



GST/HST Info Sheet

GI-059

July 2010

Ontario and British Columbia: Transition to the Harmonized Sales Tax – Intangible Personal Property

This info sheet replaces the version dated February 2010.

The Government of Ontario and the Government of British Columbia have each introduced a harmonized sales tax (HST) that came into effect on July 1, 2010.

The HST rate in Ontario is 13% of which 5% represents the federal part and 8% the provincial part.

The HST rate in British Columbia is 12% of which 5% represents the federal part and 7% the provincial part.

This info sheet reflects certain tax changes included in the *New Harmonized Value-Added Tax System Regulations*.

This info sheet explains whether the goods and services tax (GST) or the HST applies to sales of intangible personal property during the period that includes the July 1, 2010 implementation date of the HST in Ontario and British Columbia.

The information in this info sheet also applies to intangible personal property supplied by way of lease, licence or similar arrangement where the payments do not vary with the amount of use or profits from the property. This could be the case where, for example, a lump-sum payment is made to an author for all rights associated with a book written by the author.

However, if payments for intangible personal property supplied by way of lease, licence or similar arrangement vary with the amount of use or profits from the property, the transitional rules for leases or licences of property would apply. More information on these transitional rules is available in GST/HST Info Sheet GI-070, *Ontario and British Columbia: Transition to the Harmonized Sales Tax—Goods*.

Note: The information provided in this info sheet does not apply to certain intangible personal property. More information is available in the following GST/HST Info Sheets:

- GI-057, *Ontario and British Columbia: Transition to the Harmonized Sales Tax – Memberships*;
- GI-058, *Ontario and British Columbia: Transition to the Harmonized Sales Tax – Admissions*.

Intangible personal property includes contractual rights, intellectual property (e.g., inventions, patents, trade secrets, trademarks, trade names, copyrights, or industrial designs), rights to acquire a membership, and rights in relation to goods that are not in the possession of a person.

Intangible personal property sold during the period that includes July 1, 2010

To determine whether GST or HST applies to intangible personal property sold in Ontario or British Columbia during the period that includes July 1, 2010, suppliers must consider:

- when an amount for the intangible personal property becomes due; and
- whether an amount is paid without having become due.

The Appendix to this info sheet contains information on when an amount becomes due and when an amount is paid without having become due.

In this info sheet, all suppliers referred to in the examples are GST/HST registrants and the sales are taxable. "Taxable" means subject to the 5% GST or to the HST rate in effect in a particular province.

La version française du présent document est intitulée *Transition à la taxe de vente harmonisée de l'Ontario et de la Colombie-Britannique – Biens meubles incorporels*.



Canada Revenue
Agency

Agence du revenu
du Canada

Canada

When an amount becomes due or is paid before July 2010

When an amount for the sale of intangible personal property becomes due or is paid without having become due before July 2010, only GST applies. Suppliers account for the tax in their GST/HST returns according to the normal rules.

Example 1

A Web site operator sells a right to use digital picture files. The purchaser must pay for this right before downloading the files. On June 25, 2010, a purchaser pays for this right and downloads the files on July 2, 2010.

Only GST applies to the sale of the right to use the digital picture files because the amount for this intangible personal property is paid before July 2010. The Web site operator accounts for the tax in its GST/HST return for the reporting period that includes June 25, 2010.

Example 2

A club charges a person an initiation fee for the right to acquire a membership in the club. The club issues the invoice dated June 26, 2010.

Only GST applies to the sale of the right to acquire the membership because the amount for this intangible personal property becomes due before July 2010.

Example 3

A business sells a patent to manufacture widgets for which it receives fixed annual royalty payments. A royalty payment becomes due to the business on June 20, 2010. The payment is made on July 5, 2010.

Only GST applies to the royalty payment because it becomes due before July 1, 2010.

When an amount becomes due or is paid on or after July 1, 2010

HST applies to the sale of intangible personal property when the amount for the property becomes due or is paid without having become due on or after July 1, 2010. Suppliers account for the tax in their GST/HST returns according to the normal rules.

Example 4

A business sells annual subscriptions to access on-line editions of books. Subscribers pay for their subscriptions by making payments on June 1, 2010, July 1, 2010, and August 1, 2010. The amounts are not paid before they become due.

Only GST applies to the first payment because the amount becomes due before July 1, 2010. HST applies to the second and third payments because the amounts become due on or after July 1, 2010. The business accounts for the GST and HST in its GST/HST return for each reporting period in which the tax becomes due.

Example 5

On May 1, 2010, a business enters into an agreement with a software designer for the design and development of custom software. Under the terms of the agreement, the software designer retains ownership of the custom software. The business pays a monthly fee to the designer on the 15th day of each month, starting June 15, 2010. The amounts do not vary with the amount of use of the custom software and they are not paid before they become due.

The custom software is intangible personal property for GST/HST purposes because it is designed and developed for the needs of a particular person and the supplier retains the right to it.

GST applies to the June 15, 2010 payment because the amount becomes due before July 2010. HST applies to the other payments because the amounts become due on or after July 1, 2010. The software designer accounts for the GST and HST in its GST/HST return for each reporting period in which the tax becomes due.

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/gsthstech.

Appendix – When an amount becomes due or is paid without having become due

The following rules explain when an amount becomes due and when an amount is paid without having become due. These rules apply to services and supplies of tangible and intangible personal property.

Amount becomes due

Generally, an amount for a supply becomes due on the earliest of the following days:

- the date of an invoice for that amount for the supply;
- the day the supplier first issues that invoice for the amount;
- if there is an undue delay in issuing that invoice, the day the supplier would have issued the invoice; and
- the day the client is required to pay that amount under a written agreement (other than a written agreement for the supply of property by way of lease, licence or similar arrangement).

An amount for a supply of property made by way of lease, licence or similar arrangement under a written agreement becomes due on the day the client is required to pay that amount under the written agreement.

For information on what is a written agreement for GST/HST purposes, refer to GST Memorandum 300-6-4, *Agreements in Writing*.

Example 1

A supplier enters into a written agreement with a client for a service. Under the agreement, the client is required to pay the total amount on April 30. The supplier issues the invoice dated April 15.

The amount becomes due on April 15 because it is the earliest of the date of the invoice, the day the invoice was issued, and the day the client is required to pay an amount under a written agreement.

Amount is paid without having become due

An amount is paid without having become due when a client pays an amount for a supply:

- before the date of an invoice or before a supplier issues, or would have issued, the invoice;
- before the client is required to pay the amount under a written agreement (other than a written agreement for the supply of property by way of lease, licence or similar arrangement) and no invoice has been issued; or
- before the client is required to pay the amount under a written agreement for the supply of property by way of lease, licence or similar arrangement.

Example 2

A supplier enters into a written agreement with a client for a service to be performed during the year. Under the agreement, the client is required to pay the total amount due on April 30. No invoice is issued. The client pays the amount due on April 15. In this case, April 30 is the day the amount becomes due and April 15 is the day the amount is paid without having become due.

More than one invoice or payment

Sometimes, more than one amount becomes due or is paid without having become due. This could happen when, for example, a supplier issues more than one invoice or when the client is required to make more than one payment under a written agreement. In this case, for each amount, the supplier must determine whether GST or HST applies. The supplier cannot, for example, apply the HST on the final amount or on the total amount payable for the supply.

Example 3

A supplier enters into a written agreement with a client for a service. Under the agreement, the client is required to make two payments. The supplier has to consider each payment separately to determine whether GST or HST applies to the amount.
