

## **TRANSITIONAL RULES FOR THE NEW BRUNSWICK HST RATE INCREASE**

**March 30, 2016**

This Notice provides general descriptions of transitional rules for the increase in the Harmonized Sales Tax (HST) rate to 15 per cent in New Brunswick that will be proposed to be enacted in regulations pursuant to the federal *Excise Tax Act* (ETA).

### **Overview**

On February 2, 2016, the Government of New Brunswick announced its intention to increase the rate of the New Brunswick component of the HST to a rate of 10 per cent effective July 1, 2016, resulting in an HST rate of 15 per cent in New Brunswick. Transitional rules are required to determine which tax rate — the existing HST rate of 13 per cent or the new HST rate of 15 per cent — would apply in respect of transactions that straddle July 1, 2016.

Under the transitional rules, suppliers would generally be required to charge the HST at the rate of 15 per cent on any consideration that becomes due without having been paid, or is paid without having become due, on or after July 1, 2016 for taxable supplies of property or services. Under the ETA, the consideration, or a part thereof, for a taxable supply generally becomes due on the earliest of:

- the day the supplier first issues an invoice in respect of the supply for that consideration or part thereof;
- the date of that invoice;
- the day the supplier would have, but for an undue delay, issued an invoice in respect of the supply for that consideration or part thereof; and
- the day the recipient of the supply is required to pay that consideration or part thereof to the supplier pursuant to a written agreement.

Special transitional rules would apply in respect of certain real property transactions.

Unless otherwise indicated, the transactions described in this Notice are those that, for purposes of the ETA, would be considered to be taxable supplies made in New Brunswick.

Unless otherwise stated, or the circumstances otherwise require, words and expressions used in this Notice have the same meaning as in Part IX of the ETA.

### **Tangible Personal Property**

This section describes the transitional rule for supplies of tangible personal property (i.e., goods) by way of sale, including subscriptions to periodical publications such as newspapers and magazines.

The HST rate of 15 per cent would apply to any consideration that becomes due without having been paid, or is paid without having become due, on or after July 1, 2016 for a supply of goods. Conversely,

the HST rate of 13 per cent would apply to any consideration that becomes due or is paid before July 1, 2016 for a supply of goods.

Example 1: In June 2016, a person fully pays for an annual magazine subscription. Issues of the magazine are to be delivered each month for twelve months starting in July 2016. The HST rate of 13 per cent would apply to the payment for the magazine subscription.

Example 2: In July 2016, a supplier first issues an invoice for an unpaid delivery of topsoil that was ordered by and delivered to a person in June 2016. The HST rate of 15 per cent would apply to the invoiced amount.

## **Services**

This section describes the transitional rule for supplies of services.

The HST rate of 15 per cent would apply to any consideration that becomes due without having been paid, or is paid without having become due, on or after July 1, 2016 for a supply of services. Conversely, the HST rate of 13 per cent would apply to any consideration that becomes due or is paid before July 1, 2016 for a supply of services.

Example 3: In July 2016, a supplier first issues an invoice for unpaid landscaping services, which are performed between June 20, 2016 and July 8, 2016. The HST rate of 15 per cent would apply to the invoiced amount.

Example 4: In June 2016, a person pays for round-trip air travel from Moncton to Ottawa, departing on July 3, 2016 and returning on July 9, 2016. The HST rate of 13 per cent would apply to the payment for the round-trip air travel.

## **Leases and Licences**

This section describes the transitional rule for property — including goods, intangible personal property, and real property — that is supplied by way of lease, licence or similar arrangement.

The HST rate of 15 per cent would apply to any consideration that becomes due without having been paid, or is paid without having become due, on or after July 1, 2016 for a supply of property by way of lease, licence or similar arrangement. Conversely, the HST rate of 13 per cent would apply to any consideration that becomes due or is paid before July 1, 2016 for a supply of property by way of lease, licence or similar arrangement.

Example 5: On June 10, 2016, a person makes a car lease payment, as required under the written lease agreement, for a lease interval that runs from June 10, 2016 to July 9, 2016. The HST rate of 13 per cent would apply to the lease payment. The HST rate of 15 per cent would apply to the lease payment that is required to be made on July 10, 2016, unless the lease payment is made before July 1, 2016.

## **Intangible Personal Property**

This section describes the transitional rule for supplies of intangible personal property (e.g., intellectual property or contractual rights) by way of sale, which includes memberships, admissions, and passenger transportation passes.

The HST rate of 15 per cent would apply to any consideration that becomes due without having been paid, or is paid without having become due, on or after July 1, 2016 for a supply of intangible personal property. Conversely, the HST rate of 13 per cent would apply to any consideration that becomes due or is paid before July 1, 2016 for a supply of intangible personal property.

Example 6: In May 2016, a vendor sells tickets to a concert that will take place in October 2016. The HST rate of 13 per cent would apply to the payment for the tickets.

## **Real Property**

This section describes the transitional rule for supplies of real property by way of sale, including deemed taxable supplies of real property, as well as specific transitional rules for grandparenting sales of new housing, and builder disclosure and reporting requirements for the transitional period.

The HST rate of 15 per cent would generally apply to a supply of real property by way of sale (including sales of newly constructed or substantially renovated housing) if both ownership and possession of the property are transferred to the purchaser on or after July 1, 2016. Conversely, the HST rate of 13 per cent would apply to a supply of real property by way of sale if either ownership or possession of the property is transferred to the purchaser before July 1, 2016.

Example 7: In April 2016, a land developer enters into an agreement to sell a small commercial property to a business. Ownership and possession of the property will transfer to the business in August 2016. The HST rate of 15 per cent would apply to the payments for the purchase of the property.

Grandparenting would be provided in respect of certain sales of new housing under written agreements entered into on or before March 30, 2016 — see the Grandparenting for Sales of New Housing section of this Notice.

For deemed taxable supplies of real property by way of sale (e.g., leases of new or substantially renovated housing or leases of land for residential use, which result in deemed taxable supplies by way of sale under the ETA), the general rule is that HST at the rate of 15 per cent would apply if the supply is deemed to have been made on or after July 1, 2016. Conversely, the HST at the rate of 13 per cent would apply if the supply is deemed to have been made before July 1, 2016. This general rule may not apply to deemed taxable supplies of housing where the builder makes a sale of new housing together with a lease of land. See the Grandparenting for Sales of New Housing section of this Notice.

For information on transitional rules for leases of real property (including transient accommodation but excluding leases of real property that result in deemed taxable supplies for HST purposes), see the Leases and Licences section of this Notice.

Generally, if a person enters into an agreement to have new housing constructed on land that the person owns or purchases separately, the transitional rules for supplies of services would apply in respect of the construction services (see the Services section of this Notice) and the transitional rules for sales of real property would apply in respect of any purchase of the land.

#### Grandparenting for Sales of New Housing

A builder's sale of a new or substantially renovated single-unit home, duplex, mobile home, floating home or residential condominium unit, in respect of which both ownership and possession are transferred after June 30, 2016 under a written agreement of purchase and sale, would be grandparented (i.e., subject to HST at a rate of 13 per cent) if the agreement was entered into on or before March 30, 2016. For grandparenting to apply to the sale of a new or substantially renovated single-unit home, duplex or residential condominium unit, the land portion of the housing must be supplied by the builder together with the sale of the building portion under the same agreement.

Grandparenting would not apply to sales of traditional apartment buildings.

Grandparenting would also generally not apply to deemed taxable supplies of real property by way of sale (including instances where builder-landlords are required to self-assess HST under the self-supply rules for newly constructed or substantially renovated housing on or after July 1, 2016). However, if a builder is required to self-assess HST under subsection 191(1) of the ETA in respect of an exempt sale of the building part of a single unit residential complex or a residential condominium unit and a supply by way of lease, or an assignment of a lease, of the land part of the complex or unit, and the agreement for the purchase and sale of the building or unit was entered into in writing on or before March 30, 2016, HST at the rate of 13 per cent would apply to the deemed supply made by the builder, even if that supply is deemed to have been made on or after July 1, 2016.

#### Builder Disclosure Requirements for the Transitional Period

If a written agreement of purchase and sale for newly constructed or substantially renovated housing (e.g., a single-unit home or residential condominium unit) is entered into after March 30, 2016 and before July 1, 2016 (the "transitional period"), the builder of the housing would be required to disclose in the written agreement of purchase and sale either the total tax payable in respect of the sale and whether that total is net of the Goods and Services Tax (GST) new housing rebate, if applicable, or the total of the rates at which tax is payable in respect of the sale (e.g., HST at a rate of 15 per cent).

If the builder does not make a disclosure as outlined above and ownership and possession of the housing are transferred on or after July 1, 2016, the builder would be deemed to have collected tax based on a 15 per cent rate of HST and the purchaser would not be liable to pay any additional amount of HST in respect of the sale. This proposed transitional measure would help provide certainty to both

builders and purchasers with respect to the application of the HST rate increase to purchases and sales of new or substantially renovated housing under written agreements entered into during the transitional period.

### Builder Reporting Requirements

Builders that are affected by these proposed transitional housing measures may be required to file their GST/HST returns electronically. The Canada Revenue Agency document entitled “GST/HST Info Sheet GI-118, Builders and GST/HST NETFILE” provides information on the current GST/HST NETFILE requirements.

Non-registrant builders are not required to file GST/HST returns electronically. If, however, they are affected by these proposed transitional housing measures, they are required to report the same transitional information using Form GST62, Goods and Services Tax/Harmonized Sales Tax (GST/HST) Return (Non-Personalized). The Canada Revenue Agency will publish a GST/HST info sheet entitled “New Brunswick HST Rate Increase: Information for Non-Registrant Builders” in which it will provide information on the reporting requirements for non-registrant builders affected by the proposed transitional housing measures.

As a result of the proposed changes, the Canada Revenue Agency will publish information on the new reporting requirements for New Brunswick builders and will add new information reporting fields to the GST/HST NETFILE return.

### Other Consequential Changes

Certain amounts and rates in the ETA that apply in calculating, in respect of property situated in New Brunswick, an amount of a GST new housing rebate based on the level of embedded tax in the value of the property would be adjusted to reflect the HST rate of 15 per cent.

### **Other Transitional Rules**

#### Returns and Exchanges

The following rules would generally apply if a person purchases property before July 1, 2016 that is subject to the HST rate of 13 per cent and returns it on or after July 1, 2016:

- If the property is returned and a refund of all or part of the consideration for the property is given, the HST at a rate of 13 per cent may be refunded in respect of the consideration or part thereof;
- If a straight exchange is made (i.e., a swap of similar or like items) resulting in neither a refund nor an additional payment, HST would neither be refundable on the exchanged property nor payable on the replacement property; and
- In the case of any other exchange, the HST at a rate of 13 per cent may be refunded in respect of the consideration or part thereof for the exchanged property and the HST at a rate of 15 per cent would be payable on the replacement property.

Example 8: In July 2016, a person returns a fly-fishing rod purchased in June 2016 for \$200. The vendor may refund the HST at the rate of 13 per cent on the \$200 price of the fly-fishing rod.

Example 9: In July 2016, a person exchanges a shirt purchased in June 2016 for \$20 for a different sized shirt also costing \$20. The vendor does not process the transaction as a return and new purchase. In this situation, HST would neither be refundable on the exchanged property nor payable on the replacement property.

Example 10: In July 2016, a person returns a slow cooker purchased in June 2016 for \$100 and, at the same time, purchases a rice cooker that costs \$120. The vendor may refund the HST at the rate of 13 per cent on the \$100 price of the slow cooker and would be required to charge and collect the HST at the rate of 15 per cent on the \$120 price of the rice cooker.

### Property and Services Brought into New Brunswick

Under the ETA, persons bringing property or services into a participating province (i.e., an HST province) from another province may be required to self-assess the provincial component of the HST, or a part thereof, in cases where the provincial component of the HST was not previously paid at a rate that is equal to or greater than the rate for that participating province.

For the purposes of this rule, the New Brunswick component of the HST at a rate of 10 per cent, or a part thereof, would generally apply:

- in respect of tangible personal property, including mobile homes that are not affixed to land and floating homes, that is brought into New Brunswick after June 30, 2016;
- in respect of such property that is brought into New Brunswick before July 1, 2016 by a carrier if the property is delivered in New Brunswick to a consignee after June 30, 2016; and
- in respect of a service or intangible personal property supplied in another province to a resident of New Brunswick to the extent the consideration for the supply becomes due without having been paid, or is paid without having become due, after June 30, 2016.

### Imported Goods

HST at a rate of 15 per cent would generally apply to non-commercial goods that are imported by a resident of New Brunswick on or after July 1, 2016, and to non-commercial goods imported by a resident of New Brunswick before that date that are accounted for under the relevant provisions of the federal *Customs Act* on or after July 1, 2016.

A person bringing a specified motor vehicle or commercial goods into New Brunswick from a place outside Canada on or after July 1, 2016 would generally be liable for the New Brunswick component of the HST at a rate of 10 per cent. This rule would generally not apply, however, to commercial goods, other than a specified motor vehicle, that are brought into New Brunswick by a GST/HST registrant for consumption, use or supply exclusively in the course of commercial activities of the registrant. Persons

liable to pay the New Brunswick component of the HST in these circumstances would generally be required to self-assess the tax.

### Imported Taxable Supplies

The ETA imposes GST/HST on imported taxable supplies, which are generally supplies made outside Canada of intangible personal property, services, or tangible personal property under certain conditions to a recipient that is resident in Canada, that are not for consumption, use or supply exclusively in commercial activities. The recipient of an imported taxable supply is generally required to self-assess and pay the tax on the value of the consideration for the supply.

The New Brunswick component of the HST at a rate of 10 per cent would apply in respect of an imported taxable supply made on or after July 1, 2016, and in respect of an imported taxable supply made before July 1, 2016 to the extent the consideration for that supply becomes due without having been paid, or is paid without having become due, on or after July 1, 2016. The federal component of the HST at a rate of 5 per cent would also generally apply.

### Financial Institutions

Special rules would apply to financial institutions (FIs) in respect of periods that begin before July 1, 2016 and end on or after that date.

- For the purposes of determining the liability in respect of the New Brunswick component of the HST of a selected listed financial institution (SLFI) that is not a distributed investment plan for its reporting period that includes July 1, 2016, the New Brunswick component of the HST would generally apply at a rate of 10 per cent based upon the number of days in the reporting period that are on or after July 1, 2016 and at a rate of 8 per cent based upon the number of days in the reporting period that are before that date.
- For the purposes of determining the liability in respect of the New Brunswick component of the HST of an SLFI that is a distributed investment plan for its reporting period that includes July 1, 2016, the New Brunswick component of the HST would generally apply at a rate of 10 per cent based upon the amount of GST or federal component of the HST that is payable, or that is paid without having become payable, by the SLFI in the reporting period on or after July 1, 2016 and at a rate of 8 per cent based upon the amount of GST or federal component of the HST that is payable, or that is paid without having become payable, by the SLFI in the reporting period before that date.
- For the purposes of determining the amount of tax an FI is required to self-assess under the import rules for FIs for certain cross-border transactions (e.g., internal charges, external charges and qualifying consideration) for a specified year of the FI that includes July 1, 2016, the New Brunswick component of the HST would generally apply at a rate of 10 per cent based upon the number of days in the specified year that are on or after July 1, 2016 and at a rate of 8 per cent based upon the number of days in the specified year that are before that date.

## Pension Plans

Special rules would also apply to participating employers and pension entities of pension plans for periods that begin before July 1, 2016 and end on or after that date.

- If a participating employer of a pension plan is deemed under the ETA to have made a taxable supply to a pension entity on the last day of its fiscal year that includes July 1, 2016, as a consequence of having acquired or imported property or a service for the purpose of supplying it to the pension entity, the New Brunswick component of the HST at a rate of 10 per cent would apply to the deemed supply if the property or service was acquired or imported for the purpose of making a supply to the pension entity of any part of the property or service on or after July 1, 2016. Otherwise, the New Brunswick component of the HST at a rate of 8 per cent would apply to the deemed supply.
- In addition, a participating employer of a pension plan would determine its liability for the New Brunswick component of the HST for deemed supplies of employer resources on an apportionment basis. The New Brunswick component of the HST would apply at a rate of 8 per cent based on the number of days in the employer's fiscal year that are before July 1, 2016 and at a rate of 10 per cent based on the number of days in the fiscal year that are on or after that date.
- A similar apportionment rule would apply to determine the New Brunswick portion of a pension entity's provincial pension rebate amount for its claim period that includes July 1, 2016. The apportionment would be based on the number of days in the claim period of the pension entity that are before July 1, 2016 and on or after that date.

## Taxable Benefits

In certain circumstances, an amount of tax is calculated based on amounts determined for income tax purposes and in reference to a person's taxation year. Specifically, this is the case in the determination of the GST/HST on certain taxable benefits for employees and shareholders. In these cases, the amount of tax is calculated by multiplying the amount determined for income tax purposes by a factor specified in the ETA or its related regulations. These factors and rates would be adjusted to reflect the increased rate of HST in New Brunswick.

- The HST rate for calculating tax on automobile operating expense benefits, which is currently 9 per cent for employees who report to work in New Brunswick and shareholders resident in New Brunswick, would be 10 per cent for the 2016 taxation year and 11 per cent for taxation years thereafter.
- The HST rate for calculating tax on other employee and shareholder benefits, which is currently 12 per cent for employees who report to work in New Brunswick and shareholders resident in New Brunswick, would be 13 per cent for the 2016 taxation year and 14 per cent for taxation years thereafter.



### Streamlined Accounting Methods

Eligible small businesses, as well as eligible public service bodies, may use the Quick or Special Quick Method of Accounting to simplify compliance. These methods allow the business or public service body to remit an amount of tax that is a percentage (the “remittance rate”) of its eligible GST/HST-included sales. In general, this allows the entity to avoid having to keep track of the GST/HST collected on sales and paid on purchases. Certain transactions are excluded from these rules (e.g., the sale or purchase of real property). In such cases, the tax must be accounted for separately under the normal GST/HST rules.

The remittance rates are set out in the federal *Streamlined Accounting (GST/HST) Regulations* under the ETA.

As a result of the increased rate of HST in New Brunswick effective on July 1, 2016, new remittance rates will be required for the streamlined accounting methods. The proposed new rates are provided in the Annex to this Notice.

These revised remittance rates would apply for the purpose of determining the net tax of a registrant for reporting periods that begin after June 30, 2016. For reporting periods that begin before July 1, 2016 and end after June 30, 2016, the remittance rates and rules that would have applied before the proposed changes apply in respect of a supply if consideration for the supply becomes due or is paid before July 1, 2016.

### **Anti-Avoidance**

Existing anti-avoidance rules in the ETA and the federal *New Harmonized Value-added Tax System Regulations* would apply to transactions subject to the transitional rules. Additional anti-avoidance rules may be implemented in order to maintain the integrity of the GST/HST during the period of transition to the increased HST rate for New Brunswick.

### **Additional Information**

For further information on the general transitional rules, please contact the Canada Revenue Agency’s Business enquiries line at 1-800-959-5525 (English service) or 1-800-959-7775 (French service). For further information on the transitional rules for sales of real property, please contact the Canada Revenue Agency’s technical GST/HST enquiries line at 1-800-959-8287 (English service) or 1-800-959-8296 (French service).

**ANNEX: Specified Remittance Rates for the Streamlined Accounting Methods**

Table 1

**Remittance Rates for Business Registrants in New Brunswick Using the Quick Method of Accounting after June 30, 2016**

	Supplies Made in			
	Non-participating province	Ontario or Newfoundland and Labrador	Prince Edward Island	Nova Scotia or New Brunswick
<b>i) Mainly Purchases Goods for Resale</b>				
<i>(Permanent Establishment in New Brunswick)</i>	0.0%* (credit 4.0%)*	3.3%	4.2%	5.0%
<b>ii) Mainly Provides Services</b>				
<i>(Permanent Establishment in New Brunswick)</i>	1.4%	8.4%	9.2%	10.0%

\* Businesses that use the 0% remittance rate for eligible sales are entitled to a credit on those sales as they generally pay HST at 15% on their inputs but collect 5% GST on those sales.

Table 2

**Remittance Rates for Business Registrants in Other Provinces Using the Quick Method of Accounting after June 30, 2016**

	<b>Supplies Made in</b>
	<b>New Brunswick</b>
<b>i) Mainly Purchases Goods for Resale</b>	
<i>(Permanent Establishment in)</i>	
Non-participating province	10.4%
Ontario or Newfoundland and Labrador	6.1%
Prince Edward Island	5.6%
Nova Scotia	5.0%
<b>ii) Mainly Provides Services</b>	
<i>(Permanent Establishment in)</i>	
Non-participating province	12.0%
Ontario or Newfoundland and Labrador	10.4%
Prince Edward Island	10.2%
Nova Scotia	10.0%

Table 3

**Remittance Rates for Public Service Bodies in New Brunswick Using the Special Quick Method of Accounting after June 30, 2016**

	Supplies Made in			
	Non-participating province	Ontario or Newfoundland and Labrador	Prince Edward Island	Nova Scotia or New Brunswick
<b>i) Municipality</b>	3.7%	10.5%	11.3%	12.1%
<b>ii) University or Public College</b> (if Supplies Through Vending Machines Account for at Least 25% of Total Supplies)	0.0%	7.0%	7.8%	8.6%
<b>iii) University or Public College</b> (if Supplies Through Vending Machines Account for Less Than 25% of Total Supplies)	2.0%	8.9%	9.7%	10.5%
<b>iv) School Authority</b>	1.9%	8.8%	9.6%	10.4%
<b>v) Hospital Authority, External Supplier or Facility Operator</b>	1.6%	8.5%	9.3%	10.1%
<b>vi) Specified Facility Operator, Qualifying Non-Profit Organization or Designated Charity</b>	1.4%	8.4%	9.2%	10.0%

Table 4

**Remittance Rates for Public Service Bodies in Other Provinces Using the Special Quick Method of Accounting after June 30, 2016**

	Supplies Made in New Brunswick
<b>i) Municipality</b>	
<i>(Permanent Establishment in)</i>	
Non-participating province	13.0%
Ontario	12.6%
Newfoundland and Labrador (before January 1, 2017)	11.6%
Newfoundland and Labrador (after December 31, 2016)	12.3%
Prince Edward Island	11.0%
Nova Scotia	12.1%
<b>ii) University or Public College (if Supplies Through Vending Machines Account for at Least 25% of Total Supplies)</b>	
<i>(Permanent Establishment in)</i>	
Non-participating province	12.4%
Ontario	11.8%
Newfoundland and Labrador	9.4%
Prince Edward Island	9.0%
Nova Scotia	11.2%
<b>iii) University or Public College (if Supplies Through Vending Machines Account for Less Than 25% of Total Supplies)</b>	
<i>(Permanent Establishment in)</i>	
Non-participating province	12.7%
Ontario	12.3%
Newfoundland and Labrador	10.9%
Prince Edward Island	10.7%
Nova Scotia	12.0%
<b>iv) School Authority</b>	
<i>(Permanent Establishment in)</i>	
Non-participating province	12.7%
Ontario	12.6%
Newfoundland and Labrador	10.9%
Prince Edward Island	10.7%
Nova Scotia	12.0%
<b>v) Hospital Authority, External Supplier or Facility Operator</b>	
<i>(Permanent Establishment in)</i>	
Non-participating province	12.8%
Ontario	12.5%
Newfoundland and Labrador	10.7%
Prince Edward Island	10.4%
Nova Scotia	12.4%
<b>vi) Specified Facility Operator, Qualifying Non-Profit Organization or Designated Charity</b>	
<i>(Permanent Establishment in)</i>	
Non-participating province	12.0%
Ontario	11.4%
Newfoundland and Labrador	10.4%
Prince Edward Island	9.6%
Nova Scotia	10.0%

Table 5

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**Remittance Rates for Registrants that Provide a Point-of-Sale Rebate on Eligible Supplies When Using the Quick or Special Quick Method of Accounting after June 30, 2016**

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*(Type of supplier)*

Business that Mainly Purchases Goods for Resale	1.8%
Business that Mainly Provides Services	3.6%
Municipality	4.7%
University or Public College (if Supplies Through Vending Machines Account for at Least 25% of Total Supplies)	4.1%
University or Public College (if Supplies Through Vending Machines Account for Less Than 25% of Total Supplies)	4.4%
School Authority	4.4%
Hospital Authority, External Supplier or Facility Operator	4.5%
Specified Facility Operator, Qualifying Non-Profit Organization or Designated Charity	3.6%

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