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Tax

Contacts

National Indirect Tax Leader
Janice Roper
604-640-3353

Quebec
Robert Demers
514-393-5156

Eastern Region
Michael Matthews
613-751-5310

Toronto
Danny Cisterna
416-601-6362

Doug Myrden
416-601-6197

Prairie Region
Jason Riche
403-267-1702

British Columbia
Janice Roper
604-640-3353

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Canadian Indirect Tax News

Are you ready for the indirect tax measures proposed in 2016?

June 21, 2016 (16-3)

So far this year, we have seen various indirect tax measures, both national and provincial, that propose to increase tax rates, (re)introduce taxes and make changes to relief rules. Now that summer is here, it's time to take action!

HST rate changes

All goods and services tax/harmonized sales tax (GST/HST) registrants that make taxable supplies in New Brunswick, Newfoundland and Labrador and Prince Edward Island should prepare for the upcoming wave of HST rate increases in these provinces as systems changes will be required.

New Brunswick

Effective July 1, 2016, the provincial portion of the New Brunswick HST rate will increase from 8% to 10%, resulting in an HST rate of 15%. The New Brunswick government released **transitional rules**.

Newfoundland and Labrador

Also effective July 1, 2016, the provincial portion of the Newfoundland and Labrador HST rate will increase from 8% to 10%, resulting in an HST rate of 15%.This is a reintroduction of a previous rate increase proposal that had been cancelled.[1] **Transitional rules** were released.

Prince Edward Island

Effective October 1, 2016, the provincial portion of the Prince Edward Island HST rate will increase from 9% to 10%, resulting in an HST rate of 15%. **Transitional rules** were recently released.

Newly introduced relief measures

Certain financial institutions, suppliers of medical devices, builders of grandparented homes sold and municipalities in Newfoundland and Labrador may want to review the newly introduced relief measures as they may be applicable to them.

Financial institutions

"Loading" update

With respect to the application of the GST/HST to imported reinsurance services, the 2016 federal budget proposes to clarify that ceding commissions and the margin for

[1] See Deloitte's October 15, 2015 **Canadian Indirect Tax News** discussing the original rate increase proposal. On December 14, 2015, the Department of Finance issued Tax Information Bulletin No. HST 001, in which it cancelled the previously announced rate increase.

risk transfer will not be taxable under the self-assessment imported supply rules for financial institutions, as anticipated.[2]

Where a financial institution previously paid tax as an “external charge” or as “qualifying consideration”, the financial institution can request a reassessment in writing in accordance with this measure. A taxpayer has up to one year from the date of Royal Assent of this measure to request such reassessment.

Interest carve-out for de minimis financial institutions

For taxation years beginning on or after March 22, 2016,[3] *de minimis* financial institutions should note that interest in respect of demand deposits, as well as term deposits and guaranteed investment certificates with an original date to maturity not exceeding 364 days, will no longer be included in determining whether the person exceeds the $1 million threshold under paragraph 149(1)(c) of the Excise Tax Act (the ETA). This proposed measure could affect a taxpayer’s status as a *de minimis* financial institution.

Suppliers of medical devices

The list of medical devices that are zero-rated for GST/HST purposes is proposed to be expanded, generally effective for supplies of these devices after March 22, 2016, to include intermittent urinary catheters, insulin pens and insulin pen needles. Suppliers of such medical devices should ensure that the requisite systems changes are made.

Builders of grandparented housing sold

Effective for any reporting period of a person that ends after March 22, 2016, in addition to simplified reporting for builders of grandparented housing sales, such builders can now correct past misreporting (thereby avoiding potential penalties)[4] by filing an election between May 1, 2016 and December 31, 2016 to report all past grandparented housing sold for $450,000 or more.

Charities that make supplies in exchange for donations

Effective March 22, 2016 (with some additional relief provided retroactively), only the value of the goods or services provided by a charity in exchange for a donation will be subject to GST/HST.[5] Charities that make supplies in exchange for donations should update their systems to reflect this proposed measure.

Newfoundland and Labrador municipalities

Effective January 1, 2016, a public service body rebate for municipalities has been introduced.[6]

Changes to existing relief measures

Existing relief under the closely related rules and in respect of the zero-rating of call centre services is proposed to change. Additionally, the application of the GST/HST to purely cosmetic procedures supplied by charities has been clarified and new

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[2] This measure is to apply, generally, retroactively to November 17, 2005.

[3] This implementation date is modified for purposes of the completion of the Annual Information Return (GST111), whereby the revised rules are effective for taxation years that straddle March 22, 2016

[4] Under HST transitional rules applicable since 2010, certain sales of newly constructed or substantially renovated homes were grandparented for HST purposes (i.e., the housing sale was not subject to the provincial component of the HST or the increased HST rate, as applicable). Under the current rules, builders are subject to special reporting requirements, which involve reporting their grandparented housing sales where the purchaser was not entitled to a GST New Housing Rebate or a GST New Residential Rental Property Rebate. The rules also include penalties for misreporting (i.e., underreporting, over-reporting or failing to report).

[5] Prior to March 22, 2016, if a donor received property or services in exchange for the donation, even if the value of the donation exceeded the value of the offered property or services, the GST/HST generally applied on the full value of the donation (subject to a number of exceptions).

[6] As announced on April 29, 2015.

reporting lines on Form GST34-3, *Goods and Services Tax/Harmonized Sales Tax (GST/HST) Electronic Filing Information,* have been introduced. Eligibility criteria should be reviewed to ensure compliance.

Closely related elections for GST/HST relief

Effective for elections under sections 150 and 156 of the ETA that are filed after March 22, 2016 and effective as of March 23, 2016,[7] in order to qualify as closely related for GST/HST purposes, a corporation or partnership must hold and control 90% or more of the votes in respect of every corporate matter of the subsidiary corporation (with limited exceptions). It is recommended that all closely related elections be reviewed prior to filing to ensure that these changes to the eligibility criteria are satisfied.

Zero-rated supplies of call centre services

Generally effective in respect of supplies made after March 22, 2016, call centre services will only be zero-rated if supplied to a non-resident person who is not registered for GST/HST purposes and who is not a consumer of the service, and it can reasonably be expected that the technical or customer support is to be rendered primarily to individuals who are outside Canada.[8] Suppliers of call centre services should review the characterization of their supplies to determine whether they qualify for zero-rating. Suppliers of zero-rated call centre services should also ensure that the requisite systems changes are made.

Purely cosmetic procedures supplied by charities

The 2016 federal budget clarified that the GST/HST will generally apply to purely cosmetic procedures supplied by charities after March 22, 2016, as they will not qualify as supplies of basic health care. Systems changes may be required to ensure compliance.

New reporting lines on Form GST34-3

Effective May 16, 2016, new reporting lines on Form GST34-3, *Goods and Services Tax/Harmonized Sales Tax (GST/HST) Electronic Filing Information*, were introduced to provide GST/HST registrants who report sales that include zero-rated supplies made in Canada, exempt supplies and/or zero-rated exports, with the option of reporting these items separately on electronic GST/HST returns.[9]

Businesses that report sales that include zero-rated supplies made in Canada, exempt supplies and/or zero-rated exports on Line 101 of the GST/HST returns may be required to file more frequently and may even become subject to the mandatory electronic filing requirements by virtue of the inclusion of non-taxable or zero-rated exports as part of Line 101. These new reporting lines will allow certain registrants to have their filing frequencies and any mandatory electronic filing requirements adjusted. Prior to May 16, 2016, a taxpayer had no other option but to contact the CRA to request these adjustments.

Taxpayers may want to review their Line 101 amounts reported to determine whether any relief would accrue to their benefit should they elect to report zero-rated supplies made in Canada, exempt supplies and/or zero-rated exports as separate line items.

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[7] Except for elections filed under sections 150 and 156 of the ETA that are to be effective as of March 23, 2016, the closely related proposed measures will apply after March 22, 2017.

[8] New proposed section 23.1 of Part V of Schedule VI to the ETA also applies to any supply made on or before March 22, 2016 unless on or before that day, an amount was charged, collected or remitted as or on account of tax under Part IX of the ETA in respect of the supply.

[9] Three new lines are available for reporting: Line 90 is for reporting taxable sales (including zero-rated supplies) made in Canada; line 91 is for reporting exempt supplies, zero-rated exports, and other sales and revenue; and line 102 is for reporting an associate's taxable sales (including zero-rated supplies) made in Canada.

The Ontario RITC phase-out continues

The requirement for certain large businesses to recapture specified provincial input tax credits (RITCs) in Ontario continues to be phased-out, with additional relief effective July 1, 2016.

The RITC requirement in Ontario is gradually being phased out over three years as follows:

Day on which the provincial part of the HST becomes payable without having been paid or is paid without having become payable	Ontario RITC recapture rate
July 1, 2010 to June 30, 2015	100%
July 1, 2015 to June 30, 2016	75%
July 1, 2016 to June 30, 2017	50%
July 1, 2017 to June 30, 2018	25%
July 1, 2018 and beyond	0%

Large businesses must continue to report RITCs at the applicable rate in a return for a reporting period during the phase out. Interest and penalties are generally assessed against large businesses that fail to account for RITCs as required. For further details on the RITC requirement in Ontario and its phase-out, please refer to our prior **newsletter on the subject**.

RST and PST measures

Newfoundland and Labrador

RST on insurance premiums

The 2016 Newfoundland and Labrador budget proposes to reintroduce the retail sales tax (RST) on insurance premiums, beginning July 1, 2016. The tax will be 15% on insurance premiums for property and casualty insurance policies. Insurers should ensure that the requisite systems changes are made.

RST rate increase on used vehicles

The Newfoundland and Labrador RST on used vehicles will increase from 14% to 15%, effective July 1, 2016. Businesses engaged in retail sales of used vehicles in Newfoundland and Labrador should prepare for this rate increase as systems changes will be required.

British Columbia

New relief from PST for qualifying farmers

Effective February 17, 2016, telescopic handlers, skid steers and polycarbonate greenhouse panels obtained by qualifying farmers for use solely for a farm purpose are exempt from provincial sales tax (PST) in British Columbia. Changes may be required to vendor systems and internal processes.

Real property transfer tax measures

Ontario

Effective retroactively to July 19, 1989 (i.e., the date on which the *de minimis* partnership exemption became effective), the *de minimis* partnership exemption from Ontario land transfer tax is not available if the partner who acquires the interest in the partnership is a trust (such as a real estate investment trust) or another partnership.

A special, time-limited, voluntary disclosure policy is being developed, which would be available only with respect to dispositions of a beneficial interest in land through one or more partnerships that occurred on or before February 17, 2016.[10] The Ontario Ministry of Finance has released a **bulletin** on these changes.

Taxpayers involved in certain dispositions of a beneficial interest in land, including those occurring in respect of complex real estate structures involving real estate investment trusts and/or layer(s) of limited partnership(s), will be required to determine the best course of action for their circumstances.

Quebec

The circumstances under which the transfer of an immovable between a natural person and a legal person, as well as between two closely related legal persons, may be exempted from transfer tax have been tightened, effective for transfers made after March 17, 2016. New disclosure obligations are among the proposed measures. Additionally, the transfer duties due date is proposed to become the date of an immovable's transfer.

Relief has been proposed in respect of transfers of an immovable made after March 17, 2016 by way of exemption from transfer duties granted to certain international government organization transferees and on the transfer of an immovable between former *de facto* spouses.

It is recommended that all tax planning in respect of transfers of immovables made in Quebec after March 17, 2016 be reviewed carefully to ensure that these proposed measures are addressed.

British Columbia

Effective February 17, 2016, newly constructed homes used as a principal residence by a Canadian citizen or permanent resident will generally be exempt from property transfer tax for properties with a value of up to $750,000.[11] However, a new third tier rate of 3% on the value in excess of $2 million has been introduced, also effective February 17, 2016.[12]

Additionally, British Columbia proposed new disclosure requirements, which are expected to come into effect in spring 2016, including a requirement for bare trustees to disclose citizenship information on settlor and beneficiaries of the trust and a requirement for corporations to disclosure directors' citizenship information.

Prince Edward Island

Effective October 1, 2016, Prince Edward Island will eliminate its real property transfer tax for all first-time home buyers.

New Brunswick

Effective April 1, 2016, the New Brunswick real property transfer tax will increase from 0.5% to 1.0%.

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[10] For dispositions of a beneficial interest in land through one or more partnerships, the Minister will (re)assess only dispositions that occurred on or after February 18, 2012 and returns and remittances for dispositions that occurred on or after February 18, 2016 will be due the later of the 30th day after the date of the disposition and January 1, 2017. The Ministry will not initiate prosecutions in respect of dispositions of a beneficial interest in land through one or more partnerships that occurred prior to February 18, 2016.

[11] A partial exemption will be available for homes valued at up to $800,000; however, homes with a value in excess of $800,000 will be subject to the standard property transfer tax regime.

[12] The current rates of 1% on the first $200,000 in value and 2% on $200,000 to $2 million in value continue to apply.

Change to the relief relating to diesel fuel used as heating oil or to generate electricity

For diesel fuel delivered after June 2016,[13] the 2016 federal budget clarified that relief from excise tax will be limited to heating oil that is consumed exclusively for providing heat to a home, building or similar structure. No relief will apply to fuel delivered or imported after June 2016 that is used to produce electricity in or by any vehicle (e.g., trains, ships, airplanes), irrespective of the purpose for which the electricity is used. Systems and processes changes may be required from a recovery perspective.

Can we be of assistance?

The changes discussed above may provide new responsibilities or opportunities for your organization. If you would like to discuss the implications of these measures, please contact your local Deloitte Indirect Tax representative. We would be happy to be of assistance.

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Bay Adelaide Centre, East Tower
22 Adelaide Street West, Suite 200
Toronto, ON M5H 0A9

[13] Or to fuel delivered prior to July 2016 that is intended to be used after June 2016.