



CARFAC

CANADIAN ARTISTS REPRESENTATION
LE FRONT DES ARTISTES CANADIENS

ADVISORY NOTE

HARMONIZED SALES TAX

*This Advisory deals with the introduction of the Harmonized Sales Tax (HST) in Ontario and BC and its impact on artists. **There have been no changes to the GST/HST system in provinces other than Ontario and BC.***

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Currently in Ontario and BC, 5% federal GST is levied on most goods and services, and retail sales tax (RST) of 8% (Ontario) and 7% (BC) is levied on most goods and some services. **The Ontario and BC RST will be replaced by the new HST of 13% in Ontario and 12% in BC.**

There are no changes to the GST rules: the HST will have the same general rules of application as the current GST (please see full rules under **RULES** on page 4). Therefore, if GST (at 5%) applies now, HST (at 13% in Ontario and 12% in BC) will apply from July 1, 2010.

From a consumer and general public point of view, this means that the cost of many services and some goods will rise, because the 13% or 12% HST will now apply to the same tax base as the current 5% GST, which has a broader tax base than the RST has. Some items that did not attract the 8% or 7% RST before will now attract the 13% or 12% HST (for example, services, such as haircuts, dry cleaning, personal service and professional fees; home electricity, heating and renovations; gasoline; cigarettes; and purchases of new housing that costs more than \$400,000).

From the point of view of a self-employed artist that is registered for GST, the impact of the HST should be at worst neutral, and possibly beneficial. Effective July 1, 2010, self-employed artists will charge 13% HST in Ontario and 12% HST in BC for sales and services provided.

Impacts:

Revenue impact: the implementation of the HST will, of course, increase the price of the goods and services to your customers and clients; however, if the customers and clients are themselves registered for GST, they will in turn be able to recover all or a substantial portion of the HST, so that the impact on them will be neutral or minimal. For those customers and clients that are not registered for GST, they will bear an 8% increase in costs if in Ontario and 7% if in BC, which may or may not have an impact on the demand for your work and services for this sector.

Expenses impact: under the current RST system (RST is also sometimes referred to as PST), certain expenses bear RST that is not recoverable but is an imbedded cost of your purchase.

Under the HST, there will no longer be RST charged on these expenses. Instead, HST will apply at 13% in Ontario and 12% in BC rather than the former 5% GST. However, since you are registered for GST, you will be able to recover the full HST paid as an input tax credit. As a result, you should expect to see a DECREASE in certain expenses (for example, office equipment; software; materials and supplies). For example, today, if you purchase a computer for \$1,000, you would pay \$50 GST and \$80 RST in Ontario (\$70 RST in BC). As a GST registrant, you can claim back the \$50 GST as an input tax credit, so that the net cost of the computer would be \$1,080 in Ontario and \$1,070 in BC. If you instead buy that computer after June 30, you would pay \$1,000 plus \$130 HST in Ontario (\$120 HST in BC), but you can claim back the HST as an input tax credit, so that the net cost of the computer would be \$1,000.

Conclusion: for those self-employed artists that are GST registrants and can recover 100% of the GST that they pay on expenses, the revenue impact of HST should be neutral and there should be a reduction in the net cost of certain expenses.

It is also suggested that you hold off on purchases that currently attract RST until at least July 1, 2010, as the net cost to you will decrease.

Important notes:

Administrative burden will be lessened: whereas currently, the 5% federal GST is administered by the Canada Revenue Agency and the RST is administered by the Ontario and BC Ministry of Revenue, the HST will be administered federally. The implementation of the HST to replace the RST in those provinces will result in one administration, one return to file, and only one body that can audit returns. So, if you are a self-employed artist that is registered for GST as well as RST (because you sell your works), you will no longer have to collect RST and file RST returns for periods after June 30, 2010.

If you are currently registered for GST, then you will be automatically registered for HST – there is nothing you need to do. Your GST registration number will automatically become your HST registration number. The filing frequency for GST returns that applies now will also apply once HST is implemented.

The HST return form has not yet been released. It is not known yet whether there will be significant changes to the return itself.

Watch the transitional rules: the key dates to keep in mind in regard to the transition of the HST are as follows: GST at 5% and RST at 8% (Ontario) and 7% (BC) continue to apply to sales and services provided until June 30, 2010.

May 1 – June 30, 2010:

Registrants must charge HST at 13% (Ontario) and 12% (BC) on billings rendered during the period May 1 to June 30, 2010 to the extent that the billings are for goods or services to be delivered or rendered after June 30, 2010. If the billing is for goods and services that straddle the July 1, 2010 date, then the portion of the billing that relates to goods delivered and services rendered prior to July 1, 2010 would charge the 5% GST, and the portion that relates to goods delivered and services rendered after June 30, 2010 would charge the 13% HST (Ontario) and 12% (BC).

July 1, 2010:

RST no longer applies.

HST at 13% in Ontario and 12% in BC must be charged.

Place of supply rules: if you live and work in Ontario or BC, and all your clients/customers are also located in Ontario or BC, respectively, you need not concern yourself with the 'place of supply' rules. However, if you sell to other provinces the 'place of supply' rules will be relevant, as they determine what rate of HST to charge your out-of-province customers/clients. The 'place of supply' rules are needed because different provinces have different HST rates, some provinces have not harmonized their GST and provincial sales taxes, and some provinces have no provincial sales tax at all. Also, if you incur expenses that are sourced from out-of-province suppliers, you would need to ensure that HST or the relevant taxes have been correctly charged. In general terms, the 'place of supply' rules in the case of services are based on the home or business address of the **recipient**, rather than on your home base, and the tax to charge would be based on the GST or HST rate in effect in the recipient's province. For example, if you provide services to a customer/client in Alberta, even though most of the work is done in Ontario, you would charge that customer GST of 5% (the rate in Alberta, which does not have RST and therefore no HST), rather than the 13% Ontario rate. If you are in this situation, it is suggested that you consult with your tax advisor for guidance on your particular circumstances.

Non-registrants – time to reconsider?

Under current GST rules, there is no requirement to become a GST registrant if your annual gross revenues are under \$30,000. If you are not registered for GST, you do not collect GST from your customers/clients; however, you also can not recover GST you pay on your expenses. There are no changes to the registration threshold amounts under HST. If you are not a GST registrant, HST will not have an impact on your revenues because you are not required to collect GST/HST. However, it is likely that your expenses will increase, because anything that you pay GST on now at 5% will increase to 13% HST in Ontario and 12% HST in BC, and HST cannot be recovered. You may wish to consider whether it would be beneficial to become a registrant, even if your annual revenues are less than \$30,000, so that you can recover the HST on your expenses. You must keep in mind, however, that if you voluntarily register for HST, then you will have to collect HST from your customers. If you are not a GST registrant now but are registered for RST, your administrative burden will be lessened, as, effective July 1, 2010, RST will disappear.

RULES

Registration

If your gross income from self-employed professional fees, commissions or sales in Canada exceeds \$30,000 you must register to collect HST. If it is less, you may register. Items such as grants, subsidies, gifts and salaries you may receive are not considered self-employed income for purposes of the \$30,000 threshold.

Registration means not only that you must collect and remit HST to the Canada Revenue Agency ("CRA"), but also that you can claim a refund of HST paid by you on any of your purchases. If you do not register, you need not collect the HST, but you will not be able to get back the HST you pay.

If you register, you will receive an HST return from CRA on which to declare your HST paid and collected. The normal reporting period is annually, unless your annual taxable supplies are more than \$1.5 million, in which case quarterly reporting is required. You may elect, however, to report on a more frequent basis than the required frequency (for example, if you are considered an annual filer, you may elect to file quarterly).

If you are an annual filer, you may be required to pay quarterly instalments of HST during the current year equal to the total of net HST of the prior year, with the remaining balance of HST, if any, due on filing of the current year's HST return.

If you are not incorporated, the HST reporting year will generally be the calendar year. This may result in your first return covering a period of less than one year (if you are an annual filer) or one quarter (if you are a quarterly filer), as the first return is for the period from registration to the end of the first reporting period.

If you are not sure whether the services you provide would be considered those of an independent artist or an employee, or even the question of whether you are operating a business or indulging in a hobby, you should consult CRA's Interpretation Bulletin IT-504R2, "Visual Artists and Writers". The determination of your status in these respects may have an impact on whether you should be registered for HST.

Orchestral musicians need to consider whether they are free-lance/independent or employees. Whether the orchestra issues T4's to its players will likely determine this issue. If it does, the players are free-lance with respect to contracted solo performances or contracted services to another orchestra (e.g. in a pick-up situation).

There are special rules for non-residents performing in Canada.

Taxable purchases

Generally most purchases are subject to HST, with a few exceptions.

Note that HST paid on purchases can only be claimed if the invoice includes the supplier's HST registration number and either indicates the amount of HST or that the amount on the invoice is 'HST included' (see Appendix A).

Membership Fees – Each artist's professional organization decides whether or not to charge HST on its membership fees. If you are registered for HST, any HST paid on membership fees may be reclaimed. Union fees are exempt.

Taxable supplies

Invoicing – Appendix A shows what must be on an invoice that includes HST for services.

Agents and Impresarios

You are the person for whom your agent is presumed to be acting. Therefore you, not your agent, are responsible for properly handling HST matters. That does not mean that you cannot ask an agent to look after it, but you should ensure that the agent does it properly. There may be remedies when the agent does not follow the rules, but it would be better not to have to invoke them

So far as you are concerned, the value of a work of art for sale in a gallery is the amount you expect to receive when the work is sold. If the work is sold, you will bill the gallery for HST on that value, no matter what the gallery charges the purchaser for the work.

If an impresario charges a commission for arranging a concert, the impresario will charge the club for HST on the contract price and will charge the musician HST on his commission. The musician must pay the government the difference between the HST collected from the club and the HST paid the impresario on his commission.

Copyright Collection Agencies

Copyright collection agencies must collect HST from the payers of royalties, but the amounts they remit to you are free of HST. However, you should keep track of the amount of such receipts, since this must be taken into account with your other professional income in calculating whether you meet the \$30,000 threshold requiring HST registration.

Refunds – Special Situations

HST paid is claimable on all purchases directly related to your work. As with income tax, HST on “office in the home” expenses may be claimed to the extent of business use of home office expenses.

Musical instruments come under special rules. If you use the instrument more than 50% of the time for professional purposes, you may claim 100% of the HST, not just the percentage of use. Even if you are not registered for HST and are deemed to be an employee of an orchestra, you may claim some HST: it is best to seek advice on how to handle this.

The “Quick Method”

Unless your expenses are less than 25% of revenues, the so-called “quick method” for calculating tax is likely to send more money to the government than if the HST is calculated from invoices paid.

It is important to act in a business-like way, if you are to be treated as a business for income tax purposes. This means keeping proper records; if that is done, the calculation of HST refunds will not be difficult.

Appendix A

Invoice requirements

You have to give **customers** who are GST/HST **registrants** specific information on the invoices, receipts, contracts, or other business papers that you use when you provide taxable goods and services. This information lets them support their claims for **input tax credit** (ITCs) or **rebates** for the GST/HST you charged. Similarly, when you make business **purchases**, the invoices from your suppliers will substantiate your claims for ITCs or rebates.

If your customers ask you for an invoice or receipt to claim an ITC, depending on the amount of the sale, you are required by law to give them the following information:

Information required	Total sale under \$30	Total sale \$30 to \$149.99	Total sale \$150 or more
Your business or trading name	X	X	X
Invoice date or, if you do not issue an invoice, the date the GST/HST is paid or payable	X	X	X
Total amount paid or payable	X	X	X
An indication of the total amount of GST/HST charged or that the amount paid or payable for each taxable supply (other than zero-rated supplies) includes GST/HST at the applicable rate.		X	X
When you supply items taxable at the GST rate and the HST rate, an indication of which items are taxed at the GST rate and which are taxed at the HST rate.		X	X
Your Business Number		X	X
The buyer's name or trading name or the name of their authorized agent or representative			X
A brief description of the goods or services			X
Terms of payment			X

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