



Harmonized Sales Tax – New Place of Supply Rule for Sales of Specified Motor Vehicles

This info sheet explains a new place of supply rule that would apply in certain circumstances to determine the province in which the supply of a specified motor vehicle by way of sale is made for purposes of determining whether the supply is subject to the provincial part of the harmonized sales tax (HST).

Meaning of significant terms

The “participating provinces” are Ontario, Nova Scotia, New Brunswick, British Columbia, and Newfoundland and Labrador.

A “non-participating province” means a province that is not a participating province, or another area in Canada that is outside the participating provinces.

Generally, the “recipient” of a supply means where consideration is payable under an agreement for the supply, the person who is liable under the agreement to pay that consideration.

A “specified motor vehicle” is defined in the *Excise Tax Act* to mean a vehicle that is, or that would be, if it were imported, classified under one of several tariff items in Schedule I to the *Customs Tariff*. Generally, this includes all motor vehicles, other than racing cars classified under heading number 87.03, and any prescribed motor vehicles.

Background

The *Excise Tax Act* and its regulations contain place of supply rules that determine the province in which a supply is made depending on the nature of the supply. These place of supply rules only affect the application of the provincial part of the HST and do not affect the application of the federal part of the

HST (the GST) which applies to all taxable (other than zero-rated) supplies made in Canada at a rate of 5%.

Taxable (other than zero-rated) supplies that are made in a participating province based on the place of supply rules are subject to HST at a rate of:

- 15% in Nova Scotia (consisting of the 5% federal part and a 10% provincial part);
- 13% in Ontario, New Brunswick, and Newfoundland and Labrador (consisting of the 5% federal part and an 8% provincial part); and
- 12% in British Columbia (consisting of the 5% federal part and a 7% provincial part).

All references to supplies in this publication are to taxable (other than zero-rated) supplies made by GST/HST registrants in respect of which a supplier is required to collect tax.

General place of supply rule for sales of goods

Under the general place of supply rule that applies to sales of goods, the supply of a specified motor vehicle by way of sale is made in a province if the supplier delivers the vehicle or makes it available in the province to the recipient of the supply. The application of this place of supply rule is generally based on the province in which legal delivery of the vehicle to the recipient occurs. However, for purposes of this rule, a vehicle is also deemed to be delivered in a province if the supplier:

- ships the vehicle to a destination in the province specified in the contract for carriage of the vehicle, or

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- transfers possession of the vehicle to a common carrier or consignee that the supplier has retained on behalf of the recipient to ship the vehicle to the province.

The province in which a vehicle is considered to be delivered or made available under this general place of supply rule is referred to in this publication as the province in which delivery of the vehicle occurs.

Self-assessment and rebate of the provincial part of the HST

The provincial part of the HST does not always apply at the same rate to supplies made in the participating provinces, nor does it apply to supplies made outside the participating provinces. To take this into account, the place of supply rules are complemented by self-assessment and rebate rules.

Self-assessment of the provincial part of the HST is generally required where goods (including specified motor vehicles) are brought into a participating province from a non-participating province or from another participating province for which the rate of the provincial part of the HST is lower. In this case, the amount to be self-assessed is calculated based on the difference in the provincial rates. However, the recipient is generally not required to self-assess the provincial part of the HST where the vehicle is brought into a participating province in which a supply of the vehicle has been deemed to be made based on the general place of supply rule.

The provincial part of the HST that is required to be self-assessed in respect of a specified motor vehicle is required to be paid to the provincial motor vehicle registration authority of the relevant participating province (which collects the provincial part of the HST on behalf of the Canada Revenue Agency (CRA)). The amount is required to be paid on the earlier of:

- the day the recipient is required to register the vehicle in a participating province under the laws of the participating province relating to the registration of motor vehicles, and
- the day the recipient registers the vehicle in the participating province.

A recipient of a supply of a specified motor vehicle that is made in a participating province may, in certain circumstances, apply for a rebate of all or part of the provincial part of the HST paid in respect of the supply. Generally, in order to qualify for the rebate the recipient must:

- acquire the vehicle for use exclusively outside the participating province;
- remove the vehicle from the participating province to another province that either has a lower provincial part of the HST or no HST within 30 days after it is delivered to the recipient; and
- pay all levies of the other province, if any, that are payable by the recipient in respect of the vehicle.

New place of supply rule for sales of specified motor vehicles

Where a supplier such as an automobile dealer sells a specified motor vehicle, the vehicle is often registered by the supplier on behalf of the recipient, or by the recipient on the recipient's own behalf, before or soon after it is delivered to the recipient. In this case, the vehicle is not always registered in the same province in which delivery of the vehicle to the recipient occurs and in which the vehicle is consequently considered to be supplied under the general place of supply rule. Where the vehicle is supplied in a participating province and removed from that province for use in a non-participating province, the recipient can be required to pay both the amount of the provincial part of the HST to the supplier in respect of the supply and the amount of any applicable provincial tax of the province in which the vehicle is registered. The recipient in this case would only be eligible to recover the provincial part of the HST paid to the supplier by applying for a rebate after the transaction has taken place and the amounts have been paid.

For purposes of administrative simplification, the Department of Finance Canada has indicated that it intends at the earliest opportunity to recommend a regulatory change to the place of supply rules made under the *Excise Tax Act* that would deem the supply of a specified motor vehicle by way of sale to be made in the particular province in which the vehicle is registered if that registration occurs within

seven days after the day on which delivery of the vehicle to the recipient in a participating province (other than the particular province) occurs. The proposed regulatory change would be published in the *Canada Gazette* in accordance with the federal regulatory process and would come into force at that time. However, as explained further below, it will be proposed that the regulatory change have retrospective application in some circumstances to July 1, 2010.

In anticipation of the recommendation by the Department of Finance of such a regulatory change and to allow affected parties to benefit from the administrative simplification that it would provide, the CRA is prepared to begin administering the new place of supply rule immediately, where suppliers choose to apply the rule. Therefore, as an exception to the general place of supply rule for sales of goods, where a supplier makes a supply by way of sale of a specified motor vehicle, the supply would be administratively considered by the CRA to be made in a particular province if:

- the vehicle is registered (other than on a temporary basis) by or on behalf of the recipient under the laws of the particular province relating to the registration of motor vehicles within seven days after the day on which the vehicle is delivered or made available to the recipient in a participating province (other than the particular province), and
- the supplier maintains evidence satisfactory to the Minister of that registration.

The documentary evidence that a supplier would be required to maintain in its records to substantiate the application of the new place of supply rule would be:

- a dated copy of the permanent registration of the vehicle in the province in the recipient's name, and
- a copy of the vehicle purchase agreement, or other sales document such as a bill of sale, that indicates the date of delivery of the vehicle.

In order to substantiate to the relevant vehicle registration authority of a particular participating province that self-assessment of the provincial part

of the HST is not required when the vehicle is registered in the particular participating province, a recipient would be required to make available to the vehicle registration authority a copy of the vehicle purchase agreement or other sales document such as a bill of sale showing the date of delivery of the vehicle in another participating province and that the provincial part of the HST in respect of the particular participating province is payable, or has been paid, in respect of the supply.

Effective dates of the new place of supply rule

Based on the recommendation to be made by the Department of Finance, the new administrative place of supply rule would apply to:

- any supply of a specified motor vehicle made by way of sale on or after the date of final publication of the regulatory change in the *Canada Gazette*, and
- any supply of a specified motor vehicle made by way of sale on or after July 1, 2010, and before the date of final publication of the regulatory change in the *Canada Gazette*, in respect of which the rule has been applied (i.e. based on the rule, the supplier has collected the provincial part of the HST, if any, of the province in which the vehicle was registered within seven days after the day on which it was delivered or made available to the recipient).

Generally, based on these proposed effective dates, supplies of specified motor vehicles by way of sale made before the date of final publication of the regulatory change in the *Canada Gazette* would be subject to the general place of supply rule for sales of goods, unless the supplier has collected the provincial part of the HST, if any, based on the application of the new administrative place of supply rule. Where the supplier has collected the provincial part of the HST in this case and the recipient has also paid an amount to the relevant provincial vehicle registration authority on account of the provincial part of the HST of the province in which the vehicle was registered, but has not otherwise recovered that amount, the recipient may seek a refund from the province of the amount that has consequently been paid in error.

Application of the new place of supply rule

The place of supply of a specified motor vehicle under the new administrative place of supply rule could affect the rate of the provincial part of the HST that would be collected by the supplier in respect of the supply of the vehicle. As shown in the examples below, in some cases the new place of supply rule would result in a lower rate of the provincial part of the HST being collected by the supplier than would have been collected based on the general place of supply rule, while in other cases the new place of supply rule would result in a higher rate of the provincial part of the HST being collected by the supplier.

The place of supply determined under the new place of supply rule could also affect the recipient's obligation to self-assess the provincial part of the HST and entitlement to a rebate of the provincial part of the HST.

Example 1

An automobile dealer located in Ontario sells a specified motor vehicle to a recipient who is resident in Quebec. Delivery of the vehicle to the recipient occurs in Ontario at the location of the dealership. Before delivery of the vehicle to the recipient in Ontario, the dealer registers the vehicle in Quebec on behalf of the recipient.

Although delivery of the vehicle to the recipient occurs in Ontario, the supply of the vehicle would be deemed under the new rule to be made in Quebec because the vehicle is registered in Quebec on behalf of the recipient within seven days after the date of delivery of the vehicle to the recipient in Ontario. The dealer would therefore collect GST at a rate of 5% in respect of the supply of the vehicle.

Example 2

An automobile dealer located in Nova Scotia sells a specified motor vehicle to a recipient who is resident in New Brunswick. Delivery of the vehicle to the recipient occurs in Nova Scotia at the location of the dealership. Before delivery of the vehicle to the recipient in Nova Scotia, the dealer registers the vehicle in New Brunswick on behalf of the recipient.

The supply of the vehicle would be deemed under the new rule to be made in New Brunswick because the vehicle is registered in New Brunswick on behalf of the recipient within seven days after the date of delivery of the vehicle to the recipient in Nova Scotia. The dealer would therefore collect HST at a rate of 13% in respect of the supply of the vehicle.

Circumstances in which the new place of supply rule would not apply

The new place of supply rule would not apply to supplies of vehicles that are delivered to the recipient in a non-participating province. These supplies will continue to be made in a non-participating province and relieved of the provincial part of the HST. Also, the new rule would not apply to supplies of vehicles that are delivered and registered in the same participating province. The province in which these supplies are made will be determined by the general place of supply rule.

The new place of supply rule would also not apply if the vehicle is registered in a province more than seven days after the date of delivery of the vehicle to the recipient in a participating province. In this case, the general place of supply rule will apply based on the province in which delivery of the vehicle to the recipient occurs. If a supplier in this case collects the provincial part of the HST of the province of registration, the supplier will be considered to have collected tax in error and, as is normally the case, will be required to include that amount in its net tax. The amount paid in error by the recipient to the supplier as the provincial part of the HST of the province in this case will not relieve the recipient of the potential obligation to pay the provincial part of the HST when the vehicle is registered there. The recipient may recover the overpaid amount by:

- seeking a refund or credit of the amount from the supplier (who may then claim a corresponding net tax deduction where a credit note for the amount is issued to the recipient), or
- by applying to the CRA for a rebate of the amount by filing Form GST189, *General Application for Rebate of GST/HST*.

Example 3

An automobile dealer located in Ontario sells a specified motor vehicle to a recipient who is resident in Quebec. The recipient takes delivery of the vehicle in Ontario at the location of the dealership and subsequently drives it to Quebec. Ten days later, the recipient registers the vehicle in Quebec.

Delivery of the vehicle to the recipient occurs in Ontario. Although the vehicle is registered in Quebec by the recipient, the new rule would not apply since the vehicle was not registered within seven days after the date of delivery of the vehicle to the recipient in Ontario. The supply of the vehicle is therefore made in Ontario and the dealer is required to collect HST at 13% in respect of the supply. The recipient would be eligible for a rebate of the 8% Ontario part of the HST that the recipient paid to the dealer if the recipient has met all of the rebate conditions explained above.

Example 4

An automobile dealer located in Alberta sells a specified motor vehicle to a recipient who is resident in British Columbia. Delivery of the vehicle to the recipient occurs in Alberta at the location of the dealership. Before delivery of the vehicle to the recipient in Alberta, the recipient registers the vehicle in British Columbia and provides the dealer with a copy of the registration.

Because delivery of the vehicle to the recipient occurs in Alberta, a non-participating province, the new rule would not apply. The supply of the vehicle is deemed under the general place of supply rule to be made in Alberta. The dealer is therefore required to collect GST at a rate of 5% in respect of the supply. The recipient is required to pay the 7% British Columbia part of the HST to the provincial motor vehicle registration authority in British Columbia upon registering the vehicle in British Columbia.

Example 5

An automobile dealer located in British Columbia sells a specified motor vehicle to a recipient who is resident in British Columbia. Delivery of the vehicle to the recipient occurs in British Columbia at the location of the dealership. Before delivery of the vehicle to the recipient in British Columbia, the dealer registers the vehicle in British Columbia on behalf of the recipient.

Because delivery of the vehicle to the recipient occurs in British Columbia, the same participating province in which the vehicle is registered, the new rule would not apply. The supply of the vehicle is deemed under the general place of supply rule to be made in British Columbia. The dealer is therefore required to collect HST at a rate of 12% in respect of the supply.

Example 6

An automobile dealer located in Quebec sells a specified motor vehicle to a recipient who is resident in Ontario. The Quebec dealer agrees to ship the vehicle to the recipient in Ontario. Before delivery of the vehicle to the recipient in Ontario, the dealer registers the vehicle in Ontario on behalf of the recipient.

Because delivery of the vehicle to the recipient occurs in Ontario, the same participating province in which the vehicle is registered, the new rule would not apply. The supply of the vehicle is deemed under the general place of supply rule to be made in Ontario. The dealer is therefore required to collect HST at a rate of 13% in respect of the supply.

Example 7

An automobile dealer located in Ontario sells a specified motor vehicle to a recipient who is resident in Nova Scotia. The recipient takes delivery of the vehicle in Ontario at the location of the dealership. The dealer collects HST at a rate of 13% in respect of the supply of the vehicle. After taking delivery of the vehicle at the dealership, the recipient drives the vehicle to Nova Scotia the same day. The following day, the recipient registers the vehicle in Nova Scotia. The dealer does not obtain any evidence of the registration of the vehicle in Nova Scotia.

Although the vehicle is registered in Nova Scotia within seven days after the date of delivery of the vehicle to the recipient in Ontario, the new place of supply rule would not apply in this case since the dealer does not maintain any evidence of that registration. As a result, because delivery of the vehicle to the recipient occurs in Ontario, the supply is made in that province and the supplier is required to collect HST at a rate of 13% in respect of the supply. Upon registering the vehicle in Nova Scotia, the recipient will be required to pay HST to the provincial motor vehicle registration authority in Nova Scotia calculated based on a rate of 2% (10% Nova Scotia rate – 8% Ontario provincial rate).

The appendix to this info sheet includes a table that provides an overview of the application of the provincial part of the HST in various circumstances, including those in which the new administrative place of supply rule has been applied by the supplier.

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.

Reference in this publication is made to supplies that are subject to the GST or the HST. The HST applies in the participating provinces at the following rates: 13% in Ontario, New Brunswick and Newfoundland and Labrador, 15% in Nova Scotia, and 12% in British Columbia. The GST applies in the rest of Canada at the rate of 5%. If you are uncertain as to whether a supply is made in a participating province, you may refer to GST/HST Technical Information Bulletin B-103, *Harmonized Sales Tax – Place of Supply Rules for Determining Whether a Supply is Made in a Province*.

If you are located in Quebec and wish to make a technical enquiry or request a ruling related to the GST/HST, please contact Revenu Québec by calling 1-800-567-4692. You may also visit their Web site at www.revenu.gouv.qc.ca to obtain general information.

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

Appendix

Province of vehicle delivery	Province of vehicle registration	Date of vehicle registration	Place of supply	Provincial part of HST collectible by supplier ²	Provincial part of HST payable at registration	Eligibility for rebate of HST
ON, NS, NB, BC, NL ¹	Non-participating province	Within 7 days after delivery date	Non-participating province	None	None	None
ON, NS, NB, BC, NL	ON, NB, NL	Within 7 days after delivery date	ON, NB, NL ³	8%	None	None
ON, NS, NB, BC, NL	NS	Within 7 days after delivery date	NS ³	10%	None	None
ON, NS, NB, BC, NL	BC	Within 7 days after delivery date	BC ³	7%	None	None
ON, NB, NL	Non-participating province	More than 7 days after delivery date	ON, NB, NL	8%	None	8%
NS	Non-participating province	More than 7 days after delivery date	NS	10%	None	10%
BC	Non-participating province	More than 7 days after delivery date	BC	7%	None	7%
ON, NB, NL	BC	More than 7 days after delivery date	ON, NB, NL	8%	None	1%
NS	ON, NB, NL	More than 7 days after delivery date	NS	10%	None	2%
NS	BC	More than 7 days after delivery date	NS	10%	None	3%
ON, NB, NL	NS	More than 7 days after delivery date	ON, NB, NL	8%	2%	None
BC	ON, NB, NL	More than 7 days after delivery date	BC	7%	1%	None
BC	NS	More than 7 days after delivery date	BC	7%	3%	None
Non-participating province	Non-participating province	Any date	Non-participating province	None	None	None
Non-participating province	ON, NB, NL	Any date	Non-participating province	None	8%	None
Non-participating province	NS	Any date	Non-participating province	None	10%	None
Non-participating province	BC	Any date	Non-participating province	None	7%	None

1. ON = Ontario, NS = Nova Scotia, NB = New Brunswick, BC = British Columbia, NL = Newfoundland and Labrador

2. In addition to the 5% federal part of the HST (i.e. the GST) and where the new administrative place of supply rule has been applied by the supplier.

3. The new rule would not apply where vehicle delivery and vehicle registration occur in the same province. In this case, the place of supply will be the province of vehicle delivery based on the general rule.