
Prepare for Ontario's HST: #11– Point-of-Sale Rebate for Qualifying Prepared Food and Beverages \$4.00 and Under

This information supplements the information on the point-of-sale rebate for qualifying prepared food and beverages sold for a total price of \$4.00 or less in the ***More Point-of-Sale Exemptions for Ontario HST Backgrounder***.
(<http://news.ontario.ca/rev/en/2009/11/more-point-of-sale-exemptions-for-ontario-hst.html>)

The Harmonized Sales Tax (HST) is one part of the comprehensive tax package announced in the 2009 Ontario Budget. In addition to the HST, the comprehensive tax package is also delivering more than \$4.6 billion in tax relief to business and \$11.8 billion in tax relief to people over three years.

Together with the other tax measures, the HST will help make Ontario more attractive for new business investment and allow existing Ontario businesses to improve their competitiveness. A recent report estimates that within ten years, the benefits from the lower tax burden on new investment will lead to \$47 billion in increased capital investment, higher annual incomes of up to 8.8%, and 591,000 net new jobs in Ontario.

On November 12, 2009, the Ontario government announced it will provide a point-of-sale rebate of the provincial component of the HST for qualifying prepared food and beverages sold for a total price of \$4.00 or less. The HST for Ontario will have a combined rate of 13 per cent – combining the existing five per cent federal Goods and Services Tax (GST) with an eight per cent Ontario component.

The point-of-sale rebate will be similar in nature to the current Ontario Retail Sales Tax (RST) exemption for prepared foods not exceeding \$4.00, but will be based on concepts in the federal Excise Tax Act regarding sales of food or beverages. In this regard, the zero-rated treatment of basic groceries under the GST/HST in Ontario will not be affected by the point-of-sale rebate for qualifying prepared food and beverages sold for a total price of \$4.00 or less. Generally, food and beverages that are excluded from zero-rated GST/HST treatment as basic groceries will be subject to the full 13 per cent HST and may, if being a qualifying prepared food or beverage, be eligible for the point-of-sale rebate of the eight per cent provincial component.

Eating Establishment

Under Ontario's RST, the prepared meals exemption deals with prepared food and beverages sold by eating establishments. This rule requires vendors to identify where the particular prepared food or beverage is sold.

In order to simplify compliance for vendors with the HST in Ontario, the RST concept of eating establishment will not be retained under the Ontario HST point-of-sale rebate for qualifying prepared food and beverages sold for a total price of \$4.00 or less, generally removing the

need for vendors to determine if the qualifying food and beverages were sold through an eating establishment. However, under the HST a vendor may have to consider the nature of its establishment in certain situations in order to determine whether the HST applies to food or beverages sold at the establishment. For example, normally, most foods and beverages treated as zero-rated basic groceries will be taxable at 13 per cent when sold at an establishment at which 90% or more of its sale of food or beverages are excluded from zero-rated GST/HST treatment as basic groceries. However, by virtue of

the types of sales made at the establishment, these food items may be eligible for the point-of-sale rebate of the provincial component of the HST.

Qualifying Prepared Food and Beverages

The point-of-sale rebate generally applies to food or beverages that are ready for immediate consumption and that may be consumed on or off the premises of the establishment where they are sold.

Qualifying prepared food or beverages for the purpose of this rebate will be food or beverages that are:

- food or beverages heated for consumption;
 - salads not canned or vacuum sealed;
 - sandwiches and similar products other than when frozen;
 - platters of cheese, cold cuts, fruit or vegetables and other arrangements of prepared food;
 - cakes, muffins, pies, pastries, tarts, cookies, doughnuts, brownies, croissants with sweetened filling or coating, or similar products where they are not prepackaged for sale to consumers and are sold as single servings in quantities of less than six;
 - ice cream, ice milk, sherbet, frozen yoghurt or frozen pudding, non-dairy substitutes for any of the foregoing, or any product that contains any of the foregoing, when hand-scooped or machine dispensed and sold in single servings;
 - other food items that are excluded from zero-rated GST/HST treatment as basic groceries solely by virtue of the types of sales made at the establishment where they are sold, such as the sale of a bagel or a plain croissant in a restaurant;
 - non-carbonated beverages, when dispensed at the place they are sold;
 - when excluded from zero-rated GST/HST treatment as basic groceries,
 - milk (flavoured or unflavoured),
 - soy, rice or almond-based beverages or similar non-dairy beverages that are substitutes for milk, or
 - non-carbonated fruit juice beverages or fruit flavoured beverages, other than milk-based beverages, that contain 25 per cent or more by volume of
 - a natural fruit juice or combination of natural fruit juices, or
 - a natural fruit juice or combination of natural fruit juices that have been reconstituted into the original state;
- when sold with a qualifying food item listed above,
 - carbonated beverages, when dispensed at the place they are sold, or
 - sold in a can, bottle or other primary container that contains a quantity not exceeding a single serving, and
 - not sold in multiples, prepackaged by the manufacturer or producer, of single servings; or
 - when supplied in combination with a qualifying food item listed above for a single consideration,,
 - cakes, muffins, pies, pastries, tarts, cookies, doughnuts, brownies, croissants with sweetened filling or coating, or similar products where they are prepackaged for sale to consumers in quantities of less than six items each of which is a single serving,
 - ice cream, ice milk, sherbet, frozen yoghurt or frozen pudding, non-dairy substitutes for any of the foregoing, or any product that contains any of the foregoing, when packaged and sold in single servings, or
 - other snack foods (being items excluded from basic groceries under paragraphs (e) to (j) and (l) in section 1 of Part III of Schedule VI to the federal Excise Tax Act), such as chips, salted nuts, popcorn, candies, fruit bars, granola bars, etc.

Wine, spirits, beer, malt liquor or other alcoholic beverages will not be a qualifying beverage for the purpose of the point-of-sale rebate of the Ontario component of the HST.

Single Transaction

In calculating whether qualifying prepared food and beverages will be sold for a total price of \$4.00 or less, only the qualifying prepared food and beverages are included in the calculation of the \$4.00 threshold.

Example

After working late one night, Andrew stops by his local grocery store on his way home to pick up a few items, including a few loaves of bread, cat litter and a roast beef sandwich for \$2.50 and a 350mL bottle of apple juice for \$1.00.

For the purposes of determining if Andrew will be eligible for the Ontario HST point-of-sale rebate on the sandwich and apple juice, the grocery store ignores the bread and cat litter in calculating the \$4.00 threshold. Since the sandwich plus the apple

juice are sold for a total of \$4.00 or less, the grocery store will automatically provide Andrew with the point-of-sale rebate, crediting the Ontario component of the HST and only collecting the five per cent federal component of HST on the sandwich and apple juice.

With respect to the bread and cat litter purchased, the bread is a zero-rated item for GST/HST purposes and the cat litter will be subject to the full 13 per cent HST.

School Cafeteria Meals

If you have any questions regarding the interplay between the Ontario point-of-sale rebate for qualifying prepared food and beverages sold for a total price of \$4.00 or less and the exempt treatment of school cafeteria meals under the GST/HST, please contact the Canada Revenue Agency.

For More Information:

Call Ontario's Budget hotline at 1-800-337-7222 and Teletypewriter (TTY) 1-800-263-7776 or visit ontario.ca/taxchange for general information on introduction of the HST in Ontario and wind down of the RST.

To obtain the most current version of this tax tip, visit our website at ontario.ca/revenue.

Canada Revenue Agency is your source for the latest information on how the transitional rules apply, how to get ready for the HST and the application of HST. Visit the CRA's "Are You HST Ready" website at cra.gc.ca/harmonization or call 1 800 959-5525.