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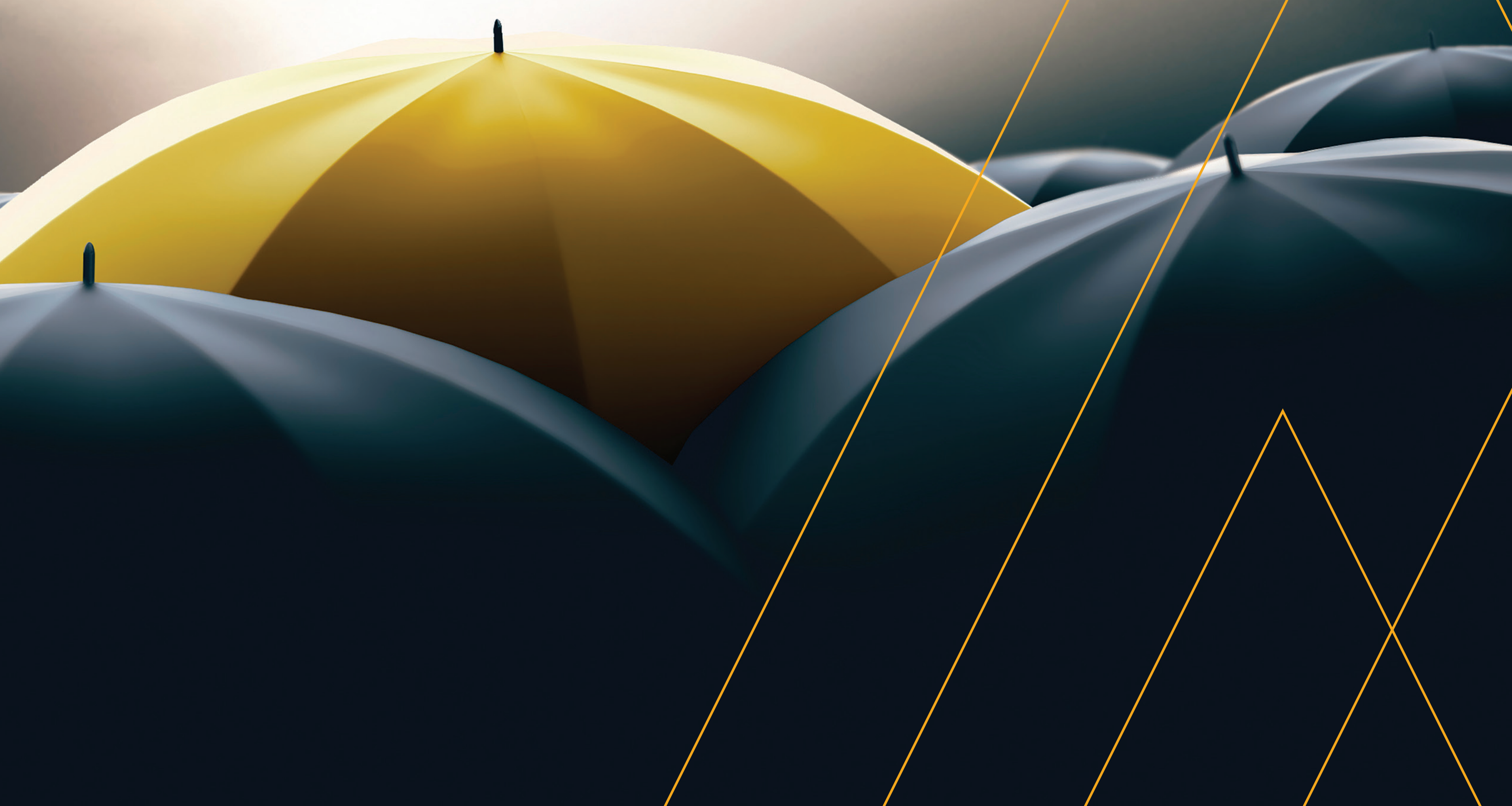

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Indirect taxes are increasingly important in Canada. Most transactions are affected.

Every contract concluded, and invoice produced or received, may result in potential exposure or overpayment of tax if not properly managed. Getting it right can save your business money, while getting it wrong can be very costly to your bottom line.

Crowe Soberman's indirect tax specialists assist clients from all types of industries, in Canada, the United States and Europe in complying with their Canadian indirect tax obligations and in identifying any available opportunities.

Whether you need assistance with indirect taxes on a global scale, or are taking your company public, the Crowe Horwath business network has the vast resources and technical expertise to help you. Through our membership, Crowe Soberman clients gain immediate access to commercial intelligence in all key markets of the world, particularly benefiting medium-sized and growing companies with the drive to enter new markets.

All clients, large and small, benefit from the highest level of expertise developed to help businesses capitalize on market opportunities.

Frédéric Pansieri, BBA, CPA, CA, Partner, Tax (effective January 1, 2018)

Frédéric joined Crowe Soberman in 2006, and we are excited to announce here, that effective January 1, 2018, will join the partnership of Crowe Soberman LLP. He has extensive commodity tax, and corporate income tax experience at the federal level and in various provincial tax jurisdictions across Canada.

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Goods and Services Tax/Harmonized Sales Tax (GST/HST) and Death

February 2017

The death of an individual that operates a business as a sole proprietor may have GST/HST implications; mostly for the deceased's estate (the "Estate") and its trustees. In this article, we will provide a brief overview of some of the GST/HST rules to consider following the death of a GST/HST registered sole proprietor.

Death of a GST/HST registered individual

When a GST/HST registered sole proprietor dies, his Estate will be deemed to continue the business as if the individual had not died, with the following exceptions:

A last GST/HST return for the individual will have to be filed for the reporting period that ends on the date of death.* The Canada Revenue Agency (the "CRA") must be notified of the individual's death prior to the due date for the final return. The CRA will close the account effective the date of death. If the CRA is not properly notified it may reject a GST/HST return filed for the reporting period ending on the date of death.

The Estate's first reporting period will begin on the day after the date of death and end on the day the individual's regular reporting period would have ended if the individual had not died. For example, assume an individual files annually for each calendar year. If the individual dies on September 12th the Estate's first GST/HST return will cover the period September 13 to December 31st. The Estate is considered to be a person separate and distinct from the deceased individual for GST/HST purposes. If the Estate does not generate any GST/HST taxable revenue after the individual dies, the Estate may not be required to register and file any GST/HST returns. However, even in such a case, the Estate may want to register for GST/HST purposes to claim input tax credits ("ITCs") relating to the costs of winding down or selling the deceased's business.
The Estate will need to provide any existing clients of the business with the Estate's newly assigned GST/HST account number. Any GST/HST registered client will need the Estate's GST/HST number so that the client can claim ITCs.

The section entitled "Responsibilities of the Estate" below provides additional information that may be relevant to the trustee for GST/HST purposes. Special rules, not addressed in this article, also apply to the estate of a bankrupt person.

Transfer of the business assets of the deceased

The Estate may transfer, on a GST/HST free basis, any business property of the deceased individual to a beneficiary of the Estate if all of the following conditions apply to the property:

- Immediately before death, the property was held by the individual for consumption, use or supply in the course of a business that was carried on immediately before the individual's death. This condition may not be satisfied if, for example, the individual was too sick to continue operating the business until the time of death. CRA's view is not clear on this point but one would hope the CRA would be lenient.

- The Estate transfers the property, in accordance with the individual's will or the laws relating to the succession of property on death, to another individual who is a beneficiary of the Estate.

- The beneficiary who acquires the property is a GST/HST registrant at the time of the transfer. A registrant includes a beneficiary who is GST/HST registered or who is required to be registered for GST/HST purposes.

- The property is received for consumption, use or supply in the course of the commercial activities of the beneficiary. It does not have to be the same business that was carried on by the deceased individual. A commercial activity also does not have to be a business. The property could be, for example, a commercial building or land that is acquired by the beneficiary solely for resale.

- Finally, the Estate and the beneficiary must jointly elect to have the transfer take please on a GST/HST free basis**. There is no prescribed form for this election, and it does not have to be filed with the CRA. This election does not have to be for the transfer of all the Business' properties to a single beneficiary. Separate elections could be made for multiple properties each distributed to different beneficiaries. Although a beneficiary would generally acquire the property from the Estate for free, the purpose of the joint election is to avoid the Estate being required to charge the beneficiary GST/HST calculated on the property's fair market value.

The Estate trustee should also obtain a clearance certificate*** before distributing the Estate's assets. Otherwise, the trustee(s) may be held personally liable for the payment of any GST/HST owing by the Estate to the extent of the value of the assets so distributed.

Responsibilities of the Estate

Each Estate trustee will be liable to satisfy every GST/HST obligation imposed on the Estate, whether the obligation was imposed before or during the period during which the trustee acts as Estate trustee (including the period before the individual's death). The satisfaction of an Estate obligation by any of the trustees will discharge the liability of all other trustees to satisfy that obligation.

Each trustee will be jointly and severally liable with the Estate and each of the other trustees, if any, for the payment of all GST/HST that become payable or remittable by the Estate before or during the period during which the trustee acts as an Estate trustee, with the following exceptions:

- A trustee is liable for the payment or remittance of amounts that became payable or remittable before becoming a trustee only to the extent of the property or money of the Estate under the control of the trustee; and

- The payment or remittance by the Estate or the trustee of an amount in respect of the liability discharges the joint liability to the extent of that amount.

Conclusion

A trustee should be aware of the potential GST/HST implications before he/she agrees to act as an Estate trustee. It is also important for any beneficiary to register for GST/HST purposes in a timely manner (i.e., before the time the deceased's business assets are distributed to the beneficiary) to minimize any potential negative implications.

**The CRA has the discretion to waive the requirement for the trustee to file a GST/HST return for any reporting period of the individual ending on or before the day the individual died.*

***Under subsection 167(2) of the Excise Tax Act.*

**** A clearance certificate is a certificate by which the CRA confirms no debt relating to GST/HST are owing by the Estate. The Estate's trustee is required to file Form GST352 to apply for the certificate.*

New GST/HST Rules Affecting Partnerships

September 2017

New draft Goods and Services/Harmonized Sales Tax (GST/HST) proposals were released by the federal Department of Finance on September 8, 2017 for public consultation. The new HST and GST proposals ("proposals") will be effective on certain amounts payable by certain limited partnerships to their general partner(s).

Current Rules

Under the current rules, any management or administration service provided by a person as a general partner of a limited partnership is generally deemed to have been done by the partnership and not by the general partner. As a result, there would be no supply of the management services from the partner to the partnership for GST/HST purposes and no tax to charge.

Furthermore, any management or administration service that is provided by the general partner to the limited partnership in the course of the partnership's activities would also not be deemed to be a supply made to the partnership for GST/HST purposes.

To illustrate how the current rules apply, we have reproduced below a modified version of example 1 of Policy Statement P-244 issued by the Canada Revenue Agency (CRA) illustrating how the current rules apply.

Example No. 1

Facts

1. A limited partnership was created to manage and administer a portfolio of marketable securities, including debt and equity securities and interests in other partnerships.
2. It was agreed under the written limited partnership agreement that the general partner, A Co., would be the sole manager of the portfolio. Under the limited partnership agreement A Co. will be paid x-per cent of the partnership's profits.
3. A Co.'s conduct in performing the management services is consistent with the related terms of the written limited partnership agreement.
4. A Co. does not provide services to any other persons.

The outstanding question under the current rule is, does subsection 272.1(1) of the Act apply to the management services performed by A Co. so that they are deemed to have been rendered by the limited partnership?

Comments

The general partner is clearly responsible for managing the portfolio, under the terms of the written limited partnership agreement, and does not receive any separate consideration for doing so. Managing the portfolio is directly related to the business purpose of the partnership. A Co. only manages the portfolio for the limited partnership. Generally, subsection 272.1(1) would apply to the management services performed by A Co. where subsection 272.1(1) applies. In other words, the services would be deemed to be completed by the partnership and there would be no supply of the management services from the partner to the partnership for GST/HST purposes.

Typically, under the current rules, all of the management and administration services provided by the general partner to the particular partnership are provided in the course of that partnership's activities, and no GST/HST applies on those services.

New Proposed Rules

The new proposal would now exclude management or administrative services provided by a general partner to an investment limited partnership ("**ILP**") from the application of the above-noted current rules. As a result, GST/HST will apply to any amount that the partnership agrees to pay or to credit the general partner in respect of those services, subject to any applicable place of supply and/or zero-rated rules.

The proposals would become effective in respect of consideration for a supply of services that becomes due on or after September 8, 2017, or that is paid on or after that date without having become due*.

General partners that were not previously registered for GST/HST purposes may now be required to do so.

"Management or administration service" is defined for GST/HST purposes to include an "asset management service," which is also a broadly defined term for GST/HST purposes to include almost anything that a general partner would typically do in their role.

It is not clear what would constitute any amount that the partnership agrees to pay or to credit the general partner in respect of management or administration services provided by the general partner. A careful review of every existing limited partnership agreement is required to ensure that GST/HST is applied correctly on those services.

What is an ILP?

An ILP would be defined as a limited partnership, the primary purpose of which is to invest funds in property consisting primarily of financial instruments that also meets some additional conditions (see below).

Although the term "primary" is generally understood as meaning more than 50 per cent, it is not clear how to quantify that percentage in regard to the primary purpose and primary content of property. Again, the CRA has not yet released any guidance on those two points.

A "financial instrument" is a defined term for GST/HST purposes. It includes (among others not listed here):

- A debt security (i.e., any right to be paid money and includes a deposit of money, but does not include a lease, licence or similar arrangement for the use of, or the right to use, property other than a financial instrument).
- An equity security (i.e., a share of the capital stock of a corporation or any interest in or right to such a share).
- An interest in a partnership or a trust.

A limited partnership that invests primarily in other partnerships (of any kind, general or limited) or in other type of portfolio-type of assets and/or lends money to other entities in a group, would meet the first part of the definition of an ILP.

There are additional conditions to qualify as an ILP. It is further required that the limited partnership meets the conditions of either paragraph (a) or b) as follows:

- The limited partnership is, or forms part of an arrangement or structure that is, represented or promoted as a hedge fund, ILP, mutual fund, private equity fund, venture capital fund, or other similar collective investment vehicle, or
- The total value of all interests in the limited partnership held by listed financial institutions is 50 per cent or more of the total value of all interests in the limited partnership.

Most of the key terms are not defined for GST/HST purposes. For instance, the meaning of "represented" or "promoted" in paragraph (a) is not clear. Likewise, it is not clear what "arrangement" or "structure" really mean.

In paragraph (b), we must consider the meaning of "listed financial institution", a defined term for GST/HST purposes. In addition to a typical financial institution or insurance company, it also includes a person whose principal business is the lending of money or the purchasing of debt securities or a combination thereof. As such, any partner that owns 50 per cent or more of the interest in a limited partnership and is in the business of lending money to other members of a group may have to be investigated to determine whether it falls within the definition of a listed financial institution.

The CRA has not provided any guidance on the new rules would apply yet. However, if the CRA was to use the above-stated example, their view on how the new rules work would likely result in the general partner, A Co. now providing a GST/HST taxable supply of a management service in regard to the portfolio of marketable securities.

Note that in the original example contained in the Policy Statement P-244, the general partner was managing a retirement residence instead of a portfolio of marketable securities. Under the new rules, the general partner would still not be required to charge GST/HST on the fees it receives to manage the residence given that the residence is not a "financial instrument" as that term is defined for GST/HST purposes. Clearly, a limited partnership that invests primarily in real estate would not be an ILP even if the rental income it earns from the real estate is GST/HST exempt residential rental income.

In conclusion, it is not clear how the proposed new rules will be applied. It will be important to review any existing limited partnership agreement to determine the potential implications of the proposed rules to the partnerships themselves, as well as the general partners.

In most cases, an ILP would not be able to recover the GST/HST payable to the general partner and the tax would result in a new unrecoverable cost of doing business for many limited partnerships.

*The proposals are also retroactive to any consideration for a supply of the service that became due or was paid before September 8, 2017 unless the supplier did not, on or before that date, charge, collect or remit any amount as or on account of GST/HST in respect of the supply (i.e., a limited partnership that was charged GST/HST on those services prior to September 8, 2017 would be unable to claim a refund of tax paid in error).

How Do I Manage the GST/HST on a Bad Debt?

July 2017

You've been generous enough to extend your customers credit, and now one of those customer's debt has become uncollectible. Being able to recover the goods and services tax/harmonized sales tax (GST/HST) should help mitigate the sting out of the loss – but what is the process for that?

As a vendor, you are generally allowed to recover, via a bad debt adjustment claim, tax that was previously reported as tax collectible on a GST/HST return if:

It is established that all or part of the accounts receivable regarding the sale in respect of which the GST/HST was collectible has become a bad debt; and you have written off the debt in your books.

The CRA generally takes the view that a debt is considered a bad debt when all reasonable steps have been taken to obtain payment and it has become evident that the debt is uncollectible.

Unless a customer becomes bankrupt (in which case, clearly the debt is uncollectible), the Canada Revenue Agency (CRA) expects the vendor to maintain copies of written correspondence sent to the customer asking for payment. To establish that the debt has become bad, it is not sufficient to document the actions taken to recover the payment (e.g., phone calls and meetings) or for the accounts receivable to reach a certain age.

The CRA can deny a bad debt adjustment if the evidence presented does not support the claim that the debt had in fact, become bad. Should this be the case, it may be possible for the vendor to issue a credit note to the customer to recover the tax.

Specific professional advice should be obtained prior to the implementation of any suggestion contained in this article. Contact your Crowe Soberman advisor for more information.

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Phasing Out of Recaptured Input Tax Credits in Ontario

July 2017

Since the introduction of HST in Ontario on July 1, 2010, large businesses were required to report Recaptured Input Tax Credits ("RITCs") in respect of specified property and services (energy, telecommunication services, meals and entertainment, motor vehicles and fuel) on their GST/HST returns.

The RITCs are deducted from the ITCs that are claimed in respect of the acquisition of a specified property or service, reducing the total recovery of GST/HST.

Since July 1, 2015, the RITC restriction is being phased out over a three year period, as follows:

Period	Recapture Rate – Ontario
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%
On or after July 1, 2018	0%

The current RITC rate of 50% used to determine the amount of RITCs will be reduced from 50% to 25% effective on July 1, 2017.

Affected businesses will be required to report the RITCs using the new effective rate in regard to HST that became payable on or after July 1, 2017 when completing Schedule B of their GST/HST Netfile returns. Consequently, for any reporting period that straddles July 1, large businesses may have to use more than one RITC rate to account for the RITC rates in effect before and after July 1.

Additional information is available in the GST/HST Info-Sheet GI-171 available on the Canada Revenue Agency website here: https://www.canada.ca/en/revenue-agency/services/forms-publications/publications/gi-171/gi-171-phasing-recaptured-input-tax-credits-ontario.html

The GST/HST Implications on Living Arrangements at a Retirement Residence

August 2017

Everywhere you drive in the Greater Toronto Area (GTA), you cannot help but notice the number of cranes blanketing the skyline. Many of them are for the construction of retirement residences. The growth of this industry is being driven by the changing demographics and demands of aging Torontonians (and aging Canadians across the country).

This article is a follow-up to “Significant GST/HST Implications for Residential Care Facilities,” where we discussed the significant Goods and Services /Harmonized Sales Tax (“GST/ HST”) implications applicable to the construction of Residential Care Facilities. Here we will focus on how the Canada Revenue Agency (“CRA”) applies the GST/HST to the living arrangements offered in a retirement residence.

A typical living arrangement is, primarily, a long-term residential lease provided together with a meal plan, personal assistance, and non-acute care services*.

The GST/HST implications associated with the resident’s living arrangements are dependent on how the arrangements are structured. In particular, the following factors are relevant:

1] What are the predominant elements of the arrangement?

Exempt residential lease

If the predominant element of the arrangement is the right to occupy a residential unit (e.g., a room or a suite) as a place of residence for a period of at least one month, the arrangement will generally be considered a GST/HST-exempt residential lease.

The operator of the retirement residence will not be required to charge GST/ HST on rent for the unit. However, the operator will also not be able to recover GST/HST paid on the costs incurred to operate the unit.

Exempt residential care services

The arrangement could also be GST/ HST-exempt if the operator provides care and supervision services to an individual with a disability, in conjunction with a place of residence.

The operator of the retirement residence will effectively be in the same situation for GST/HST purposes, as if it was providing a GST/HST exempt residential lease without the care and supervisory service.

There is no minimum period of occupation to qualify for the residential care exemption; however, the individual must have a disability (see Point 3 on the following page) to qualify for the exemption. This exemption may apply, for example, to a trial stay in a retirement residence by an individual with a disability, for a period of less than one month.

Meals and ancillary services included

Meals and ancillary services may also be included as part of the living arrangement. When not charged separately, these items are generally considered to be part of the GST/HST-exempt residential lease or GST/HST-exempt residential care "package". It is a question of fact whether any particular service would be considered to be an ancillary service.

A meal plan that includes at least 10 meals per week served in the retirement residence would also, generally, be GST/HST-exempt. This exemption would apply whether the meals are included in the rent or lump-sum charge for the residential care package, or whether there is a single separate charge for the meal plan itself (e.g., weekly or monthly fee).

2] What are the choices available to the resident?

Many living arrangements include a list of individual items charged separately in addition to the basic monthly rental fees or residential care packages. Each of these items may be taxable for GST/HST purposes on its own. It is important to review each of these items to determine the appropriate GST/HST status.

When the charge is for an item (a good or a service) that is an optional addition to the exempt rental or residential care package, the CRA is more likely to consider this item as sold separately. Conversely, if the resident does not have a choice and must pay the additional charge for the separate item, the CRA is more likely to consider this item to be a component of the exempt rental or residential care package.

3] What is the health status of the resident?

As stated the first point, residential care services and disability care services are GST/HST exempt only to the extent the resident receiving those services meets certain health conditions.

Exempt residential care services apply only to an individual with a disability

The term "disability" is not defined for GST/HST purposes. The CRA typically considers a "disabled individual" to be an individual who, because of

some impairment that has lasted or is expected to last at least 12 months, is restricted in carrying out the basic activities of daily living.

"Basic activities of daily living," are generally considered to include speaking, hearing, walking, eliminating (bowel and bladder functions), feeding, dressing and mental functions necessary for everyday life. The CRA further indicates that the effect of impairment must be such that, even with therapy and the use of appropriate devices and medication, the individual is restricted all or substantially all of the time (at least 90% of the time).

The GST/HST exemption for disability care services applies only to an individual with limited physical or mental capacity for self-supervision and self-care, due to an infirmity or disability. It is not entirely clear what the difference is between an "infirmity" and a "disability". Where there is no medical condition or state that explains the infirmity, the infirmity might be attributed, generally, to a weakness of the body or mind that is severe and persistent.

If the resident is not an individual with a disability or an infirmity, the CRA would still consider whether any specific exemption may otherwise apply (e.g., nursing care or medical care) in determining whether the care service is taxable or exempt.

The process applied by the CRA to determine whether GST/HST applies to living arrangements offered in a retirement residence requires a detailed analysis of all the relevant facts relating to the individual arrangement. A vast array of services are now being offered at retirement residences to cover a range of living arrangements, from independent living, to assisted living, to memory care. The addition of services offered as part of a package or a la carte muddies the waters. We assist our clients in navigating those muddy waters by providing a clearer roadmap to determine in which cases GST/HST may apply, and how retirement residence operators can present their packages to prospective residents to optimize their GST/HST position.

* Where the arrangement is predominantly a service of providing care and supervision to an individual with limited physical or mental capacity for self-supervision and self-care due to an infirmity or disability, such service will generally be considered to be a GST/HST exempt disability care service. In some cases, the operator of a retirement home may also provide those acute care service in the form of respite care services for short term stays within the retirement home.

Frédéric Pansieri co-authored this article with Crowe Soberman partner, Alan Wainer. Alan is co-leader of the Healthcare Group and his particular focus is on Residential Care Facilities. You can reach Alan at alan.wainer@crowesoberman.com.

Canada: When Do I Have To Pay HST?

September 2017

An overview to how HST applies on purchases made outside Ontario by a resident of Ontario. This article was originally published in August 2012 but was updated September 2017 to reflect the new tax rates.

Purchase of goods

Vendors doing business in Canada and who are located outside of Ontario are usually required to register for GST/HST purposes and collect the appropriate tax, whether it is the Goods and Services Tax (GST) or the Harmonized Sales Tax (HST). This is normally based on the province in which the goods are delivered. For instance, vendors who deliver taxable goods to the address of a customer in Ontario must normally collect HST (13%) on the sale. This remains true even if the vendor does not have an establishment or presence in Ontario. Vendors not doing business in Canada are normally not required to register for GST/HST purposes. As such, they will not be required to collect the HST even if they arrange for the goods to be shipped to the address of the customer in Ontario.

If the Ontario resident picks up the goods at a retailer's premises outside Canada (e.g., while on vacation in the U.S.) and brings the goods back to Ontario, no HST nor GST will apply on the sale either, regardless of whether the vendor is registered for GST/HST purposes since the sale takes place outside Canada.

That being said, those of you who plan to escape paying HST by purchasing from online US retailers or heading to Buffalo should note that Canada Customs will collect the tax upon importation of the goods into Canada. Commercial goods imported by businesses will normally always be subject to GST (5%) while goods imported for personal consumption will always be subject to GST/HST depending on the province of residence of the importer. For example, a resident of Ontario decides that after his shopping trip in Buffalo, he would like to spend a few days in Montreal before returning home. He passes through the Canada Customs located in Quebec. He would be charged HST (13%) even if the goods are not in Ontario at the time of importation.

If the Ontario resident picks up the goods at a retailer's premises outside Ontario but within Canada (e.g., while on vacation in Quebec) and brings the goods back to Ontario, either GST or HST will apply on the sale based on the province in which the goods are picked up.

Where the goods are picked up by the Ontario resident and which tax will apply on the sale?
Nova Scotia, New Brunswick, Newfoundland and Labrador, Prince Edward Island: HST at 15%
Anywhere else in Canada (outside Ontario): GST at 5%

Based on the above table, the vacationing Ontario resident returning from Quebec will normally have to self-assess on the difference between the tax paid GST (5%) in Quebec and the HST(13%) applicable in Ontario. Note that if the Ontario resident had bought the goods in Nova Scotia instead of Quebec, he or she would normally have been able to claim a refund for the tax difference between the HST (15%) paid in Nova Scotia and the HST (13%) applicable in Ontario.

The above self-assessment does not apply to Ontario businesses that import goods into Ontario (whether from within or outside Canada) for consumption or to be used exclusively (i.e., 90% or more) for commercial purposes.

Purchases of services and intangible personal properties (IPP)

An IPP is a property that cannot be seen or touched such as a digital copy of a document or a trademark.

Generally, the sale of a service or an IPP by a GST/HST registered vendor to a resident of Ontario will be subject to either GST or HST in any of the following situations:

- The service is or will be performed in whole or in part in Canada;
- The service relates to real property situated in Canada;
- The IPP may be used in whole or in part in Canada (e.g., a computer program downloaded online from a non-resident vendor's website that can be used in Canada); or
- The IPP relates to real property situated in Canada; to tangible personal property ordinarily situated in Canada or to a service to be performed in Canada.

Purchase of a service

If the service is performed in whole or in part in Canada, the sale of that service to an Ontario resident will normally be subject to HST (13%). The same tax rate also applies in situations where the service relates to tangible personal property or real property situated in Ontario or is a personal service (e.g. haircut) or relates to an event or performance taking place primarily in Ontario.

There are many other specific rules that might apply deeming a sale of a service as occurring in Ontario. However, if none of the specific rules apply, the sale of a service to an Ontario resident will normally be subject to HST (13%) based on the business or home address of the customer.

Purchase of an IPP

The sale of an IPP will follow rules that are similar to those applicable to the sale of a service. Examples of IPPs could include goodwill, patents, trademarks or copyrights. The sale of an IPP to be used in Ontario to a resident of Ontario will generally be subject to HST (13%).

Purchase made outside Ontario

On the other hand, the sale of a service or IPP to Ontario residents will not be subject to either GST or HST in any of the following situations:

- The vendor is a non-resident of Canada and not registered for GST/HST purposes;
- The service is or will be performed wholly outside of Canada;
- The service relates to real property situated outside of Canada;
- The IPP may not be used in Canada; or
- The IPP relates to real property situated outside of Canada; to tangible personal property ordinarily situated outside of Canada or to a service to be performed wholly outside of Canada.

Where the sale of the service or IPP is made in Canada outside of Ontario, the sale may be subject to GST or to HST based on the province in which the sale takes place.

Self-assessment

Where the sale of a service or IPP is made outside of Ontario, the Ontario resident may have to self-assess the full amount of the HST (if the sale was made outside of Canada) or a portion of the HST (if the sale was made in Canada but outside of Ontario). The self-assessment is based on the value or benefit conferred by the use or consumption of that service or IPP in Ontario.

Similar to the self-assessment on the importation of goods, the self-assessment rules are not intended to apply to businesses who acquire the service or IPP outside Ontario for consumption or to be used exclusively (i.e., 90% or more) for commercial purposes.

Here is an example of a situation where self-assessment will be required:

An Ontario dentist purchases and downloads computer software (i.e., an IPP) from the website of a software vendor located in the USA. The dentist would self-assess HST (13%) on the value of the computer software. The dentist would have to remit the full amount of the HST to the Canada Revenue Agency (CRA) since no tax was paid by the dentist when purchasing the IPP. If the dentist had purchased the IPP outside Ontario but within Canada, GST would have applied and a portion of the HST may have had to be self-assessed.

Conclusion

The above summary provides an overview of the most common situations where the Ontario HST will be payable by an Ontario resident with respect to purchasing from a vendor located outside Ontario.

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