



## Canadian indirect tax news

### Cost recovery update - Important changes to the Ontario Rebate for Electricity Consumers

November 7, 2019

On November 1, 2019, important changes came into force affecting customers who have qualified for the Ontario Rebate for Electricity Consumers (OREC). Most importantly, new rules alter eligibility for the rebate and contain a requirement to provide written notice to a customer's local electricity distribution company.

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## OREC program

Under the OREC program, which was introduced on January 1, 2017, eligible consumers of electricity costs were entitled to an 8% Provincial Rebate equal to the provincial component of the Harmonized Sales Tax (HST) on bills of residential, farm, small business and other eligible customers.<sup>1</sup> It was estimated that 8% Provincial Rebate would provide Ontario families with an average savings of \$130 annually.

## New Ontario Electricity Rebate

On July 9, 2019, The Ministry of Energy, Northern Development and Mines proposed a new on-bill rebate, effective November 1, 2019. The new rebate is renamed the Ontario Electricity Rebate (OER). The amount of the OER is equal to 31.8% of the pre-tax invoice amount. It is intended to be financially similar to the previous 8% Provincial Rebate and the benefit provided by the Global Adjustment Modifier<sup>2</sup>. In reality, the 8% Provincial Rebate provided financial assistance that far exceeded the intended consumer savings to offset the application of the 8% provincial component of the HST, as it did not contemplate the financial impact of the Global Adjustment Modifier to electricity costs after the rebate was applied.

## New eligibility requirements

New rules narrow rebate eligibility for consumers with multi-unit complexes (e.g., hotels, motels, resorts, lodges, trailer parks, prisons, hospitals, universities, and certain work camps). Under the new rules, a multi-unit complex with demand above 50 kilowatts and annual consumption above 250,000 kilowatt hours, will only qualify for the OER if: a) it contains at least

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<sup>1</sup> Prior to the implementation of the HST on July 1, 2010, the Ontario Retail Sales Tax did not apply to the sale of electricity in Ontario.

<sup>2</sup> The Global Adjustment (GA) is the component of the electricity bill that covers the cost of building new electricity infrastructure, maintaining existing resources and providing conservation and demand management programs. The Global Adjustment Modifier is the amount that electricity distributors will apply to reduce the GA for eligible electricity consumers.

two qualifying units<sup>3</sup>; (b) at least 50% of the units within the complex are qualifying units; and (c) the complex provides its distributor with the required notice.

## **Transitional measures - written notice**

Customers that were receiving the rebate on October 22, 2019 but do not satisfy the new eligibility requirements will continue to receive the rebate until October 31, 2020 if they provide written notice to the distributor by January 31, 2020. Failure to provide such notice will result in the termination of the OER on January 31, 2020 and will cause the customer to miss the “grandfathering” provision providing eligibility for the rebate in accordance with the old rules until October 31, 2020.

As well, multi-unit complexes currently receiving the rebate and meeting the new eligibility requirement will be required to provide written notice to their electricity distributors by January 31, 2020, or they will risk losing their entitlement to the rebate on that date.

For multi-unit complexes that were not receiving the rebate before November 1, 2019 but that do qualify under the revised eligibility rules, they must file a notice in order to start receiving the rebate.

Consumers with demand of 50 kilowatts or less or annual consumption of 250,000 kilowatt hours or less, farms, and licensed long-term care homes (other than where the electricity account is also in respect of a hospital) remain eligible for the OER and are not required to provide written notice.

## **Electricity bills**

The new rebate will be labelled on customer bills as the “Ontario Electricity Rebate”. For bills issued on or before January 31, 2020, a rebate may be identified as the “Provincial Rebate”. It is important to note that neither rebate affects a customer’s ability to claim an input tax credit and/or public service body rebate for the 8% provincial component of the HST.<sup>4</sup>

## **Next steps**

Now is the time to review your entitlement to an electricity rebate in Ontario. Deloitte’s Indirect Tax professionals can help you identify whether the above-mentioned requirements may apply to your business and electricity expenses. As well, we can assist in preparing written notice containing prescribed information that can be submitted to electricity distributors.

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<sup>3</sup> A qualifying unit is defined as a unit that “(a) consists of a self-contained room or set of rooms, (b) contains kitchen and bathroom facilities that are for the sole use of the unit, and (c) is occupied and used as a residence”.

<sup>4</sup> In a GST/HST Ruling, the Canada Revenue Agency took the position that the Provincial Rebate does not alter the value of the input tax credit that is otherwise claimable by a registrant.

Finally, there may still be opportunities to apply for the 8% Provincial Rebate and/or the new OER under certain circumstances.

If you have any questions on any of the above, please reach out to your Deloitte representative or any of the individuals noted on this newsletter.

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