



Nova Scotia HST Rate Increase: Progress Payments and Holdbacks

The Government of Nova Scotia increased the provincial part of the harmonized sales tax (HST) from 8% to 10% effective July 1, 2010. The HST rate in Nova Scotia effective as of that date is 15% of which 5% represents the federal part and 10% the provincial part.

This info sheet reflects tax changes included in the *Nova Scotia HST Regulations, 2010*.

This info sheet outlines the rules for the Nova Scotia HST rate increase that apply to progress payments and holdbacks under contracts to construct, renovate, alter or repair (referred to here as “construct”) real property or a ship or other marine vessel in Nova Scotia.

These rules do not apply to a purchase and sale agreement for real property. For information on how the Nova Scotia HST rate increase applies to the sale of new housing, refer to GST/HST Info Sheet GI-104, *Nova Scotia HST Rate Increase: Sales and Rentals of New Housing*. For information on how the Nova Scotia HST rate increase applies to the sale or rental of non-residential real property, see GST/HST Info Sheet GI-102, *Nova Scotia HST Rate Increase: Sales and Rentals of Non-residential Real Property*.

Progress payments

A contract between a supplier and a recipient for the construction of real property, or a ship or other marine vessel, will often call for the recipient to make payments as work on the project progresses. These payments, referred to as progress payments, are not deposits. Usually, the payments are for work completed at the time the payment is made or becomes due, although they can also be made in anticipation of work being completed.

A contract may state that a progress payment becomes due when the contractor completes certain parts of the contract (for example, completes the foundation) or when certain events have occurred (for example, preliminary inspection of a building).

A contract may state that the contractor can request a progress payment based on the value of work completed. In this case, another person (usually a consultant, an engineer, or an architect) approves the work and issues a certificate stating the value of the work completed. Generally, the purchaser has to make the payment within a certain number of days after the consultant, engineer, or architect issues the certificate.

Generally, the GST/HST becomes collectible on each progress payment on the earlier of:

- the day the purchaser pays the progress payment; and
- the day the progress payment becomes due.

See GST/HST guide RC4052, *GST/HST Information for the Home Construction Industry*, for more information on progress payments.

How the HST rate increase applies to progress payments

The HST applies at 13% to progress payments that are paid or become due under contracts to construct real property or a ship or other marine vessel if the progress payment can reasonably be attributed to property delivered or services performed under the contract before July 2010.

The HST also applies at 13% to progress payments that are paid or become due before May 1, 2010, regardless of when property is delivered or services are performed.

Generally, the HST applies at 15% to progress payments that become due, or are paid without having become due, on or after May 1, 2010, to the extent that the progress payment relates to property delivered, or services performed, under the contract on or after July 1, 2010.

A contractor is required to report the applicable HST collectible (13% or 15%) in the contractor's GST/HST return for the reporting period in which the tax becomes collectible.

Holdbacks

If, in accordance with federal or provincial law or a written agreement for the construction of real property or a ship or other marine vessel, a purchaser keeps a part of a payment as a holdback pending satisfactory completion of the work, the GST/HST on the amount of the holdback becomes collectible by the contractor on the earlier of:

- the day the purchaser pays the contractor the amount of the holdback; and
- the day the holdback period expires.

The GST/HST is collectible by the contractor on the earlier of the above dates even if the contractor has already issued an invoice for the holdback amount and charged the GST/HST on this amount.

How the HST rate increase applies to holdbacks

For purposes of determining whether the HST applies at 13% or 15%, a holdback in respect of a progress payment is treated in the same manner as the progress payment to which the holdback relates.

As a result, holdbacks from progress payments are subject to the HST at 13% to the extent that the progress payment to which the holdback relates can reasonably be attributed to property delivered or services performed under the contract before July 2010. This is the case even if the holdbacks become due or are paid on or after July 1, 2010.

HST applies at 15% to a holdback to the extent that the progress payment to which it relates becomes due, or was paid without having become due, after April 2010 and can reasonably be attributed to property delivered or services performed under the contract on or after July 1, 2010.

Example

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

- 1st Payment: \$500,000 due March 15, 2010;**
(100% attributable to property delivered and services performed before July 2010);
- 2nd Payment: \$500,000 due May 15, 2010;**
(100% attributable to property delivered and services performed before July 2010);
- 3rd Payment: \$500,000 due August 15, 2010;**
(30% attributable to property delivered and services performed before July 2010.
70% attributable to property delivered and services performed on or after July 1, 2010);

Holdback of \$150,000 (i.e., 10% of the entire consideration) due September 15, 2010.

(\$50,000 is held back from each progress payment.)

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

Application of the HST rate increase:

The 1st and 2nd progress payments are subject to the HST at 13% because they are entirely attributable to property delivered and services performed before July 2010.

Similarly, the \$50,000 holdback in respect of the 1st progress payment and the \$50,000 holdback in respect of the 2nd progress payment (\$100,000 in total) are subject to the HST at 13% since the 1st and 2nd progress payments are attributable to property delivered or services performed before July 2010.

As to the 3rd progress payment:

- 30% of the payment (the portion attributable to property delivered and services performed before July 2010) is subject to the HST at 13%; and
- 70% of the payment (the portion attributable to property delivered and services performed on or after July 1, 2010) is subject to the HST at 15%.

Of the \$50,000 holdback relating to the 3rd payment:

- 30% of it is subject to the HST at 13% since this portion of the holdback relates to the portion of the progress payment that is attributable to property delivered and services performed before July 2010; and
- 70% of it is subject to the HST at 15% since this portion of the holdback relates to the portion of the progress payment that is attributable to property delivered and services performed on or after July 1, 2010.

The HST is payable by the purchaser, and collectible by the contractor, as follows:

1) March 15, 2010:

$$\begin{aligned} &= 13\% \times [100\% \times (\$500,000 - \$50,000)]; \\ &= 13\% \times \$450,000 \\ &= \mathbf{\$58,500} \end{aligned}$$

2) May 15, 2010:

$$\begin{aligned} &= 13\% \times [100\% \times (\$500,000 - \$50,000)]; \\ &= 13\% \times \$450,000 \\ &= \mathbf{\$58,500} \end{aligned}$$

3) August 15, 2010:

$$\begin{aligned} &= 13\% \times [30\% \times (\$500,000 - \$50,000)]; \\ &= 13\% \times \$135,000 \\ &= \$17,550 \end{aligned}$$

plus

$$\begin{aligned} &= 15\% \times [70\% \times (\$500,000 - \$50,000)]; \\ &= 15\% \times \$315,000 \\ &= \$47,250 \end{aligned}$$

Total

$$= \mathbf{\$64,800} (\$17,550 + \$47,250)$$

4) September 15, 2010:

$$\begin{aligned} &= 13\% \times [(\$50,000 + \$50,000) + (30\% \times \$50,000)] \\ &= 13\% \times \$115,000 \\ &= \$14,950 \end{aligned}$$

plus

$$\begin{aligned} &= 15\% \times (70\% \times \$50,000) \\ &= 15\% \times \$35,000 \\ &= \$5,250 \end{aligned}$$

Total

$$= \mathbf{\$20,200} (\$14,950 + \$5,250)$$

Assuming the contractor is a monthly (calendar) filer for GST/HST purposes, the contractor would be required to report the HST as follows:

- \$58,500 in the GST/HST return for March 2010;
- \$58,500 in the GST/HST return for May 2010;
- \$64,800 in the GST/HST return for August 2010; and
- \$20,200 in the GST/HST return for September 2010.

New filing requirements for GST/HST registrants

Many GST/HST registrants, including construction contractors, are required to electronically file their GST/HST return for reporting periods ending on or after July 1, 2010. For more information on the electronic filing requirements, refer to Guide RC4022, *General Information for GST/HST Registrants*.

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 by calling 1-800-567-4692. You may also visit their Web site at www.revenu.gouv.qc.ca to obtain general information.

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