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# REVENUE TAX

# GUIDE

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## IMPLEMENTATION OF THE HARMONIZED SALES TAX IN PRINCE EDWARD ISLAND

This Guide provides general descriptions of transitional rules, for the Harmonized Sales Tax (HST) in Prince Edward Island (PEI), including rules for new residential housing, that will be proposed to be implemented by way of regulations made under the federal *Excise Tax Act* (ETA). It also provides general descriptions of provincial measures that will be proposed to be enacted to wind down the applicable provisions of the PEI *Revenue Tax Act*.

For information on a temporary restriction that will apply to certain provincial input tax credits (ITCs) of large businesses, refer to the **Temporary Recapture of Certain Provincial Input Tax Credits** Guide.

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## OVERVIEW

It is proposed that, effective April 1, 2013, PEI's Revenue Tax (PST) be replaced with the HST. The HST would have a combined tax rate of 14 per cent — combining the existing five per cent federal Goods and Services Tax (GST) and a nine per cent PEI component. The HST would be administered by the Canada Revenue Agency (CRA).

Transitional rules are required to determine which tax — the existing PST or the PEI component of the HST — would apply to transactions that straddle the April 1, 2013 implementation date for the HST.

The transitional rules would operate on the basis of the following dates:

- **April 1, 2013** — Implementation date for the HST in PEI.
- **February 1, 2013** — The HST would generally apply to consideration that becomes due, or is paid without having become due, on or after this date for property and services provided on or after April 1, 2013.
- **November 8, 2012** — The release date of this Guide. The HST would generally not apply to consideration that becomes due, or is paid without having become due, on or before November 8, 2012. Certain businesses and public service bodies, however, may be required to self-assess the PEI component of the HST on consideration that becomes due, or is paid without having become due, after November 8, 2012 and before February 1, 2013 for property and services provided on or after April 1, 2013.

The transactions described in this Guide are generally those that, for purposes of the ETA, would be considered to be taxable supplies made in PEI.

These transitional rules generally operate on the basis of the earlier of when consideration for a supply becomes due or is paid without having become due. Under the ETA, consideration for a supply becomes due on the earliest of:

- the day the supplier first issues an invoice with respect to the supply;
- the date of the invoice;
- the day the supplier would have, but for undue delay, issued an invoice with respect to the supply; and
- the day the recipient of the supply is required to pay the consideration pursuant to a written agreement.

Unless otherwise stated, or the circumstances otherwise require, the definitions and concepts in the ETA would apply to the transitional rules described in this Guide.

## **TRANSITIONAL RULES FOR THE INTRODUCTION OF THE HST**

This part of the Guide describes the general transitional rules for the introduction of the HST in PEI. These rules should be read in conjunction with the general transitional rules for the wind-down of the PST, as described in the **Winding Down the PST** section below. Taken together, the HST and PST transitional rules are complementary and are intended to provide for a smooth transition to the HST.

### **Tangible Personal Property**

This section describes general transitional rules for supplies of tangible personal property (i.e., goods) by way of sale, as well as specific transitional rules for subscriptions to certain publications published periodically.

#### General Rules

The HST would generally apply to a supply of goods by way of sale to the extent that the goods are delivered, and ownership of the goods is transferred, to the recipient of the supply on or after April 1, 2013.

#### Consideration due or paid on or after April 1, 2013

The HST would generally apply to consideration that becomes due, or is paid without having become due, on or after April 1, 2013 for a supply of goods by way of sale, to the extent that the consideration is for goods that are delivered, and for which ownership is transferred, to the recipient of the supply on or after April 1, 2013.

***Example 1:** In February 2013, a person enters into an agreement to purchase furniture. Under the agreement, the person takes delivery of the furniture in April 2013, makes 12 monthly payments between April 2013 and March 2014, and receives ownership of the furniture when all the payments have been made. The HST would apply to the sale of the furniture.*

#### Consideration due or paid on or after February 1, 2013 and before April 1, 2013

The HST would generally apply to consideration that becomes due, or is paid without having become due, on or after February 1, 2013 and before April 1, 2013 for a supply of goods by way of sale, to the extent that the consideration is for goods that are delivered, and for which ownership is transferred, to the recipient of the supply on or after April 1, 2013.

In such circumstances, the supplier would be required to account for the PEI component of the HST in its GST/HST return for its reporting period that includes April 1, 2013. The recipient of the supply would be able to claim any available ITCs with respect to the PEI component of the HST in the GST/HST reporting period of the recipient that includes April 1, 2013.

***Example 2:** In March 2013, a person pays for a sailboat, but the sailboat will not be delivered, and ownership of it will not be transferred, to the person until May 2013. The HST would apply to the sale and the supplier would account for the PEI component of the HST in its GST/HST return for its reporting period that includes April 1, 2013.*

Consideration due or paid after November 8, 2012 and before February 1, 2013

Persons who are not consumers — such as businesses and public service bodies — may be required to self-assess the PEI component of the HST on consideration that becomes due, or is paid without having become due, after November 8, 2012 and before February 1, 2013 for a supply of goods by way of sale, to the extent that the consideration is for goods that are delivered, and for which ownership is transferred, to the recipient of the supply on or after April 1, 2013.

The requirement to self-assess in these circumstances would generally apply only to:

- non-consumers acquiring the goods for consumption, use or supply otherwise than exclusively in the course of their commercial activities (e.g., a business, such as a financial institution, that is acquiring the goods to make GST/HST-exempt supplies);
- non-consumers acquiring the goods for consumption, use or supply exclusively in the course of their commercial activities but in circumstances where the goods would be subject to an ITC restriction or recapture (e.g., electricity subject to the proposed recapture of ITCs for large businesses that is described in the **Temporary Recapture of Certain Provincial Input Tax Credits** Guide );
- non-consumers that use simplified procedures available under the ETA for calculating their net tax (e.g., certain charities, public service bodies, and small businesses); and
- selected listed financial institutions (SLFIs), which use a special attribution method in determining their net tax.

A person who is required to self-assess in these circumstances would be required to account for the tax either: (i) in the GST/HST return of the person for the reporting period that includes April 1, 2013, if the due date for that return is before August 1, 2013, or (ii) in any other case, in prescribed form and before August 1, 2013.

***Example 3:** In December 2012, an SLFI that is a monthly GST/HST filer is invoiced for security equipment for which delivery occurs, and ownership is transferred, in April 2013. The SLFI must self-assess the PEI component of the HST on the consideration for the equipment in its GST/HST return for its reporting period that includes April 1, 2013.*

### **Subscriptions to Newspapers, Magazines or Other Publications Published Periodically**

Notwithstanding the general transitional rules for supplies of goods by way of sale, the HST would generally not apply to consideration that is paid before April 1, 2013 for a subscription to a newspaper, magazine or other publication published periodically.

***Example 4:** In March 2013, a person pays for an annual subscription to a magazine. Editions of the magazine will be delivered each month for 12 months starting in April 2013. The HST would not apply to the payment for the subscription.*

### **Services**

This section describes the general transitional rules for supplies of services, as well as specific transitional rules for funeral and cemetery services, passenger transportation services and freight transportation services.

## General Rules

The HST would generally apply to a supply of a service to the extent that the service is performed on or after April 1, 2013. The HST would generally not apply, however, to a supply of a service if all or substantially all (90 per cent or more) of the service is performed before April 1, 2013.

### Consideration due or paid on or after April 1, 2013

The HST would generally apply to consideration that becomes due, or is paid without having become due, on or after April 1, 2013 for a supply of a service, to the extent that the consideration is for the part of the service that is performed on or after April 1, 2013.

**Example 5:** *A person hires a consulting firm to perform a service during the early spring of 2013 but is not invoiced, and does not pay, for the service until May 2013. One-third of the service is performed in each of the months of March, April and May 2013. The HST would apply to the consideration that is for the part of the service performed in April and May (i.e., two-thirds of the consideration).*

### Consideration due or paid on or after February 1, 2013 and before April 1, 2013

The HST would generally apply to consideration that becomes due, or is paid without having become due, on or after February 1, 2013 and before April 1, 2013 for a supply of a service to the extent that the consideration is for the part of the service that is performed on or after April 1, 2013.

In such circumstances, the supplier would be required to account for the PEI component of the HST in its GST/HST return for its reporting period that includes April 1, 2013. The recipient of the supply would be able to claim any available ITCs with respect to the PEI component of the HST in the GST/HST reporting period of the recipient that includes April 1, 2013.

**Example 6:** *In February 2013, a person pays for interior decorating services, 50 per cent of which will be performed after March 2013. The HST would apply to 50 per cent of the consideration for that service and the supplier would account for the PEI component of the HST in its GST/HST return for its reporting period that includes April 1, 2013.*

### Consideration due or paid after November 8, 2012 and before February 1, 2013

Persons who are not consumers — such as businesses and public service bodies — may be required to self-assess the PEI component of the HST on consideration that becomes due, or is paid without having become due, after November 8, 2012 and before February 1, 2013 for a supply of a service, to the extent that the consideration is for the part of the service that is performed on or after April 1, 2013.

The requirement to self-assess in these circumstances would generally apply only to:

- non-consumers acquiring the service for consumption, use or supply otherwise than exclusively in the course of their commercial activities (e.g., a business, such as a financial institution, that is acquiring the service to make GST/HST-exempt supplies);
- non-consumers acquiring the service for consumption, use or supply exclusively in the course of their commercial activities but in circumstances where the service would be

subject to an ITC restriction or recapture (e.g., certain entertainment expenses subject to the 50 per cent ITC recapture rules in the ETA);

- non-consumers that use simplified procedures available under the ETA for calculating their net tax (e.g., certain charities, public service bodies, and small businesses); and
- SLFIs, which use a special attribution method in determining their net tax.

A person who is required to self-assess in these circumstances would be required to account for the tax either: (i) in the GST/HST return of the person for the reporting period that includes April 1, 2013, if the due date for that return is before August 1, 2013, or (ii) in any other case, in prescribed form and before August 1, 2013.

***Example 7:** In December 2012, a company making both taxable and exempt supplies is invoiced for a supply of a janitorial service, part of which will be performed after March 2013. The company is a quarterly GST/HST filer with calendar quarters. The company must self-assess the PEI component of the HST on the consideration that is for the part of the service to be performed after March 2013. The company would be required to account for the PEI component of the HST in its GST/HST return that is due on July 31, 2013 and could claim any available ITCs with respect to that tax in the same return.*

### **Prepaid Funeral and Cemetery Services**

Notwithstanding the general transitional rules for supplies of services, the HST would not apply to consideration for the part of a funeral or cemetery service that is performed on or after April 1, 2013 if the service is supplied pursuant to an arrangement in writing that was entered into before April 1, 2013.

This rule would only apply if it was reasonable, at the time the arrangement was entered into, to expect that all or a part of the consideration for the service would be paid (or put into trust) before the individual's death.

This rule would also apply to an interment right (i.e., a real property right relating to the interment of human remains in a cemetery, mausoleum, columbarium or any similar place used for the interment of human remains) supplied under a written agreement that is entered into before April 1, 2013.

### **Passenger Transportation Services**

Notwithstanding the general transitional rules for supplies of services, the HST would not apply to consideration for the part of a passenger transportation service that is performed on or after April 1, 2013 if the passenger transportation service is part of a continuous journey that begins before April 1, 2013.

***Example 8:** In March 2013, a person pays for round-trip air travel as part of a continuous journey from Charlottetown to Ottawa on March 31, 2013, and from Ottawa to Charlottetown on April 2, 2013. The HST would not apply to the payment for the round-trip air travel.*

For information about the transitional rules for passenger transportation passes, see the **Intangible Personal Property** section of this Guide.

## **Freight Transportation Services**

Notwithstanding the general transitional rules for supplies of services, the HST would not apply to consideration for the part of a freight transportation service that is performed on or after April 1, 2013 if the service is part of a continuous freight movement of goods that begins before April 1, 2013.

## **Leases and Licences**

This section describes general transitional rules for property — including goods, intangible personal property, non-residential real property (including short term accommodations for PST purposes) and commercial real property — that is supplied by way of lease, licence or similar arrangement, the consideration for which is rent, royalties or similar payments.

This section does not apply to supplies of intangible personal property where the payments do not vary with the amount of use or profits from the property (e.g., a lump-sum payment for a supply of a copyright). For such supplies, see the **Intangible Personal Property** section of this Guide.

### General Rules

The HST would generally apply to a supply of property by way of lease, licence or similar arrangement for the part of a lease interval that occurs on or after April 1, 2013. The HST would not, however, apply to a supply of property by way of lease, licence or similar arrangement if the lease interval begins before April 1, 2013 and ends before May 1, 2013.

***Example 9:** A person makes a car lease payment for the lease interval from March 15, 2013 to April 14, 2013. The HST would not apply to the lease payment (regardless of when the payment was made).*

### Consideration due or paid on or after April 1, 2013

The HST would generally apply to consideration that becomes due, or is paid without having become due, on or after April 1, 2013 for a supply of property by way of lease, licence or similar arrangement, to the extent that the consideration is for the part of a lease interval that occurs on or after April 1, 2013 (unless the lease interval begins before April 1, 2013 and ends before May 1, 2013).

***Example 10:** A monthly car lease payment becomes due and is paid on April 1, 2013 for the lease interval from April 1, 2013 to April 30, 2013. The HST would apply to the lease payment.*

### Consideration due or paid on or after February 1, 2013 and before April 1, 2013

The HST would generally apply to consideration that becomes due, or is paid without having become due, on or after February 1, 2013 and before April 1, 2013 for a supply of property by way of lease, licence or similar arrangement, to the extent that the consideration is for the part of a lease interval that occurs on or after April 1, 2013 (unless the lease interval begins before April 1, 2013 and ends before May 1, 2013).



In such circumstances, the supplier would be required to account for the PEI component of the HST in its GST/HST return for its reporting period that includes April 1, 2013. The recipient of the supply would be able to claim any available ITCs with respect to the PEI component of the HST in the GST/HST reporting period of the recipient that includes April 1, 2013.

**Example 11:** *On February 1, 2013, a lease payment becomes due and is paid for a generator. The lease interval is six months (February 1, 2013 through July 31, 2013). The part of the payment for the months of February and March would not be subject to the HST but the part of the payment for the months of April, May, June and July would be subject to the HST.*

Consideration due or paid after November 8, 2012 and before February 1, 2013

Persons who are not consumers — such as businesses and public service bodies — may be required to self-assess the PEI component of the HST on consideration for a supply of property by way of lease, licence or similar arrangement that becomes due, or is paid without having become due, after November 8, 2012 and before February 1, 2013, to the extent that the consideration is for the part of a lease interval that occurs on or after April 1, 2013 (unless the lease interval begins before April 1, 2013 and ends before May 1, 2013).

The requirement to self-assess in these circumstances would generally apply only to:

- non-consumers acquiring the property for consumption, use or supply otherwise than exclusively in the course of their commercial activities (e.g., a business, such as a financial institution, that is acquiring the property to make GST/HST-exempt supplies);
- non-consumers acquiring the property for consumption, use or supply exclusively in the course of their commercial activities but in circumstances where the property would be subject to an ITC restriction or recapture (e.g., leased passenger vehicles where the monthly lease payment exceeds \$800);
- non-consumers that use simplified procedures available under the ETA for calculating their net tax (e.g., certain charities, public service bodies, and small businesses); and
- SLFIs, which use a special attribution method in determining their net tax.

A person who is required to self-assess in these circumstances would be required to account for the tax either: (i) in the GST/HST return of the person for the reporting period that includes April 1, 2013, if the due date for that return is before August 1, 2013, or (ii) in any other case, in prescribed form and before August 1, 2013.

**Example 12:** *In January 2013, a business using the Quick Method of accounting under the ETA leases equipment and makes a lease payment for a five-month lease interval that begins on February 1, 2013 and ends on June 30, 2013. The business would self-assess the PEI component of the HST on the portion of the lease payment for the part of the lease interval that occurs on or after April 1, 2013 (i.e., three out of the five months or 60 per cent of the lease payment). Assuming the business has a calendar quarterly reporting period, it would be required to account for the PEI component of the HST in its GST/HST return that is due on July 31, 2013.*

## **Intangible Personal Property**

This section describes a general transitional rule for supplies of intangible personal property (e.g., intellectual property or contractual rights) by way of sale, as well as specific transitional rules for memberships, admissions, and passenger transportation passes.

### General Rule

The HST would generally apply to consideration that becomes due, or is paid without having become due, on or after April 1, 2013 for a supply of intangible personal property by way of sale.

***Example 13:** In March 2013, a person pays a lump sum for the right to reproduce certain portions of a book. The HST would not apply to the payment.*

### **Memberships**

A supply of a membership in a club, organization or association would be treated comparably to a supply of a service for purposes of the transitional rules. The general rules described in the **Services** section of this Guide would therefore apply, with appropriate modifications, to a supply of such a membership (i.e., to the extent that the membership period occurs on or after April 1, 2013).

***Example 14:** In March 2013, a person purchases a four-month membership in a fitness club for the months of March through June 2013. The HST would be payable with respect to three of the four months of the membership (i.e., on 75 per cent of the total consideration).*

### **Lifetime memberships**

If consideration for a lifetime membership in a club, organization or association becomes due, or is paid without having become due, after November 8, 2012 and before April 1, 2013, and that consideration exceeds 25 per cent of the total consideration for the lifetime membership, the amount in excess of that 25 per cent portion would be treated as having become due on, and not to have been paid before, April 1, 2013 and would be subject to the HST.

In such circumstances, the supplier would be required to account for the PEI component of the HST in its GST/HST return for its reporting period that includes April 1, 2013. The recipient of the supply would be able to claim any available ITCs with respect to the PEI component of the HST in the GST/HST reporting period of the recipient that includes April 1, 2013.

The requirement to pay the HST in these circumstances would apply both to a supply of a lifetime membership made in PEI, and to a supply of a lifetime membership made outside the HST provinces to a person who is resident in PEI.

***Example 15:** Sixty per cent of the consideration for a lifetime membership is paid in January 2013 and 40 per cent is paid in July 2013. The July 2013 payment would be subject to the HST. In addition, the portion of the January 2013 payment that exceeds 25 per cent of the total consideration (i.e., 35 per cent of the total consideration) would also be subject to the HST.*

## **Admissions**

A supply of an admission to a place of amusement, a seminar, an event or an activity would be treated comparably to a supply of a service for the purposes of the transitional rules. The general rules described in the **Services** section of this Guide would therefore apply, with appropriate modifications, to a supply of such an admission (i.e., to the extent that the event or activity to which the admission relates occurs on or after April 1, 2013).

***Example 16A:** In February 2013, a vendor sells tickets to a concert that will take place in July 2013. The HST would apply to the sale.*

***Example 16B:** In December 2012, a vendor sells tickets to a concert that will take place in July 2013. The vendor would not be required to collect HST in respect of the sale. However, where the tickets are purchased by certain non-consumers (e.g., businesses not exclusively engaged in commercial activities), purchasers may be required to self-assess the PEI component of the HST.*

## **Passenger Transportation Passes**

Notwithstanding the general transitional rule for intangible personal property, the HST would generally apply to consideration that becomes due, or is paid without having become due, after November 8, 2012 for a supply of a passenger transportation pass that entitles an individual to passenger transportation services during a certain period (the pass period), to the extent that the consideration is for the part of the pass period that occurs on or after April 1, 2013. The HST would not, however, apply to a supply of a transportation pass if the pass period begins before April 1, 2013 and ends before May 1, 2013.

***Example 17:** In February 2013, a vendor sells a flight pass to a PEI resident that entitles the purchaser to unlimited access to commercial flight services between various Maritime cities, as well as Toronto, for a three-month pass period from February 1, 2013 to April 30, 2013. The HST would not apply to the consideration for the sale of the pass.*

Subject to the specific transitional rules for passenger transportation passes described above, consideration that becomes due, or is paid without having become due, after November 8, 2012 and before April 1, 2013 for a supply of a passenger transportation pass would be subject to transitional rules comparable to the general transitional rules described in the **Services** section of this Guide (i.e., to the extent that the pass period occurs on or after April 1, 2013).

For information about transitional rules for passenger transportation services, also see the **Services** section of this Guide.

## **Real Property (other than Residential Housing)**

The HST would generally apply to a taxable supply of real property (other than residential housing) by way of sale in PEI if both ownership and possession of the property are transferred to the purchaser on or after April 1, 2013.

***Example 18:** In January 2013, a corporation enters into an agreement to sell a small shopping centre to an individual. Ownership and possession of the shopping centre will transfer to the individual in August 2013. The HST would apply to the sale of the shopping centre.*

The HST would not apply to a taxable supply of real property by way of sale in PEI if, under a written agreement of purchase and sale, ownership or possession of the property is transferred to the purchaser before April 1, 2013.

For information on the transitional rules for commercial leases and non-residential rental property, see the **Leases and Licences** section of this Guide.

### **New Residential Housing**

To help homebuyers and builders transition to the HST, transitional rules would be provided for new housing transactions that straddle April 1, 2013. The proposed transitional rules would be similar to the transitional rules that applied when the HST was introduced in Ontario. These rules, including builder reporting and disclosure requirements, would be administered by the CRA.

#### **Sales of New Homes**

Generally, sales of newly constructed or substantially renovated homes would be subject to the HST, where both ownership and possession of the homes are transferred on or after April 1, 2013.<sup>1</sup> Grandparenting would be provided for certain contracts—see the **Grandparenting** section of this Guide.

The HST would not apply to sales of newly constructed or substantially renovated homes (including residential units in residential condominium buildings) that are taxable under the GST if, under a written agreement of purchase and sale, ownership or possession of the home is transferred before April 1, 2013.

#### **Rentals of New Homes – Builder-landlords**

Builders of newly constructed or substantially renovated single-unit homes or residential condominiums that rent out the new homes or condominiums and are required to self-assess and pay GST under the self-supply rules if the self-supply occurred before April 1, 2013, would also be required to self-assess and pay the HST under the self-supply rules if the self-supply occurs on or after April 1, 2013. This rule would also apply to builders of newly constructed or substantially renovated traditional apartment buildings or additions to existing apartment buildings that are required to self-supply as a result of renting out the first unit in the building or addition and the self-supply occurs on or after April 1, 2013. Where builders are required to self-supply and the self-supply occurs before April 1, 2013, the HST would not apply and only the GST applies.

#### **Rentals of New Homes – Purchaser-landlords**

The HST would generally apply to sales of newly constructed or substantially renovated rental homes—including single-unit homes, residential condominiums and traditional apartment buildings—where both ownership and possession of the home are transferred on or after April 1, 2013. In these cases, purchaser-landlords would generally be required to pay the HST.

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<sup>1</sup> On or after April 1, 2013, the HST would generally be payable on the earlier of the day on which ownership or possession of the property is transferred to the purchaser. However, where the property is a residential unit in a residential condominium building and possession of the unit is transferred on or after April 1, 2013 and before the condominium has been registered under the *Condominium Act*, the HST would become payable when ownership of the unit is transferred, or 60 days following the date of registration of the condominium, whichever is earlier.

Grandparenting would be provided for certain contracts—see the **Grandparenting** section of this Guide.

However, the HST would not apply to sales of newly constructed or substantially renovated rental homes—including single-unit homes, residential condominiums and traditional apartment buildings—where ownership or possession of the home is transferred under a written agreement of purchase and sale before April 1, 2013. In these cases, purchaser-landlords would be required to pay the GST but not the HST.

### **Grandparenting**

Generally, sales of newly constructed or substantially renovated homes would be grandparented where the written agreements of purchase and sale are entered into on or before November 8, 2012 and both ownership and possession of the homes are transferred under the agreement on or after April 1, 2013. Grandparented sales would be subject to the (5 per cent) federal component of the HST but would not be subject to the (9 per cent) PEI component of the HST.

Grandparenting would generally apply to sales of newly constructed or substantially renovated single-unit homes to individuals. Also, grandparenting would generally apply to sales of residential condominiums to all persons including individuals.

***Example 19:** On September 1, 2012, a builder entered into a written agreement to sell a newly constructed single-unit home together with land to an individual purchaser. Ownership and possession of the home will transfer under the agreement on May 1, 2013.*

*Since the agreement was entered into prior to November 8, 2012 and both ownership and possession will transfer on or after April 1, 2013, the sale of the home would be grandparented and, as a result, the (9 per cent) PEI component of HST would not apply to the sale of the home and only the (5 per cent) federal component of the HST applies.*

Grandparenting would not apply to sales of multiple-unit residential buildings that are not residential condominiums (e.g., duplexes, traditional apartment buildings, and co-operative rental buildings), mobile homes, and floating homes. HST would apply to sales of these homes if both ownership and possession are transferred to a purchaser on or after April 1, 2013. In addition, sales of these homes that would be subject to HST may qualify for the proposed PST transitional new housing rebate – refer to the **PST Transitional New Housing Rebate** section of this Guide. HST would not apply to sales of these homes if, under a written agreement of purchase and sale, either possession or ownership is transferred to the purchaser prior to April 1, 2013.

Grandparenting would also not apply to homes built by owners for their personal use. The general transitional rules for services and tangible personal property would generally apply for these owner-built homes where the house construction straddles April 1, 2013 – see the **Tangible Personal Property, Services and Progress Payments/Holdbacks** sections of this Guide.

Builders who are registrants for GST/HST purposes would be able to recover the provincial component of the HST paid on most purchases through ITCs, as under the GST, with limited

exceptions.<sup>2</sup> However, builders of grandparented homes generally would be required to pay an amount—a transitional tax adjustment—based on the extent of the home construction or substantial renovation completed as of April 1, 2013. The transitional tax adjustment for grandparented homes is intended to approximate the amount of PST, approximately 4.5 per cent, which would have been embedded in the price of the home, on average, under the PST. Builders would also be required to meet certain reporting and disclosure requirements for grandparented homes – refer to the **Builder Disclosure Requirements** and **Builder Reporting Requirements** sections of this Guide.

The calculation of the transitional tax adjustment is described below.

## Transitional Tax Adjustment

### Single-Unit Homes

For grandparented sales of newly constructed or substantially renovated single-unit homes, including detached, semi-detached and attached homes (that are not condominiums), the builder generally would be required to pay the transitional tax adjustment where the home is completed in full or in part on or after April 1, 2013. The transitional tax adjustment for these homes would be calculated on the total consideration for the home, as established for GST purposes, based on the degree of construction or substantial renovation completed as of April 1, 2013, as follows: +

Degree of completion of construction or substantial renovation as of April 1, 2013	Transitional tax adjustment rate
< 10 per cent	4.5 per cent
10 per cent ≤ and < 25 per cent	3.38 per cent
25 per cent ≤ and < 50 per cent	2.25 per cent
50 per cent ≤ and < 75 per cent	1.13 per cent
75 per cent ≤ and < 90 per cent	0.45 per cent
≥ 90 per cent	0.0 per cent

***Example 20:** On October 1, 2012, a builder entered into a written agreement to sell a newly constructed single-unit home together with land to an individual purchaser for \$450,000. As of*

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<sup>2</sup> During the initial period of the HST in PEI, it is proposed that large businesses - generally those making taxable supplies worth more than \$10 million annually, and certain financial institutions - be required to repay or 'recapture' input tax credits attributable to the provincial component of HST that becomes payable, or is paid without having become payable, in respect of a specified property or service (generally a road vehicle, fuel used in a road vehicle, energy, a telecommunication service, or a meal or entertainment) that is acquired, or brought into PEI, by a large business for use by that business in the province. For more information, see the **Temporary Recapture of Certain Input Tax Credits** Guide.

*April 1, 2013, construction of the home is 80 per cent complete. Ownership and possession of the home will transfer under the agreement on May 1, 2013. As a result, the federal component of the HST of \$22,500 ( $\$450,000 \times 5$  per cent) applies but the (9 per cent) PEI component of the HST would not apply.*

*The builder would be required to pay the transitional tax adjustment of \$2,025 ( $\$450,000 \times 0.45$  per cent). The builder would be required to report the transitional tax adjustment and other transitional information pertaining to the sale of the grandparented home on the builder's GST/HST return for the reporting period that includes the day the GST becomes payable on the sale of the home, i.e., the earlier of the day ownership or possession of the grandparented home is transferred to the purchaser under the agreement.*

### Residential Condominiums

For grandparented sales of newly constructed or substantially renovated homes that are residential condominium units or residential condominium buildings, the builder would be required to pay the transitional tax adjustment and also may be eligible for a PST transitional new housing rebate.

In the case of residential condominiums, the transitional tax adjustment would be calculated at 4.5 per cent of the value of consideration for the condominium unit or building, as established for GST purposes.

Taken together, the transitional tax adjustment and the PST transitional new housing rebate would be equal to the estimated PST that would have otherwise been embedded in the residential condominium unit or building, on average, under the PST had the construction or substantial renovation of the residential condominium been substantially completed prior to April 1, 2013. For the PST transitional new housing rebate calculation, see the **PST Transitional New Housing Rebate** section of this Guide.

The transitional tax adjustment is calculated based on the total consideration payable, as established for GST purposes (i.e., excluding GST and any applicable new housing rebate), for the grandparented sale of the single-unit home or residential condominium. A special rule applies where the value of consideration for the sale of the grandparented home is less than what the fair market value of the home would have been if the home had been substantially completed at the time the agreement of purchase and sale was entered into. In such cases, the consideration for purposes of calculating the transitional tax adjustment would be deemed to be equal to the fair market value of the home as if the construction or substantial renovation of the home was substantially completed at the time the agreement of purchase and sale was entered into. For grandparented sales of residential condominium units, builders that would be required to pay the transitional tax adjustment would be required to report the transitional tax adjustment in the GST/HST return for the reporting period that includes the day in which the earlier of ownership or possession of the grandparented unit is transferred to the purchaser under the agreement. For grandparented sales of residential condominium buildings, builders that would be required to pay the transitional tax adjustment would be required to report the transitional tax adjustment in the GST/HST return for the reporting period that includes the day when the GST becomes payable for the condominium building, i.e., when ownership of the condominium building is transferred to the purchaser under the agreement, or 60 days following the date of registration of the condominium, whichever is earlier.

## **PST Transitional New Housing Rebate**

Newly constructed or substantially renovated homes completed in full or in part prior to April 1, 2013 would have PST embedded in the price of the homes since building materials used in the construction of homes are subject to PST in PEI. For new homes that would be subject to the HST on or after April 1, 2013, a PST transitional new housing rebate would be available to provide relief in respect of the estimated PST embedded in the price of the home.

This rebate would be available for non-grandparented single-unit homes, residential condominiums and traditional apartment buildings, as well as grandparented residential condominiums for which the transitional tax adjustment would be payable.

### *Single-Unit Homes*

For newly constructed or substantially renovated single-unit homes, including detached homes, semi-detached homes, attached homes, and duplexes (that are not condominium units) the PST transitional new housing rebate would be available to individuals purchasing the home or to builders that first rent the home, as the case may be, where the HST applies to the sale or self-supply; the rebate would not be available for sales of grandparented homes.

Individuals purchasing these new single-unit homes that would qualify for the PST transitional new housing rebate would have the option of obtaining the rebate through the builder or by filing an application directly with the CRA. Where the individual files an application for the rebate directly with the CRA, the individual would be required to obtain, from the builder of the home, a certification of the percentage of completion of the newly constructed or substantially renovated home as of April 1, 2013.

### *Residential Condominiums and Apartments*

For newly constructed or substantially renovated homes that are residential condominiums, traditional apartment buildings, or new additions to traditional apartment buildings, the PST transitional new housing rebate would be available to the builder rather than the purchaser.

For new homes that are residential condominiums, the rebate would also be available where the transitional tax adjustment or the HST would apply, as applicable.

### *PST Transitional New Housing Rebate Calculation*

Generally, the PST transitional new housing rebate would be calculated as a proportion of the estimated embedded PST in the newly constructed or substantially renovated home, based on the degree of completion of the construction or substantial renovation of the building component of the home as of April 1, 2013.



Eligible applicants would be permitted to calculate the estimated embedded PST (“estimated PST content”) by choosing one of the following two methods:

- Estimated PST content calculated at a prescribed amount of \$60.00 per square metre of floor space in the home (“floor space method”); or
- Estimated PST content based on the selling price or fair market value of the home, calculated at 4.5 per cent of the total value of consideration or fair market value, as the case may be, established for GST purposes (“selling price method”).

The rebate would be calculated as follows:

Degree of completion of construction or substantial renovation as of April 1, 2013	Transitional rebate (per cent of estimated PST content)
< 10 per cent	0 per cent
10 per cent ≤ and < 25 per cent	25 per cent
25 per cent ≤ and < 50 per cent	50 per cent
50 per cent ≤ and < 75 per cent	75 per cent
75 per cent ≤ and < 90 per cent	90 per cent
≥ 90 per cent	100 per cent

**Example 21:** On February 1, 2013, a builder enters into a written agreement to sell a newly constructed single-unit home together with land to an individual purchaser for \$300,000. As of April 1, 2013, construction of the home is 40 per cent complete. Ownership and possession of the home will transfer under the agreement on July 30, 2013. As a result, the HST of \$42,000 (\$300,000 x 14 per cent) would apply.

The purchaser would be entitled to claim the PST transitional new housing rebate of \$6,750 (\$300,000 x 4.5 per cent x 50 per cent). This rebate can be claimed through the builder or by filing an application directly with the CRA. Where the individual files an application for the PST transitional new housing rebate directly with the CRA, the individual would be required to obtain, from the builder of the home, a certification of the percentage of completion of the newly constructed home as of April 1, 2013.

Builders (i.e., persons that make taxable sales of newly constructed or substantially renovated residential housing) generally would not be eligible for the PST transitional inventory rebate for Residential Real Property Contracts, since the inventory rebate applies only to contracts to repair or improve land and items permanently attached to land and not to contracts for the sale of new housing – see the **Transitional PST Inventory Rebate for Residential Real Property Contracts** section of this Guide.

The PST transitional new housing rebate would be administered by the CRA. As a condition for obtaining the rebate, the builder, including a builder that received an assignment of a rebate from a purchaser, would be required to obtain a letter of good standing from the province and attach it to the first PST transitional new housing rebate application submitted to the CRA. Requests for a letter of good standing should be submitted to Taxation and Property Records at the address indicated at the end of this Guide using an *Application for Letter of Good Standing*.

Generally, a letter of good standing would be provided where the builder has no outstanding provincial tax debts.

Subsequent PST transitional new housing rebate applications submitted to the CRA by the builder would be processed based on the letter of good standing submitted with the first rebate application so long as the letter remains valid.

Once issued by the province, a letter of good standing generally would remain valid for one year. The builder and the CRA would be notified by PEI of any subsequent revocation of a letter of good standing.

#### PST Transitional New Housing Rebate Timeframes

Where the rebate calculation is based on the floor space method, the applicant would be eligible to file a rebate application anytime on or after April 1, 2013.

Where the rebate calculation is based on the selling price method, the applicant would be eligible to claim the rebate no earlier than the day the HST would be payable or the day the builder would be considered to have collected the transitional tax adjustment, as the case may be.

Generally, the application for the rebate would need to be filed before April 1, 2017. Where the builder is unable to file their rebate application within this timeframe due to extenuating circumstances (such as a delay in completing the sale of a home), the builder would be able to make a request in writing for an extension of the timeframe to file the rebate, provided the request for extension is received by the CRA before April 1, 2017.

#### Other circumstances

Newly constructed or substantially renovated homes built by owners for their personal use as well as mobile homes and floating homes would not be eligible for the PST transitional new housing rebate as the transitional rules would apply differently to these homes – see the **Grandparenting** section of this Guide.

#### **Assignments of Agreements for the Sale of Grandparented Homes**

Generally, a sale of a newly constructed or substantially renovated single unit home to an individual or residential condominium would be grandparented where the agreement of purchase and sale (referred to as a “grandparented sales agreement”) between the builder and the purchaser is entered into on or before November 8, 2012 and both ownership and possession of the single-unit home or residential condominium are transferred on or after April 1, 2013.

Where a purchaser enters into a grandparented sales agreement with a builder (referred to as “original builder”), the purchaser may be able to assign the grandparented sales agreement to another person (referred to as “assignee purchaser”). Also, an assignee purchaser may be able to assign the grandparented sales agreement to another assignee purchaser. If an assignee purchaser receives ownership and possession of the home under the grandparented sales agreement from the original builder on or after April 1, 2013, the sale of the home from the original builder to that assignee purchaser would be grandparented where the following conditions are met:

- there is no novation of the agreement;
- the purchaser and the original builder are persons that are dealing at arm's length<sup>3</sup> and that are not "associated persons" as defined in the ETA; and
- the original builder or any specified related party<sup>4</sup> does not acquire or reacquire by way of sale any legal or beneficial interest, or part thereof, in the home, including a sale by way of reversion or the exercise of an option or a right of first refusal.

### **Resales of Grandparented Homes**

The resale of a grandparented home would be subject to the PEI portion of the HST where the written agreement of purchase and sale for the resale is entered into after November 8, 2012. In this case, the first reseller<sup>5</sup> would be able to recover, by way of an ITC or rebate, 4.5 per cent of the consideration established for GST purposes on the purchase of the grandparented home. The amount of this ITC or rebate would represent the estimated PST and/or the transitional tax adjustment embedded in the price of the home.

### **Long-Term Care Facilities**

Long-term care facilities such as nursing homes or personal care homes would be treated the same as other residential homes under the HST.

For example, if a newly constructed or substantially renovated long-term care facility is similar to a traditional apartment building, the PST transitional new housing rebate rules for apartment buildings would apply. If the facility is a condominium, the PST transitional new housing rebate rules for residential condominiums would apply.

If a new or substantially renovated long-term care facility is similar to a traditional apartment building, the sale of the facility to a purchaser-operator on or after April 1, 2013 would not be grandparented even where the agreement of purchase and sale is entered into on or before November 8, 2012. As a result, where both ownership and possession of the facility are transferred on or after April 1, 2013, the purchaser-operator would be required to pay the HST on a taxable sale of the facility.

Where a builder-operator constructs a long-term care facility and gives possession or use of the first unit in the facility under a rental arrangement on or after April 1, 2013, the builder would be required to self-assess and pay the HST under the self-supply rules. In this case, the builder may be entitled to claim the proposed PST transitional new housing rebate.

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<sup>3</sup> *Aunts and uncles would be deemed to be related to their nieces or nephews in applying the arm's length test in all cases referred to in this Guide.*

<sup>4</sup> For the purposes of this Guide, a specified related party is any person that is not dealing at arm's length with, or that is associated with the original builder.

<sup>5</sup> First reseller means the first purchaser to have entered into the grandparented sales agreement to purchase a grandparented home for the primary purpose of reselling the home, to have obtained possession of the grandparented home under the grandparented sales agreement and to resell the home under a written agreement of purchase and sale entered into after November 8, 2012 (i.e., a non-grandparented sales agreement).

## **Public Service Bodies**

Charities, non-profit organizations and other public service bodies that are builders or purchasers of new or substantially renovated residential housing would generally be subject to the same rules that apply to persons who construct or purchase such residential housing on a for-profit basis.

## **Builder Disclosure Requirements for Transitional Period**

If a written agreement of purchase and sale for a newly constructed or substantially renovated home is entered into after November 8, 2012 and before April 1, 2013, the builder would be required to disclose in the written agreement whether the PEI component of the HST would apply to the sale and, if so, whether the stated price in the agreement includes the applicable PEI component of the HST, net of the PST transitional new housing rebate, if applicable.

If the transaction would be subject to the PEI component of the HST and the builder did not make a disclosure as outlined above, the stated price in the written agreement would be deemed under the transitional rules to include the PEI component of the HST. In such a case, the purchaser would not be required to pay the PEI component of the HST in addition to the stated price in the agreement.

This proposed transitional measure would help provide certainty to both builders and purchasers with respect to the application of the proposed HST under written agreements of purchase and sale for new or substantially renovated homes entered into during the transitional period.

## **Builder Reporting Requirements**

Builders in PEI that are affected by these proposed transitional housing measures would be required file their GST/HST returns electronically, similar to the requirements for builders in Ontario. GST/HST Info Sheet GI-118, Builders and GST/HST NETFILE provides information of the current GST/HST NETFILE requirements.

Builders who are GST/HST registrants would be required to file an electronic return using GST/HST NETFILE effective for the first reporting period that ends on or after April 1, 2013 where builders:

- make sales of grandparented housing where the purchaser is not entitled to claim a GST/HST new housing rebate or GST/HST new residential rental property rebate;
- make sales of housing that are subject to the HST where the builder purchased the housing on a grandparented basis;
- are required to report a transitional tax adjustment amount; or
- report PST provincial transitional new housing rebates.

It is also proposed that each builder in PEI having greater than \$1.5 million in annual taxable supplies that is not otherwise required to file using GST/HST NETFILE and that pays or credits a GST/HST new housing rebate amount to the purchaser and claims that amount as a deduction from the builder's GST/HST net tax would be required to file an electronic return using GST/HST NETFILE or GST/HST TELEFILE effective for the first reporting period that ends on or after April 1, 2013.

As a result of the proposed changes, the CRA will include new information reporting fields on the GST/HST NETFILE and GST/HST TELEFILE returns for these PEI registrants.

Generally, if a builder that is affected by these proposed transitional housing measures fails to meet these reporting requirements in a return for the appropriate reporting period, any subsequent reporting to meet these requirements would be done through an amended return for that period. Builders that fail to meet these proposed reporting requirements would generally be subject to penalties.

## **Other Transitional Rules**

### **Direct Sellers**

If a direct seller (or approved distributor) is using the alternative collection method on April 1, 2013, and independent sales contractors (ISCs) of the direct seller hold exclusive products in their inventory at the beginning of that day that were sold to them by the direct seller and that are intended for sale in PEI, the direct seller would be deemed to have made a supply of those products to the ISCs on April 1, 2013.

In such circumstances, the direct seller would be required to account for the applicable PEI component of the HST on the suggested retail price of each of those products in the GST/HST return of the direct seller for the reporting period that includes April 1, 2013.

A direct seller would also be required to account for the PEI component of the HST on the suggested retail price of exclusive products supplied to an ISC for which consideration becomes due, or is paid without having become due, after November 8, 2012 and before April 1, 2013, to the extent that the products have not yet been delivered to the ISC as of April 1, 2013.

### **Continuous Supplies**

The HST would generally apply to consideration for a supply of property or services delivered, performed or made available (as the case may be) on a continuous basis by means of a wire, pipeline or similar conduit or satellite or other telecommunications facility (e.g., natural gas, electricity, cable television, satellite television or cellular telephone services) to the extent that the consideration is for property or services that are delivered, performed or made available to the recipient of the supply on or after April 1, 2013.

If the supplier cannot reasonably determine when the property or services are delivered, performed or made available, the consideration for the supply would be prorated in equal parts according to the number of days in the period to which the consideration is attributable.

***Example 22:** A supplier of electricity issues an invoice to a person for the period from March 17, 2013 to April 15, 2013 (inclusive). A meter reading was not done on March 31, 2013. The HST would apply to 50 per cent of the total amount payable, representing the 15 days out of the 30-day period that are on or after April 1, 2013.*

## **Budget Payment Arrangements**

If property (other than newspapers, magazines or other publications published periodically supplied by way of subscription) or services are supplied under a budget payment arrangement (e.g., electricity supplied under an equal-payments billing plan) during a period that straddles the April 1, 2013 implementation date, and the reconciliation of payments for that period of the budget payment arrangement occurs prior to April 2014, the supplier would be required to make an adjustment at the time of the reconciliation to account for any difference between:

- (a) the amount of the PEI component of the HST that would have been payable for the property or services delivered, performed or made available on or after April 1, 2013 if the consideration for the property or services had become due on April 1, 2013 without having been paid before that date; and
- (b) the amount of the PEI component of the HST that was payable by the recipient of the supply for the property or services during the period.

If the amount described in (b) is greater than the amount described in (a), the supplier would be required to refund or credit the difference to the recipient. If the amount described in (a) is greater than the amount described in (b), the supplier would be required to collect the difference from the recipient.

If a supply of property or services delivered, performed or made available (as the case may be) on a continuous basis by means of a wire, pipeline or similar conduit or satellite or other telecommunications facility is made under a budget payment arrangement, and the time at which the property is delivered or the services are performed cannot reasonably be determined because of the method of recording the delivery of the property or the performance of the services, then the supply would, for the purposes of calculating the amount of the PEI component of the HST that would be payable, be prorated in equal parts according to the number of days in the period to which the consideration is attributable.

## **Combined Supplies**

If any combination of property and/or services is supplied together as a single supply and one of the items supplied is property of which ownership or possession has been transferred to the recipient of the supply before April 1, 2013, and that property would not be subject to the HST under these general transitional rules if it were supplied separately, then the supply of that property would be deemed to be a separate supply from the other items for the purposes of the general transitional rules for the HST.

The combined supplies rule would not apply to sales of newly constructed or substantially renovated homes, which would be subject to the transitional rules for new residential housing. For information about the transitional rules for new residential housing, see the **New Residential Housing** Section of this Guide.

***Example 23:** In February 2013, a contractor agrees to supply and install a dishwasher in a restaurant for a single consideration. The dishwasher is delivered, and possession transfers, in March 2013, and it is installed in April 2013. The HST would apply to the service of installing the dishwasher (because the service is performed on or after April 1, 2013), but it would not apply to the sale of the dishwasher (because delivery occurred before April 1, 2013). The contractor would pay PST on the dishwasher purchased for use in the supply- and- install contract.*

### **Progress Payments/Holdbacks**

The HST would generally apply to progress payments on contracts to construct, renovate, alter or repair (hereafter referred to as "construct") real property or ships or other vessels to the extent that the progress payment can reasonably be attributed to property delivered or services performed on or after April 1, 2013.

For progress payments that are attributable to property delivered or services performed on or after April 1, 2013 and that become due or are paid without becoming due after November 8, 2012 and before April 1, 2013, the supplier would be required to account for the PEI component of the HST in the GST/HST reporting period of the supplier that includes April 1, 2013. Similarly, the recipient of the supply would be able to claim any available ITCs with respect to the PEI component of the HST in the GST/HST reporting period of the recipient that includes April 1, 2013.

In the case of written contracts to construct real property, or to construct a ship or other vessel where it can be reasonably expected that the contract will require more than three months to complete, if the construction is substantially completed before March 1, 2013, the construction would be deemed to have been substantially completed on March 1, 2013. Pursuant to the general GST rules<sup>6</sup>, any consideration or part of the consideration payable on such a contract that had not been paid or become due on or before April 30, 2013 would be deemed to have become payable on April 30, 2013 and any portion of such payment attributable to construction on or after April 1, 2013 would be subject to the HST. In this context, "substantially completed" generally means 90 per cent or more.

A holdback from a progress payment would be subject to the same allocation under the progress payment rule as the progress payment itself, even if the holdback becomes due or is paid on or after April 1, 2013.<sup>7</sup>

The progress payments rule would not apply to sales of newly constructed or substantially renovated homes, which would be subject to the transitional rules for new residential housing. For information about the transitional rules for new residential housing, see the **New Residential Housing** section of this Guide.

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<sup>6</sup> Under the general GST/HST rules, where the construction, renovation, alteration or repair under a written agreement is substantially completed in a particular month and the consideration or part of the consideration has not been paid or become due on or before the last day of the month following the particular month, the consideration or part of the consideration is deemed to become due on the last day of the month following the particular month.

<sup>7</sup> Under the general GST/HST rules, tax is payable on holdbacks made pursuant to statute law or contract on the earlier of the day the holdback, or any part thereof, is paid and the day it becomes payable.

**Example 24:** A contract to construct a small commercial mall with a value of \$1,500,000 is substantially completed on February 15, 2013. The contract specifies progress payments as follows:

- *Payment no. 1: \$500,000 due December 15, 2012; 0% attributable to property delivered and services performed on or after April 1, 2013;*
- *Payment no. 2: \$500,000 due February 15, 2013; 0% attributable to property delivered and services performed on or after April 1, 2013;*
- *Payment no. 3: \$500,000 (less a holdback amount) due May 15, 2013; 70% attributable to property delivered and services performed on or after April 1, 2013;*
- *Holdback: \$150,000 (i.e., 30% of progress payment no. 3) due June 15, 2013.*

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

*With respect to the final progress payment, 70% of the payment would be subject to HST, representing the portion of the final progress payment attributable to property delivered and services performed on or after April 1, 2013. With respect to the holdback of \$150,000 withheld from progress payment no. 3, 70% of the holdback would be attributable to property delivered or services performed on or after April 1, 2013 and subject to HST.*

### **Goods Brought into PEI**

The PEI component of the HST would generally apply to goods, mobile homes that are not affixed to land, and floating homes that are brought into PEI on or after April 1, 2013, and to such property that is brought into PEI before April 1, 2013 by a carrier where the property is delivered in PEI to a consignee on or after April 1, 2013.

### **Property (other than goods) and Services Acquired for Use in PEI**

The PEI component of the HST would generally apply to consideration that becomes due, or is paid without having become due, after November 8, 2012 for the part of a service performed on or after April 1, 2013 (unless 90 per cent or more of the service is performed before April 1, 2013), if the service is supplied in a province other than PEI to a resident of PEI to the extent that the resident acquires the service for consumption, use or supply in PEI.

The PEI component of the HST would also generally apply to consideration that becomes due, or is paid without having become due, on or after April 1, 2013 for intangible personal property that is supplied by way of sale in a province other than PEI to a resident of PEI to the extent that the resident acquires the property for consumption, use or supply in PEI.

The PEI component of the HST would generally apply to consideration that becomes due, or is paid without having become due, after November 8, 2012 for the part of a lease interval that occurs on or after April 1, 2013 (unless the lease interval begins before April 1, 2013 and ends before May 1, 2013), if the lease interval is with respect to intangible personal property supplied by way of



lease, license or similar arrangement in a province other than PEI to a resident of PEI to the extent that the resident acquires the property for consumption, use or supply in PEI.

Consideration that becomes due, or is paid without having become due, after November 8, 2012 and before April 1, 2013 for a supply of such property or services would be deemed to become due on, and not to have been paid before, April 1, 2013. For consideration that becomes due, or is paid without having become due, after November 8, 2012 and before February 1, 2013, these rules would only apply to non-consumers, but would generally not apply to businesses exclusively engaged in commercial activities. Persons liable to pay the PEI component of the HST in such circumstances would be required to self-assess the tax.

### **Imported Goods**

The PEI component of the HST would generally apply to non-commercial goods that are imported by a resident of PEI on or after April 1, 2013, and to non-commercial goods imported by a resident of PEI before that date that are accounted for under the relevant provisions of the federal *Customs Act* on or after April 1, 2013.

The PEI component of the HST would also generally apply to a specified motor vehicle or commercial goods brought into PEI from a place outside Canada on or after April 1, 2013. This rule would generally not apply, however, to commercial goods that are brought into PEI by a GST/HST registrant for consumption, use or supply exclusively in the course of commercial activities of the registrant. Persons liable to pay the PEI component of the HST in these circumstances would generally be required to self-assess the tax.

### **Imported Taxable Supplies**

The PEI component of the HST would generally apply to consideration that becomes due, or is paid without having become due, after November 8, 2012 for an imported taxable supply of goods made to a resident of PEI, or a GST/HST registrant to whom the goods are delivered or made available, or physical possession of the goods is transferred, in PEI, to the extent that the consideration is for goods that are delivered or made available, or the physical possession of which is transferred, on or after April 1, 2013. Consideration that becomes due, or is paid without having become due, after November 8, 2012 and before April 1, 2013, for a supply of such goods would be deemed to become due on, and not to have been paid before, April 1, 2013. For consideration that becomes due, or is paid without having become due, after November 8, 2012 and before February 1, 2013, this rule would only apply to non-consumers, but would generally not apply to businesses exclusively engaged in commercial activities.

The PEI component of the HST would generally apply to consideration that becomes due, or is paid without having become due, after November 8, 2012 for an imported taxable supply of a service made to a resident of PEI, to the extent that the resident acquires the service for consumption, use or supply in PEI and to the extent that the consideration is for the part of the service that is performed on or after April 1, 2013. Consideration that becomes due, or is paid without having become due, after November 8, 2012 and before April 1, 2013, for a supply of such a service would be deemed to become due on, and not to have been paid before, April 1, 2013. For consideration that becomes due, or is paid without having become due, after November 8, 2012 and before February 1, 2013, this rule would only apply to non-consumers, but would generally not apply to businesses exclusively engaged in commercial activities.

The PEI component of the HST would generally apply to consideration that becomes due, or is paid without having become due, after November 8, 2012 for an imported taxable supply of intangible personal property that is made by way of lease, licence or similar arrangement to a resident of PEI, to the extent that the resident acquires the property for consumption, use or supply in PEI and to the extent that the consideration is for the part of the lease interval that occurs on or after April 1, 2013. Consideration that becomes due, or is paid without having become due, after and before April 1, 2013, for a supply of such property would be deemed to become due on, and not to have been paid before, April 1, 2013. For consideration that becomes due, or is paid without having become due, after November 8, 2012 and before February 1, 2013, this rule would only apply to non-consumers, but would generally not apply to businesses exclusively engaged in commercial activities.

Consideration for imported taxable supplies would, with appropriate modifications, generally be subject to the transitional rules described in the **Tangible Personal Property, Services, and Leases and Licences** sections (as the case may be) of this Guide.

### **Transitional Rules for Financial Institutions**

#### *Selected Listed Financial Institutions (SLFIs)*

If a reporting period of a SLFI begins before April 1, 2013 and ends after March 31, 2013 (referred to as the “transitional reporting period”), the financial institution would generally be required to determine its liability under the Special Attribution Method (SAM) formula for the PEI component of the HST for the reporting period on an apportionment basis. In the case of SLFIs which are distributed investment plans<sup>8</sup>, the apportionment would be based upon the ratio of the amount of GST paid by the SLFI in the reporting period but after March 31, 2013 to the total the amount of GST paid by the SLFI in the reporting period. For other SLFIs, the apportionment would be based upon the ratio of the number of days in the reporting period that are after March 31, 2013 to the total number of days in the reporting period.

As in the case of Ontario harmonization in 2010, pre-payment and post-payment rules would also apply. These rules would generally ensure that where GST is payable, or paid without having become payable, in respect of a supply or property or a service in a transitional reporting period, pre-transitional reporting period (any reporting period prior to the transitional reporting period) or post-transitional reporting period (any reporting period after the transitional reporting period), but the property is delivered or made available or the service is rendered in a different reporting period, the PEI component of the HST would apply under the SAM formula based on the reporting period in which the property was delivered or the service rendered, rather than on the reporting period in which the GST was payable or paid. In the case of certain cross-border transactions (i.e., internal charges, external charges and qualifying consideration, as defined in the ETA) determined for a specified year (as defined in the ETA) of an SLFI, the PEI component of the HST would generally apply on the transaction based on the ratio of the number of days in the specified year that are after March 31, 2013 to the total number of days in the specified year, rather than being based on when tax in respect of the transaction became payable or was paid without having become payable.

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<sup>8</sup> A distributed investment plan is generally an investment corporation, a mortgage investment corporation, a mutual fund corporation, a mutual fund trust, a non-resident investment corporation, a segregated fund of an insurer, a unit trust and a corporation described by paragraph 149(1)(o.2) of the *Income Tax Act*.

Similar to the rules that applied in the case of Ontario harmonization, “ITC stockpiling” rules would apply to ensure that SLFIs do not delay claiming ITCs to minimize their liability for the PEI component of the HST. These rules would generally provide that, where an SLFI paid an amount of GST in respect of a supply in one of its pre-transitional reporting period or in its transitional reporting period and then claimed an ITC in respect of the GST in the transitional reporting period or one of its post-transitional reporting periods, the SLFI would have to, in its determination of its liability for the PEI component of the HST under the SAM formula for its particular reporting period in which it claimed the ITC, made a tax adjustment which would effectively treat this GST as being paid in that particular reporting period and not the reporting period in which the GST was actually paid.

#### Imported Supplies of Financial Institutions

A transitional apportionment rule would also apply for the purposes of determining the amount of the PEI component of the HST that a financial institution which is not an SLFI is required to self-assess for a specified year on certain cross-border transactions (i.e., internal charges, external charges and qualifying consideration). The financial institution would first determine its liability for the PEI component of the HST on these transactions for its specified year that begins before April 1, 2013 and ends after March 31, 2013 and would then apportion this amount based upon the ratio of the number of days in the specified year that are after March 31, 2013 to the total number of days in the specified year.

#### Pension Plans

Special rules would also apply to participating employers and pension entities of pension plans for periods that begin before April 1, 2013 and end after March 31, 2013.

If a participating employer of a pension plan is deemed under the ETA to have made a taxable supply to a pension entity on the last day of its fiscal year that includes March 31, 2013, as a consequence of having acquired or imported property or a service for the purpose of supplying it to the pension entity, the PEI component of the HST would generally apply to the deemed supply 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 after March 31, 2013. In addition, for its fiscal year that includes March 31, 2013, a participating employer of a pension plan would determine its liability for the PEI component of the HST for deemed supplies of “employer resources”, as defined under the ETA, on an apportionment basis using the ratio of the number of days in the employer’s fiscal year that are after March 31, 2013 to the total number of days in the fiscal year.

A similar apportionment rule would apply to determine the PEI portion of a pension entity’s provincial pension rebate amount for its claim period that includes March 31, 2013. The apportionment would be based on the ratio of the number of days in the claim period of the pension entity that are after March 31, 2013 to the total number of days in the claim period.

#### **Anti-Avoidance Rules**

Existing anti-avoidance rules in the ETA and its regulations would apply to transactions to which the general transitional rules for the HST apply.

## WINDING DOWN THE PST

This part of the Guide describes the general transitional rules for the wind-down of PST. These rules should be read in conjunction with the transitional rules for the introduction of the HST, as described in the part above. Taken together, the HST and PST transitional rules are complementary and would provide for a smooth transition to the HST.

### General Rules

On April 1, 2013, the existing PEI PST would generally cease to apply to:

- a sale of goods where the goods are delivered, and ownership of the goods is transferred, to the purchaser on or after April 1, 2013;
- a sale of services to the extent the services are performed on or after April 1, 2013 (however, the PST would apply where all or substantially all of the service is provided before April 1, 2013);
- a supply of property (including short-term accommodation) by way of lease, license or similar arrangement for the part of the lease or license interval that is on or after April 1, 2013 (however, the PST would apply if the lease interval begins before April 1, 2013 and ends before May 1, 2013);
- a sale of property or a service delivered or performed on a continuous basis by means of a wire, pipeline or similar conduit or satellite or other telecommunications facility to the extent the property or service is delivered, performed or made available on or after April 1, 2013;
- goods brought into PEI or imported by a resident of PEI on or after April 1, 2013; and
- a sale (including promotional distribution) of an admission, including any ticket sold on a subscription or season ticket basis, for entry to a place of amusement on or after April 1, 2013.

### Consideration due or paid on or before November 8, 2012

Notwithstanding the general PST wind down rules, the Provincial *Revenue Tax Act* and Regulations (Act) would apply where consideration for a sale of goods, services or admissions becomes due or is paid on or before November 8, 2012.

**Example 25:** *In September 2012, a vendor sells tickets to a circus show to be held in April 2013. The PST would apply to the price of admission.*

### Consideration due or paid after November 8, 2012 and before February 1, 2013

Notwithstanding the general PST wind down rules, the Act would apply where consideration for a sale of goods, services or admissions becomes due or is paid after November 8, 2012 and before February 1, 2013.

However, this exception to the PST wind down rules would not apply with respect to goods, services or admissions purchased for use exclusively in the course of commercial activities. It also

would not apply with respect to goods, services or admissions for which the self-assessment rules in respect of consideration due or paid after November 8, 2012 and before February 1, 2013 would apply (as described above in the HST part of this Guide). If an amount is paid in error as PST in these situations, the purchaser would be able to file a general application for refund with the Department of Finance, Energy and Municipal Affairs, subject to the refund conditions under the Act.

Consideration due or paid on or after February 1, 2013 and before April 1, 2013

Where consideration becomes due or is paid on or after February 1, 2013 and before April 1, 2013, the general PST wind down rules would apply as set out above.

***Example 26:** In March 2013, a vendor sells tickets to a rock concert to be held in August 2013. The PST would not apply to the price of admission.*

PST payable on or before July 31, 2013

To facilitate the wind down of the Act, a transitional rule would provide that any applicable PST not otherwise payable on or before July 31, 2013 would become payable on July 31, 2013.

***Example 27:** A business gets vehicle repair work done in March 2013. The business does not pay for the repair work and does not receive an invoice until July 2013. The PST would become payable on July 31, 2013. The vendor would be required to account for the PST in a supplemental PST return for July 31, 2013, which would be due on or before August 20, 2013.*

### **Disclosure Requirements for Tax-Included Pricing in Transitional Period**

A transitional rule would help provide certainty and clarity to both vendors and purchasers with respect to the application of the PST for tax-included sales during the transitional period.

Where PST-included pricing is used for the sale of goods, a taxable service or an admission, the consideration for which becomes due or is paid after November 8, 2012 and before February 1, 2013, and where the seller does not disclose in writing to the purchaser the amount, if any, included as or on account of PST in the stated price, the stated price would be deemed to include PST if the PST would have applied to the sale notwithstanding any other transitional rule that may apply.

***Example 28:** In January 2013, a vendor sells tickets to a rock concert that will occur in June 2013. Tickets are sold on a tax-included basis without disclosing the amount of PST included. The ticket price would be deemed to include PST.*

### **Final PST Returns**

Final PST vendor returns would generally be required to be filed with the Department of Finance, Energy and Municipal Affairs on or before April 20, 2013.

Where an amount is collected or becomes payable as or on account of PST after March 2013, the vendor would be required to account for that amount in a supplemental PST vendor return to be filed on or before the 20<sup>th</sup> day of the following month. All supplemental PST vendor returns would be required to be filed no later than August 20, 2013.

*Example 29:* A person obtains a wheel alignment service from a mechanic in March 2013, but does not pay for the service and does not receive an invoice for the service until May 2013. The mechanic would be required to account for the PST in a supplemental PST return for May 2013, to be filed on or before June 20, 2013.

All supplemental PST returns would be required to be filed no later than August 20, 2013.

### **PST Refunds and Rebates**

Generally, refunds and rebates of PST would remain in place until the existing time limits for claiming them have expired for the transactions to which they relate, or March 31, 2017, whichever is earlier. An exception would be provided for refunds for returned goods see section on Returns and Exchanges below.

### **Assessments, Objections, Appeals and Enforcement**

Assessment, objection, appeal and enforcement provisions under the Act would generally apply to past transactions where the applicable limitation periods have not expired.

### **Destruction of Records**

Vendors must obtain the written permission of the Provincial Tax Commissioner before any records can be destroyed.

Businesses will continue to be subject to PST audits for a period of 60 months following March 31, 2013.

### **Other Circumstances**

Notwithstanding the general transitional rules proposed in this Guide, additional information will be provided in the near future about these and other circumstances, including the following provisions under the Act:

- a) tax on multi-jurisdictional vehicles; and
- b) tax on private sales of used vehicles.

### **Transitional PST Inventory Rebate for Residential Real Property Contracts**

The PST rebate may be available to provide relief with respect to the PST embedded in construction materials used in residential real property contracts that are subject to the HST.

This rebate may be available to a real property contractor for the PST paid on construction materials that are purchased or produced for the contractor's own use, held in inventory at the end of the day on March 31, 2013 and used in a residential real property contract to which the HST would apply.

The rebate would not be available with respect to inventory for which the PST is otherwise recoverable by the contractor or any other party.

Qualifying residential real property contracts would include contracts to repair or improve land and items permanently attached to land, such as buildings and patios. Residential real property contracts for repair or improvements to rental housing, condominium and apartment buildings and long-term residential care facilities may qualify for this rebate.

This rebate would be administered by PEI. Contractors would be able to file an application for the rebate directly with the Department of Finance, Energy and Municipal Affairs. The application for the rebate would be required to be filed on or before September 30, 2013.

***Example 30:** On March 27, 2013, a home renovation contractor purchases kitchen tiles and puts them in inventory. The contractor paid PST on the purchase of the tiles. The contractor uses the tiles in a home renovation contract in June 2013. The contractor charges the customer the HST for the renovation. The contractor would be eligible to apply for the transitional PST inventory rebate by September 30, 2013.*

## **Returns and Exchanges**

The following rules would generally apply where a person purchases property before April 1, 2013 that is subject to PST, but returns it on or after April 1, 2013 and before August 1, 2013:

- if the property is returned and a full refund is given, the PST would be refunded;
- if an exchange is made resulting in neither a refund nor an additional payment, there would be no PST refund and the PEI component of the HST would not be payable;
- if an exchange is made resulting in a partial refund, the PEI component of the HST would generally not be payable on the replacement property and the purchaser would be entitled to recover the PST applicable to the amount refunded; and
- if an exchange is made resulting in an additional payment, no PST would apply but the HST would apply to the additional payment.

***Example 31:** In April 2013, a person returns a slow cooker that was purchased in March 2013 for \$140. The vendor exchanges the returned slow cooker for another slow cooker that costs \$160. In this situation, the vendor would collect the PEI component of the HST on \$20.*

If the PST did not apply to property that was purchased before April 1, 2013, and it is exchanged on or after April 1, 2013, the PEI component of the HST would apply to the full consideration for the replacement property.

***Example 32:** In March 2013, a person purchases a PST-exempt suit for \$500. In April 2013, that person exchanges the suit for another suit that costs \$600. In this situation, the vendor would collect the PEI component of the HST on the full value (i.e., \$600) of the new suit.*

If property is returned on or after August 1, 2013, no PST adjustments would be available at the point of sale. However, the purchaser may make an application for a refund of PST for tax paid in error. Purchasers would be able to file the application for refund with the Department of Finance, Energy and Municipal Affairs.

## **ADDITIONAL INFORMATION**

The Canada Revenue Agency administers the HST. Visit their website at [www.cra.gc.ca/gsthst](http://www.cra.gc.ca/gsthst) or call 1 800 959-5525 for more information.

Any particular questions concerning this Guide should be addressed to:

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