



HST and commercial real estate: what you need to know

What is the harmonized sales tax (HST)?

In July 2009, the BC Provincial Government reached an agreement with the Canadian Federal Government to combine the 7% BC Provincial Sales Tax (PST) with the 5% Federal Goods and Services Tax (GST) to form a unified Harmonized Sales Tax (HST). The new HST will come into effect on July 1, 2010 and will apply a rate of 12% to goods and services that are currently subject to GST. The PST will then be eliminated.

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What is the current tax system?

Currently, the Provincial Government charges a 7% PST on goods and services and the Federal Government charges a 5% GST on goods and services. Goods and services that are currently exempt from PST or are charged a different rate include items such as food, fuel, children's clothes, footwear and alcohol.

Exempt items are not subject to the GST and businesses do not charge tax on their GST-exempt goods and services. Tax-exempt items include dental care, educational services, day-care services, legal aid services and financial services.

Businesses that purchase goods and services that are used during the course of their business functions can also claim "Input Tax Credits" (ITCs) for reimbursements. This is to reduce the application of the GST on the same good or service numerous times as it passes through the production cycle to the consumer. This way, the tax is essentially borne by the final consumer.

What are the changes from the old PST/GST system to the new HST system?

1) Goods and services taxable under the GST will be taxable under the HST (exceptions are eligible for point of sale rebates on the provincial portion of the HST). Most goods and services are taxable, meaning that HST will apply to those items. Examples: cars, clothing, furniture, haircuts, etc.

2) Things currently exempt from the GST will remain so. If you do not pay GST for an item now, you do not pay HST after harmonization. Exempt items will be HST exempt and zero-rated items for GST purposes will also be zero-rated under the HST (Zero-rated items are charged a rate of 0% GST and commonly include groceries, prescription medicine, and medical devices).

3) Goods and services that are currently only taxed the 5% GST will see an increase in tax as they move over to the new HST system.

Why implement the HST?

According to the Federal and Provincial Government, the new HST system is designed to create a more balanced tax system favouring small businesses while not increasing overall sales tax revenue. Under new HST rules, small business owners can claim the entire 12% of the HST compared to the 5% GST under the current system. The tax will also eliminate "built-in" PST that is applied to goods and services numerous times as it moves from production to consumer.



How will it affect commercial real estate?

• Sales and leasing

The new HST of 12% will apply to sale and lease transactions the same as the 5% GST does under the current system. Input tax credits will still be available for tenants and purchasers. See the "frequently asked questions" section for more information.

• Real estate commissions

Real estate commissions will be subject to the HST similar to the way they are currently subject to GST. Commercial vendors will still be able to claim input tax credits for HST commissions paid to agents.

• Property Transfer Tax (PTT)

The PTT is currently payable on the fair market value of the transferring property. In the case of land sales, where GST is applicable, the GST paid will be deducted from the fair market value of the property for the purpose of determining the PTT amount payable.

Under new rules, any HST paid for the PTT would be deducted from the fair market value of the property for the purpose of determining the PTT amount payable.

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Frequently asked questions - commercial leases

1) How will the HST apply to a taxable commercial lease?

The HST will apply to the lease of commercial property made by a GST/HST registered entity.

• For lease payments due (or paid without becoming due) on or after July 1, 2010:

If a lease payment is due or paid on or after July 1, 2010, then the HST will apply given that the payment is part of a lease interval (or any part of a lease interval) that begins on or after July 1, 2010. The HST will not apply, however, to a lease payment or lease interval that begins before July 2010 and ends before July 31, 2010.

• For lease payments due (or paid without becoming due) on or after May 1, 2010 and before July 2010:

The HST will also apply to any lease payment that becomes due (or is paid without having become due) during the period between April 2010 and July 2010, if the lease payment is part of a lease interval or any part of an interval that begins on or after July 1, 2010 (For these situations, a lessor would be accountable for the provincial portion of the HST in their GST/HST return for the reporting period that includes July 1, 2010. A lessee may also be eligible for any corresponding ITCs for their GST/HST return for the reporting period that includes July 1, 2010.).

2) I lease a warehouse space and the lease payments are due, in advance, on the first day of the month. I pay the lease payments the same day they are due. Which monthly payment would be subject to HST?

The first lease payment subject to the HST would be the payment that is due and paid on July 1, 2010 as well as any other future lease payments.

3) I leased a commercial property for June 2010 to July 2010. The lease is subject to GST and the payment for the two-month lease period is due and paid on June 1, 2010. Does part of the payment become subject to HST?

Yes - a portion of the payment would be subject to HST, namely, the interval for the lease payment that falls on or after July 1, 2010. In this case, 50% of the lease payment would be subject to HST since one month of lease payments fall before July 1, 2010, and one month of lease payments fall on or after July, 2010.

Frequently asked questions - commercial sales

1) Will the HST apply to sales of commercial property?

Yes - the HST will apply to the sale of commercial property. However, commercial property sales that are currently exempt under the current PST/GST system will also be exempt from HST. Current tax policies regarding the application of GST to commercial real property sales would generally also be applicable under HST rules.

2) When does the HST apply to the sale of commercial property?

The HST generally applies to a sale transaction where both ownership and possession of property are transferred to the purchaser under agreement on or after July 1, 2010. For instance, if you enter into a contract of purchase and sale in June 2010 and possession and ownership does not transfer to you until after July 1, 2010, you will be subject to the new HST tax rules.

3) When is the HST not applicable to the taxable sale of commercial property?

If the property transfers ownership or possession before July 2010. For example, if you purchase a property and take possession (under written contract of purchase and sale) on June 30, 2010, you are not subject to HST.

4) A company develops and sells commercial properties and currently claims a 5% ITC for construction inputs. Is the company eligible to claim ITCs for the 12% HST payable on the construction inputs?

Yes - the company would be eligible to claim the ITCs to get back the 12% HST paid or payable on most of the entity's construction inputs. The company would claim ITCs for the 12% HST, but would not claim any ITCs for any PST paid (or owing).

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Report sources and additional information:

BC Real Estate Association

<http://www.bcrea.bc.ca/hst/faq.htm#6>

BC Real Estate - HST and Commercial Real Estate:

<http://www.bcrelinks.com/articles/dtd11.htm>

BDO Dunwoody Tax Alerts

<http://www.bc.bdo.ca/library/publications/tax/taxalerts/the-transition-to-the-hst-in-british-columbia.cfm>

Canada Revenue Agency - HST site:

<http://www.cra-arc.gc.ca/tx/bsnss/tpcs/gst-tps/gnrl/hst-tvh/menu-eng.html>

Canada Revenue Agency - GST/HST notice:

<http://www.cra-arc.gc.ca/E/pub/gi/notice246/notice246-e.pdf>

Government of British Columbia - HST site:

<http://www.gov.bc.ca/hst/>

Urban Development Institute - HST Transitional Rules:

<http://www.udi.bc.ca/>

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