



Harmonized Sales Tax: Leases of Real Property in Prince Edward Island

A harmonized sales tax (HST) came into effect in Prince Edward Island (P.E.I.) effective April 1, 2013.

The HST rate in P.E.I. is 14% of which 5% represents the federal part and 9% the provincial part.

This info sheet explains the rules that apply to the supply of real property made by way of lease, licence or similar arrangement where the property is situated in P.E.I. In the remainder of the document, references to a supply by way of lease include a supply by way of licence or similar arrangement and “lessee” means the recipient of a supply by way of lease.

Definitions for GST purposes, e.g., lease interval, real property, recipient, registrant, residential complex and residential unit, will generally apply under the HST, as will the CRA’s current policies on the application of the GST to real property, for example, GST/HST Policy Statement P-062, *Distinction Between Lease, Licence and Similar Arrangements*. Refer to GST/HST Memorandum 19.2, *Residential Real Property*, and GST/HST Memorandum 19.4.1, *Commercial Real Property – Sales and Rentals*, for additional information on these important terms and concepts.

Supplies of rental housing

Rentals of residential properties that are exempt under the GST rules will also be exempt under the HST.

For example, a supply of a residential complex such as a detached house, semi-detached house, or residential condominium unit, or the supply of an apartment, made by way of lease for the purpose of its occupancy by an individual as a place of residence or lodging is exempt from the GST/HST if the period of continuous occupancy given to that individual is at least one month.

Landlords are not required to collect the GST/HST on exempt supplies of long-term residential rents and are not entitled to claim input tax credits (ITCs) for any GST/HST paid or payable on taxable goods and services acquired to provide exempt long-term residential rents. For more information on the rules that apply to landlords who build or purchase new residential housing in P.E.I., or rent land for residential purposes, refer to GST/HST Info Sheet GI-149, *Harmonized Sales Tax: Information for Landlords of New Rental Housing in Prince Edward Island*.

Supplies of non-residential rental property

The HST will generally apply to the supply of non-residential real property made by way of lease by a GST/HST registrant. Supplies of real property that are exempt under the GST will also be exempt under the HST (e.g., a lease of real property by a charity where the charity has not elected to make the supply taxable).

Transitional rules will apply for taxable supplies of real property made by way of lease that straddle April 1, 2013. To determine whether the GST or HST applies to a supply of non-residential real property situated in P.E.I. where the supply is made by way of lease, the following must be considered:

- the lease interval; and
- when the consideration for the supply of the real property becomes due or is paid without having become due.

What is a lease interval?

For purposes of supplies of real property and the GST/HST, a lease interval is a period of time during which a person has the right under a lease to possess or use the property and to which a payment under the lease is attributable.

Example 1 – Hotel: rate per night

A hotel supplies accommodation to an individual for five nights at the rate of \$125 per night. The individual receives an invoice when checking out and pays \$625 for the entire stay. Since an amount is attributable to each night of accommodation, each night is considered to be a lease interval for GST/HST purposes.

There can also be overlapping lease intervals under a lease.

Example 2 – Monthly and annual lease payments

A lease for a retail store in a mall requires the tenant to make monthly lease payments of a fixed amount and an annual payment that is based on a percentage of the tenant's sales for the calendar year. In this case, in respect of the monthly payment, each month is a lease interval; while in respect of the annual payment, the calendar year is also a lease interval.

When consideration becomes due

For GST/HST purposes, in the case of a written agreement for a supply of real property made by way of lease, consideration becomes due on the day the lessee is required to pay the consideration under the agreement.

If the supply is not made under a written agreement, consideration for the supply becomes due on the earliest of the following days:

- the day the supplier first issues an invoice for the supply or the date of that invoice; and
- if there is an undue delay in issuing that invoice, the day the supplier would have issued the invoice.

When consideration is paid without becoming due

For GST/HST purposes, in the case of a supply of real property made by way of lease, consideration is paid without having become due when the lessee pays the consideration before the lessee is required to pay the consideration (e.g. payment is made before the consideration becomes due under a written agreement for the supply).

Does the GST or the HST apply?

Once the lease interval is established and it is determined when the consideration becomes due or is paid without becoming due, the following rules must be applied to determine whether the GST or HST applies. The appendix provides a chart that illustrates how the rules apply for taxable leases of real property.

In the following examples, all of the suppliers are GST/HST registrants and all of the supplies are taxable supplies, meaning subject to the GST at 5% or the HST at 14%.

Lease interval begins before April 1, 2013 and ends before May 1, 2013

The GST, rather than the HST, applies to the consideration payable under a lease for a lease interval that begins before April 2013 and ends before May 2013. This applies regardless of when the consideration becomes due or is paid without having become due.

Example 3

The owner of a commercial building makes a supply of space in the building by way of licence to a dance studio for the period of March 15, 2013 to April 15, 2013. The dance studio pays for the licence on April 10, 2013.

Since the payment is for a period (i.e., the lease interval) that begins before April 2013 and ends before May 2013, the HST will not apply regardless of when the payment becomes due or is paid. However, the GST at 5% applies to the payment.

Example 4

A company rents a hall for a corporate function on March 15, 2013. On April 10, 2013, the owner of the hall bills the company the rental fee for the hall. The company pays the bill on April 15, 2013.

Since the rental fee is in respect of an event that occurred prior to April 2013 (i.e., the lease interval is the period of time on March 15, 2013 during which the company had the right to use the hall), the HST will not apply regardless of when the rental fee becomes due or is paid. However, the GST at 5% applies.

Lease interval begins before April 2013 and ends on or after May 1, 2013

Where a lease interval begins before April 2013 and ends on or after May 1, 2013, the following rules apply:

- GST applies to any consideration that becomes due or is paid without having becoming due before February 2013. Certain lessees would have to self-assess the provincial part of the HST if the consideration becomes due or is paid without having become due after November 8, 2012 and before February 2013 to the extent that the consideration relates to a period that occurs on or after April 1, 2013. For more information, refer to the section on “Self-assessment of the provincial part of the HST”.
- Where the consideration becomes due or is paid without having become due on or after February 1, 2013:
 - GST applies to the consideration that relates to the part of the lease interval that occurs before April 2013; and
 - HST applies to the consideration that relates to the part of the lease interval that occurs on or after April 1, 2013.

Example 5

A retailer enters into a written lease agreement with the owner of a commercial building to lease the building from February 1, 2013 until May 31, 2013. The lease payment is \$20,000 for the four-month lease period (i.e., the lease interval is four months). The agreement provides that the lease payment is due on February 1, 2013. The lease payment is paid on that day.

Since the lease interval begins before April 2013, ends on or after May 1, 2013, and the amount becomes due and is paid on February 1, 2013, the GST applies to the part of the lease payment that is attributable to February and March 2013 (i.e., \$10,000, which is 50% of the payment) and the HST applies to the part of the lease payment that is attributable to April and May 2013 (i.e., \$10,000, which is 50% of the payment).

Example 6

An individual enters into a written agreement with the operator of a storage locker facility for the right to store the individual's furniture from March 1, 2013 to September 30, 2013. In accordance with the agreement, the individual pays a \$1,050 locker rental fee on March 1, 2013. This fee relates to the entire period covered by the agreement (i.e., the lease interval is seven months).

Since the lease interval begins before April 2013, ends on or after May 1, 2013, and the amount becomes due and is paid on March 1, 2013, the GST applies to the part of the payment that is attributable to March 2013 (i.e., $1/7 \times \$1,050 = \150) and the HST applies to the part of the payment that is attributable to April 1 through September 30, 2013 (i.e., $6/7 \times \$1,050 = \900).

Lease interval begins on or after April 1, 2013

Where a lease interval begins on or after April 1, 2013, the following rules apply:

- GST applies to any consideration that becomes due or is paid without having become due before February 2013. Certain lessees would have to self-assess the provincial part of the HST if the consideration becomes due or is paid without having become due after November 8, 2012 and before February 2013. For more information, refer to “Self-assessment of the provincial part of the HST” later in this info sheet.
- HST applies to the consideration that becomes due or is paid without having become due on or after February 1, 2013.

Example 7

An individual rents a parking space on a monthly basis (i.e., the lease interval is the calendar month) from the operator of a parking lot located near the individual's work. The payments are due and paid on the first day of each month. There is no written agreement and the operator issues a receipt when payment is made.

For the month of April 2013, since the lease interval begins on or after April 1, 2013, and the amount becomes due and is paid on that date, the HST applies to the payment made on April 1, 2013. This is the first payment to which the HST applies and the HST will apply to all subsequent payments for parking.

Example 8

A golfer pays for green fees on the day of play. The amount paid by the golfer is an amount paid for the supply of real property, specifically, the right to use real property, made by way of lease, licence or similar arrangement. There is no written agreement and the operator of the golf course issues a receipt when payment is made.

As of April 1, 2013, HST would apply to the green fees paid by the golfer on the day of play.

Accounting for the GST/HST

The previous rules explained whether the GST or HST applies to a taxable supply of real property made by way of lease. The following rules explain who must account for the tax and when it must be accounted for.

Where consideration becomes due or is paid after November 8, 2012 and before February 2013

Where the consideration becomes due or is paid without having become due after November 8, 2012 and before February 2013, the supplier accounts for the GST according to the normal rules. Certain lessees would have to self-assess the provincial part of the HST. For more information, refer to the section on “Self-assessment of the provincial part of the HST”.

Example 9

A hotel supplies accommodation from May 1, 2013 to May 15, 2013 to an individual. The individual pays consideration for the accommodation on January 1, 2013 at which time the hotel records the amount as revenues in its books and records (i.e., the amount paid is not a deposit). Upon receiving the payment, the hotel sends a receipt to the individual. An invoice was not previously issued and there is no written agreement in respect of the accommodation.

In this case, the HST does not apply since the payment is made (i.e., paid without having become due) on January 1, 2013. GST at 5% applies to the payment. The hotel must include the GST in its net tax calculation for the reporting period that includes January 1, 2013.

Example 10

An operator of a seasonal campground leases a site in the campground to an individual for the individual's personal use. In accordance with the written lease agreement, the lease payment is due on February 1, 2013 for the six-month period from May 1, 2013 to October 31, 2013. The individual pays the lease payment on January 15, 2013.

In this case, the HST does not apply even though the lease payment becomes due on February 1, 2013 since the lease payment is paid without having become due on January 15, 2013. GST at 5% applies to the lease payment. The operator must include the GST in its net tax calculation for the reporting period that includes January 15, 2013.

Example 11

A landlord receives a prepayment of rent (not a deposit) on January 20, 2013 for leased premises. The term of the written lease agreement is from April 1, 2013 to December 31, 2013. The lease agreement specifies that the lease payment for the entire period is due on April 1, 2013.

Even though the lease interval begins on April 1, 2013, the HST does not apply to the prepayment since it was paid without having become due before February 2013. GST at 5% applies to the prepayment. The landlord must include the GST in its net tax calculation for the reporting period that includes January 20, 2013.

Example 12

A farmer leases pasture land on a taxable basis from a grazing association every year for seven months from April through October for use in the farmer's commercial activities. Under the written lease agreement, one lease payment is due and paid on January 15, 2013 of each year for the seven-month period.

The HST does not apply to the payment the farmer makes on January 15, 2013. GST at 5% applies to this payment. Lease payments that become due and are paid on January 15 of subsequent years are subject to the HST. With respect to the January 15, 2013 payment, the grazing association must include the GST in its net tax calculation for the reporting period that includes January 15, 2013.

Where consideration becomes due or is paid on or after February 1, 2013 and before April 2013

Where the consideration becomes due or is paid without having become due on or after February 1, 2013 and before April 2013, the supplier accounts for the GST according to the normal rules.

If the HST applies to any part of the consideration, the supplier must account for:

- the 5% federal part of the HST according to the normal rules; and
- the provincial part of the HST in its net tax calculation for the reporting period that includes April 1, 2013.

If the lessee is a GST/HST registrant, the lessee will be able to claim any eligible ITC for the provincial part of the HST in its net tax calculation for a reporting period that includes April 1, 2013, or a subsequent reporting period that is within the ITC time limitation.

Example 13

A hotel supplies accommodation to an individual from March 26 to April 4, 2013, checking out on April 5, 2013, i.e., 10 nights, at a rate of \$150 per night (i.e., each night is a lease interval). The individual pays consideration for the accommodation in full on February 10, 2013. Upon receiving the payment, the hotel records the amount as revenue in its books and records (i.e., the amount paid is not a deposit) and sends a receipt to the individual. An invoice was not previously issued and there is no written agreement in respect of the accommodation.

The HST applies to 40% of the payment made to the hotel since the amount paid for 4 of the 10 nights is attributable to lease intervals beginning on or after April 1, 2013. GST at 5% applies to the remaining part of the payment. In this case, the GST on the first

six nights and the federal part of the HST paid in respect of the last four nights must be included in the hotel's net tax calculation for the reporting period that includes February 10, 2013. The provincial part of the HST that is payable in respect of the last four nights must be included in the hotel's net tax calculation for the reporting period that includes April 1, 2013.

Example 14

The operator of a seasonal campground leases a site in the campground to an individual for the individual's personal use. Under the written agreement, the lease payment is due on March 15, 2013 for the six-month period from May 1, 2013 to October 31, 2013 (i.e., the lease interval is six months). The individual pays the lease payment on March 20, 2013.

The HST applies to the whole lease payment. The federal part of the HST paid in respect of the lease must be included in the operator's net tax calculation for the reporting period that includes March 15, 2013. The provincial part of the HST that is payable in respect of the lease must be included in the operator's net tax calculation for the reporting period that includes April 1, 2013.

Example 15

An individual leases a site for their personal use in a seasonal campground from May 1, 2013 to October 31, 2013. Under the written agreement, the lease payment is \$1,000 and is due on February 1, 2013. The individual pays consideration of \$500 on January 15, 2013 and the remaining \$500 on February 1, 2013.

The GST at 5% applies to the payment made on January 15, 2013 since it is paid before February 2013. The campground operator must include this GST in its net tax calculation for the reporting period that includes January 15, 2013.

For the payment made on February 1, 2013, the HST applies since that consideration is paid on or after February 1, 2013 and is attributable to a lease interval beginning on or after April 1, 2013. The federal part of the HST paid must be included in the operator's net tax calculation for the reporting period that includes February 1, 2013. The operator must include the provincial part of the HST that is payable in its net tax calculation for the reporting period that includes April 1, 2013.

Example 16

A golf course operator sells a multi-pack of green fees for the 2013 golf season to an individual for their personal use. The individual pays consideration for the multi-pack on March 1, 2013. The green fees are consideration for supplies of real property for GST/HST purposes, specifically, rights to use a golf course. Upon receiving the payment, the operator issues a receipt to the individual. An invoice was not previously issued and there is no written agreement in respect of the green fees.

The HST applies to the sale of the multi-pack. The federal part of the HST paid in respect of the green fees must be included in the operator's net tax calculation for the reporting period that includes March 1, 2013. The provincial part of the HST that is payable must be included in the operator's net tax calculation for the reporting period that includes April 1, 2013.

Example 17

A ski resort operator supplies a 10 time ski pass on March 15, 2013. The pass has no expiry date and may be used, for example, in 2015. The supply of a ski pass is generally a supply of a right to use real property, i.e., the supply of real property by way of licence. Upon receiving payment of the consideration, the operator issues a receipt to the individual. An invoice was not previously issued and there is no written agreement in respect of the ski pass.

The HST applies on the total payment as the amount attributable to the period before April 2013 is negligible in comparison to the infinite length of the period that occurs on or after April 1, 2013. The federal part of the HST paid in respect of the ski pass must be included in the operator's net tax calculation for the reporting period that includes March 15, 2013. The provincial part of the HST that is payable must be included in the operator's net tax calculation for the reporting period that includes April 1, 2013.

Where consideration becomes due or is paid on or after April 1, 2013

Where the consideration becomes due or is paid without having become due on or after April 1, 2013, the supplier must account for the HST according to the normal rules.

Example 18

A landlord enters into a written agreement in January 2013 for the lease of commercial real property. The term of the lease commences August 1, 2013, and requires monthly lease payments, payable in advance, on the first of each month beginning August 1, 2013. The lease payments are paid when they become due. Each month is a lease interval and each lease payment is attributable to a period that occurs after April 1, 2013.

The HST applies to all of the lease payments. The landlord must include the HST in respect of a particular lease payment in its net tax calculation for the reporting period during which the particular lease payment becomes due and is paid.

Self-assessment of provincial part of the HST

Where the consideration for a taxable supply of real property made by way of lease becomes due or is paid without having become due after November 8, 2012 and before February 2013, to the extent that the consideration relates to a period that occurs on or after April 1, 2013, a lessee may be required to self-assess the provincial part of the HST.

A self-assessment of the provincial part of the HST is required if the lessee is:

- a non-consumer that acquires the real property for consumption, use or supply otherwise than exclusively in its commercial activities;
- a non-consumer that uses a simplified accounting method to calculate its net tax;
- a charity that uses the net tax calculation for charities; or
- a GST/HST registrant that is a selected listed financial institution.

A consumer is a particular individual who leases the real property for the individual's own personal use or consumption, or for the personal use or consumption of another individual at the particular individual's expense. A consumer does not include an individual who acquires a lease of real property for consumption, use or supply in the course of its commercial activities or in the course of making exempt supplies. This section does not apply to a consumer.

The lessee must account for the provincial part of the HST:

- on line 405 of its GST/HST return for the reporting period that includes April 1, 2013 if the due date for that return is before August 2013; or
- in any other case, by completing and filing Form GST489, *Return for Self-Assessment for the Provincial Part of Harmonized Sales Tax (HST)* and paying the amount before August 2013.

Example 19

A small business using the quick method of accounting to calculate its net tax for GST purposes, leases space in a building from a landlord and uses the space exclusively in the course of its commercial activities. Under the written lease agreement, the lease payment is payable by the business on January 1, 2013, and covers the lease interval of January 1 to December 31, 2013. The business pays the lease payment on January 1, 2013. The business files quarterly GST/HST returns.

Since the lease payment becomes due and is paid on January 1, 2013 (during the period after November 8, 2012 and before February 2013) and the small business uses the quick method, the business is required to self-assess the provincial part of the HST on the part of the lease payment that is attributable to the period beginning on April 1, 2013 and ending on December 31, 2013 (i.e., the provincial part of the HST applies to nine months of the twelve month lease interval or 75% of the lease payment). The small business must include the provincial part of the HST on line 405 of its GST/HST return for the reporting period that includes April 1, 2013.

Example 20

The operator of a daycare centre leases space in a building from a landlord and uses the space in the course of making exempt supplies of childcare services. Under the written lease agreement for the space, a lease payment of \$100,000 is payable by the operator on January 1, 2013 and covers the lease interval of January 1, 2013 to December 31, 2013. The operator pays \$100,000 on January 1, 2013. The operator is not registered for GST/HST purposes.

Since the lease payment becomes due and is paid on January 1, 2013 (during the period after November 8, 2012 and before February 2013) and the operator uses the space in the course of making

exempt supplies, the operator must self-assess the provincial part of the HST on the part of the lease payment that is attributable to the period beginning on April 1, 2013 and ending on December 31, 2013, i.e., nine months of the twelve-month lease interval or \$75,000 (75% of the \$100,000 lease payment). The operator must file Form GST489 and pay the provincial part of the HST of \$6,750 ($\$75,000 \times 9\%$) before August 2013.

Example 21

A charity leases space in a building from January 1 to December 31, 2013, for use as a youth drop-in centre. The charity pays \$12,000 consideration plus the GST at 5% for the annual lease on January 1, 2013. The written lease agreement provides that the lease payment does not become due before that date. The charity is registered for GST/HST purposes and files its GST/HST returns annually on a calendar basis using the net tax calculation method for charities.

Since the lease payment is paid without having become due on January 1, 2013 (during the period after November 8, 2012 and before February 2013) and the charity uses the net tax calculation method for charities, the charity is required to self-assess the provincial part of the HST on the part of the lease payment that is attributable to April 1 through December 31, 2013, i.e., nine months of the twelve month lease interval (75% of the \$12,000 lease payment, or \$9,000). The charity must file Form GST489 and pay the provincial part of the HST of \$810 ($\$9,000 \times 9\%$) before August 2013 since its GST/HST return is due after July 2013.

Deposits

Deposits given in respect of a supply are not consideration for a supply unless and until the supplier applies the deposit as consideration for the supply or the amount is forfeited. Generally, a deposit is an amount, whether or not refundable, given by a recipient as security for the performance of an obligation by the recipient. A deposit is not a prepayment. An indication of whether an amount is a deposit or a prepayment of consideration for a supply may be determined by reference to how the supplier accounts for the receipt of funds in its books and records. An amount paid to a person as a deposit would generally not be recorded in the person's books and records as revenue until such time that the person applies the amount as a payment or the amount is forfeited.

Example 22

A hotel guest makes a deposit before February 2013 in respect of a supply of accommodation to be made by a hotel in June 2013. Upon receiving the payment, the hotel sends the guest confirmation of the reservation and receipt of the deposit. An invoice was not previously issued and there is no written agreement in respect of the accommodation. The deposit is not applied as consideration for the supply until the guest checks out of the hotel in June 2013.

The supply of accommodation is subject to the HST since the consideration becomes due and is paid after, and the lease interval begins after, March 2013.

Mandatory electronic filing

Many GST/HST registrants are required to file their GST/HST returns using electronic filing for reporting periods ending on or after April 1, 2013. For more information on electronic filing requirements, refer to GST/HST Info Sheet GI-099, *Builders and Electronic Filing Requirements*.

This info sheet does not replace the law found in the *Excise Tax Act* (the Act) and its regulations. It is provided for your reference. As it may not completely address your particular operation, you may wish to refer to the Act or appropriate regulation, or contact any CRA GST/HST rulings office for additional information. A ruling should be requested for certainty in respect of any particular GST/HST matter. Pamphlet RC4405, *GST/HST Rulings – Experts in GST/HST Legislation* explains how to obtain a ruling and lists the GST/HST rulings offices. If you wish to make a technical enquiry on the GST/HST by telephone, please call 1-800-959-8287.

If you are located in Quebec and wish to make a technical enquiry or request a ruling related to the GST/HST, please contact Revenu Québec at 1-800-567-4692. You may also visit the Revenu Québec Web site to obtain general information.

All technical publications related to GST/HST are available on the CRA Web site at www.cra.gc.ca/gsthsttech.

Appendix – Summary chart – taxable lease of real property

Where the consideration becomes due or is paid before November 9, 2012

Lease interval	Application of GST/HST
Begins and ends before April 2013	GST applies
Begins before April 2013 and ends before May 1, 2013	GST applies
Begins before April 2013 and ends after April 2013	GST applies
Begins and ends after March 2013	GST applies

Where the consideration becomes due or is paid after November 8, 2012 and before February 2013

Lease interval	Application of GST/HST
Begins and ends before April 2013	GST applies
Begins before April 2013 and ends before May 1, 2013	GST applies
Begins before April 2013 and ends after April 2013	GST applies Certain non-consumers and selected listed financial institutions must self-assess the provincial part of HST
Begins and ends after March 2013	GST applies Certain non-consumers and selected listed financial institutions must self-assess the provincial part of HST

Where the consideration becomes due or is paid on or after February 1, 2013

Lease interval	Application of GST/HST
Begins and ends before April 2013	GST applies
Begins before April 2013 and ends before May 1, 2013	GST applies
Begins before April 2013 and ends after April 2013	Pro-rate GST applies to consideration that relates to periods before April 2013; HST applies to consideration that relates to periods after March 2013
Begins and ends after March 2013	HST applies