



Prince Edward Island: Transition to the Harmonized Sales Tax – Intangible Personal Property

The Government of Prince Edward Island has proposed a harmonized sales tax (HST) that would come into effect on April 1, 2013.

The HST rate in Prince Edward Island would be 14% of which 5% would represent the federal part and 9% the provincial part.

This info sheet reflects proposed tax changes announced in the *Prince Edward Island 2012 Budget and Revenue Tax Guide RTG185, Implementation of the Harmonized Sales Tax in Prince Edward Island*.

Any commentary in this info sheet should not be taken as a statement by the Canada Revenue Agency (CRA) that the proposed transitional rules will be enacted in their current form.

This info sheet explains whether the goods and services tax (GST) or the HST would apply to taxable sales of intangible personal property made in Prince Edward Island during the period that includes the proposed April 1, 2013 implementation date for the HST in Prince Edward Island.

For more information on determining whether a supply is made in Prince Edward Island, refer to Draft GST/HST Technical Information Bulletin B-103, *Harmonized Sales Tax – Place of Supply Rules for Determining Whether a Supply is Made in a Province*.

The information in this info sheet would also apply 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. For more information, refer to GST/HST Info Sheet *Prince Edward Island: Transition to the Harmonized Sales Tax – Goods* which will be published soon.

The information provided in this info sheet does not apply to certain intangible personal property. For more information, refer to the following GST/HST Info Sheets:

- GI-137, *Prince Edward Island: Transition to the Harmonized Sales Tax – Memberships*;
- GI-139, *Prince Edward Island: Transition to the Harmonized Sales Tax – Admissions*; and
- GI-141, *Prince Edward Island: Transition to the Harmonized Sales Tax – Transportation Passes*.

For intangible personal property brought into Prince Edward Island, refer to GST/HST Notice 278, *Harmonized Sales Tax for Prince Edward Island – Questions and Answers on General Transitional Rules for Personal Property and Services*.

Intangible personal property

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.

Introduction

To determine whether GST or HST would apply to intangible personal property sold in Prince Edward Island during the period that includes the proposed April 1, 2013 implementation date for the HST in



Prince Edward Island, suppliers would have to consider:

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

Refer to the Appendix for information on when an amount becomes due and when an amount is paid without having become due.

Note: This info sheet uses examples to illustrate the application of the HST transitional rules for sales of intangible personal property. Unless otherwise indicated, in the examples:

- all suppliers are GST/HST registrants;
- all sales are taxable sales made in Prince Edward Island; and
- no amount is paid without having become due.

In this info sheet, “taxable” means subject to the 5% GST or to the proposed 14% HST.

When an amount becomes due or is paid before April 2013

When an amount for the sale of intangible personal property becomes due or is paid without having become due before April 2013, only the GST would apply. Suppliers would account for the GST 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 March 25, 2013, a purchaser pays for this right and downloads the files on April 2, 2013.

Only GST would apply to the sale of the right to use the digital picture files because the amount for this intangible personal property is paid before April 2013. The Web site operator would account for the GST in the operator’s GST/HST return for the reporting period that includes March 25, 2013.

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 March 26, 2013.

Only GST would apply to the sale of the right to acquire the membership because the amount for this intangible personal property becomes due before April 2013. The club would account for the GST in the club’s GST/HST return for the reporting period that includes March 26, 2013.

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 March 20, 2013. The payment is made on April 5, 2013.

Only GST would apply to the royalty payment because it becomes due before April 2013. The business would account for the GST in the business’ GST/HST return for the reporting period that includes March 20, 2013.

When an amount becomes due or is paid on or after April 1, 2013

HST would apply 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 April 1, 2013. Suppliers would account for the HST 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 March 1, 2013, April 1, 2013 and May 1, 2013.

GST would apply to the first payment because the amount becomes due before April 2013. HST would apply to the second and third payments because the amounts become due on or after April 1, 2013. The business would account for the GST and HST in its GST/HST return for each reporting period in which the tax becomes due.

Example 5

On February 1, 2013, 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 the

month, starting March 15, 2013. The amounts do not vary with the amount of use of the custom software.

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 would apply to the March 15, 2013 payment because the amount becomes due before April 2013. HST applies to the other payments because the amounts become due on or after April 1, 2013. The software designer would account for the GST and HST in the designer's 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 at 1-800-567-4692. You may also visit the Revenu Québec Web site to obtain general information.

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

Appendix – 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

An amount payable for a supply becomes due on the earliest of the following days:

- the date of an invoice for that amount;
- 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 purchaser is required to pay that amount under a written agreement.

Example 1

A supplier enters into a written agreement with a client. Under the agreement, the client is required to pay the total amount on January 31. On January 15, the supplier issues an invoice which is dated January 15.

The amount becomes due on January 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 the amount under the written agreement.

Amount is paid without having become due

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

- before the date of an invoice, or before a supplier issues, or would have issued, the invoice; or
- before the purchaser is required to pay the amount under a written agreement and no invoice has been issued.

Example 2

A supplier enters into a written agreement with a client. Under the agreement, the client is required to pay the total amount due on January 31. No invoice is issued. The client pays the amount due on January 15. In this case, January 31 is the day the amount becomes due and January 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 purchaser 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, just 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 supply. 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 paid.
