST rate will generally apply to non-commercial goods that are imported by a resident of Newfoundland and Labrador after June 30, 2016 or that are imported before July 1, 2016 but are accounted for under the relevant provisions of the federal Customs Act after June 30, 2016.

A person importing a specified motor vehicle or commercial goods into the province after June 30, 2016 will generally be liable for the 10% provincial component of the HST. However, a GST/HST registrant who imports commercial goods into the province for consumption, use or supply exclusively in the course of the registrant's commercial activities will not be required to self-assess the provincial component of the tax.

Imported taxable supplies

The recipient of an imported taxable supply⁴ is generally required to self-assess and pay the tax on the value of the consideration for the supply.

Both the 10% provincial component of the HST and the 5% federal component will apply for imported taxable supplies made after June 30, 2016 or to supplies made before July 1, 2016 to the extent the consideration for that supply becomes due without having been paid, or is paid without having become due, after June 30, 2016.

Financial institutions

Special rules will apply to financial institutions (FIs) in respect of periods that begin before July 1, 2016 and end on or after that date.

³ Self-assessment may also be required where property is brought into the province by a carrier before July 1, 2016, but is delivered in the province to a consignee after June 30, 2016.

⁴ Supplies made outside Canada of intangible personal property, services, or tangible personal property under certain conditions to a recipient that is resident in Canada, that are not for consumption, use or supply exclusively in commercial activities.

For the purposes of determining the liability for the provincial component of the HST of:

- i a selected listed financial institution (SLFI) that is not a distributed investment plan for its reporting period that includes July 1, 2016, or
- ii an FI that is required to self-assess for certain cross-border transactions (e.g., internal charges, external charges and qualifying consideration) for a specified year of the FI that includes July 1, 2016,

the provincial component of the HST will generally apply at a rate of 10% based upon the number of days in the reporting period or specified year that are after June 30, 2016 and at a rate of 8% based upon the number of days in the reporting period or specified year before July 1, 2016.

For the purposes of determining the liability for the provincial component of the HST of a SLFI that is a distributed investment plan for its reporting period that includes July 1, 2016, the 10% rate will apply based upon the amount of GST or federal component of the HST that is payable, or that is paid without having become payable, by the SLFI in the reporting period on or after July 1, 2016 and at a rate of 8% based upon the amount of GST or federal component of the HST that is payable, or that is paid without having become payable, by the SLFI in the reporting period before that date.

Pension plans

Special rules will apply where a participating employer of a pension plan is deemed to have made a taxable supply to a pension entity on the last day of its fiscal year that begins before July 1, 2016 and ends on or after that date. The 10% rate will apply if the property or service was acquired or imported for the purpose of making a supply to the pension entity of any part of the property or service on or after July 1, 2016. Otherwise, the 8% rate will apply.

A participating employer of a pension plan will determine its liability for the provincial component of the HST for deemed supplies of employer resources on an apportionment basis.⁵ A similar apportionment rule will apply to determine the provincial portion of a pension entity's provincial pension rebate amount for its claim period that includes July 1, 2016.

Taxable benefits

The 2% increase in the HST rate will require an adjustment to the specified factors used to compute taxable benefits for employees and shareholders. Specifically,

- the HST rate for calculating tax on automobile operating expense benefits, which is currently 9%, will increase to 10% for the 2016 taxation year and to 11% for 2017 and subsequent taxation years; and
- the HST rate for calculating tax on other employee and shareholder benefits, which is currently 12%, will increase to 13% for the 2016 taxation year and to 14% for 2017 and subsequent taxation years.

⁵ 8% for the number of days in the employer's fiscal year before July 1, 2016 and 10% for the number of days in the fiscal year after June 30, 2016.

Streamlined accounting methods

To simplify compliance, eligible small businesses, as well as eligible public services bodies, may use the Quick or Special Quick Method of Accounting. These methods permit an entity to remit a specified percentage of the tax on eligible GST/HST-included sales. The 2% increase in the HST rate will result in an increase in the specified remittance rates.

These revised rates will apply for reporting periods that begin after June 30, 2016. For reporting periods that begin before July 1, 2016 and end after June 30, 2016, the current remittance rates will apply.

The proposed new rates can be found in the Annex to the [Transitional Rules for the Newfoundland and Labrador HST Rate Increase](#). This document also provides additional details on the transitional rules.

New public service body rebate for municipalities

The 2015-16 Newfoundland and Labrador budget provided municipalities with a 25% rebate of the provincial component of the HST paid or payable on eligible purchases (effective January 1, 2016).

Effective January 1, 2017, this rebate will increase to 57.14%⁶. This increase will impact the remittance rates for municipalities using the special quick method of accounting.

Conclusion

Please contact one of our advisors if you have any questions about how the increase in the HST rate will apply to your business or organization.

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⁶ amounts paid or payable before January 1, 2017 will be eligible for the 25% rebate rate