

SALES AND OTHER TAXES

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SALES AND OTHER TAXES

The federal government and most of the provinces have sales tax regimes.

Federal Goods and Services Tax

The federal government imposes a 5% multi-stage, value-added tax called the Goods and Services Tax (GST), which applies to taxable supplies (e.g., supplies of most types of property, including intangibles and real property as well as services) made in Canada. Certain types of property and services, including most financial services, are exempt for GST purposes and certain supplies, defined as zero-rated supplies, which include exports, are taxed at a rate of 0%.

GST is also levied on taxable goods imported into Canada. Residents of Canada may also be required to self-assess GST on taxable supplies of services and intangibles acquired outside of Canada.

As a value-added tax, GST applies at each stage of the production and distribution chain. Generally, businesses making taxable supplies of property and services in Canada must register under the standard regime to collect and remit the applicable GST on their supplies made in Canada. While GST applies to every taxable transaction throughout the distribution chain, it is generally borne by the ultimate consumer. This is because businesses involved in commercial activities throughout the supply chain are normally entitled to recover by way of input tax credits the GST they pay on their inputs.

It is not always easy to determine whether supplies made to or by non-residents of Canada attract GST; accordingly, consideration of specific rules is required. For example, non-resident businesses making taxable supplies of property or services in Canada are generally only required to register for GST (and thus collect GST on their supplies) if they are “carrying on business Canada.” Whether a non-resident is “carrying on business in Canada” generally requires a detailed analysis of their activities and presence in Canada.

Effective July 1, 2021, non-resident suppliers that do not carry on business in Canada must also consider whether they are required to register for GST under the new simplified registration regime. The simplified registration regime is part of the global trend to tax the digital economy. The new

simplified registration regime was introduced to require certain non-resident suppliers and distribution platform operators that otherwise would not be required to register for GST under the standard regime to register for GST under the simplified regime if their annual sales to Canadian consumers exceeded, or it is reasonable to expect that they will exceed, C\$30,000. In addition, effective January 1, 2021, new registration requirements under the standard GST regime were enacted for non-resident suppliers of tangible property that use fulfillment warehouses in Canada or otherwise deliver or made available tangible property in Canada to Canadian consumers.

Harmonized Sales Tax

Five provinces currently have harmonized their provincial sales taxes with the GST: Ontario, Nova Scotia, New Brunswick, Newfoundland and Labrador, and Prince Edward Island. In those provinces, the Harmonized Sales Tax (HST), made up of the federal 5% GST component and a provincial component that varies from 8% to 10%, applies on the same basis as the GST. Accordingly, the discussion above regarding the GST also generally applies to the HST (including the discussion on the new registration requirements for digital economy businesses).

Once it is determined that a supply is made in Canada, it must then be determined whether the supply is made in a harmonized province and therefore subject to HST. Detailed rules apply to determine whether a supply is made in a harmonized province, which vary depending on the type of supply at issue.

Effective January 1, 2013, the Province of Québec harmonized the Québec sales tax (QST) with the federal GST; however, unlike other harmonized provinces, the QST is a separate tax imposed under provincial legislation. As a result, businesses doing business in Québec must consider whether they have an obligation to register for, collect and remit the applicable QST on their supplies made in Québec. As of January 1, 2023, the QST rate is 9.975%.

Provincial Sales Tax

British Columbia, Saskatchewan and Manitoba currently impose a single incidence provincial sales tax (PST) (in addition to the 5% GST) on end-users of most tangible personal property and certain services in their respective provinces. Businesses doing business in these provinces

must consider whether they have an obligation to register for, collect, self-assess and remit the applicable PST under each applicable regime. General rates of PST vary from 6% to 7%. Unlike GST/HST/QST, which are generally recoverable by businesses throughout the supply chain, PST is non-recoverable. Although certain exemptions exist to relieve PST from applying throughout the supply chain (e.g., purchase for resale exemption), businesses may nonetheless pay unrecoverable PST in the course of doing business in these provinces.

In recent years, each province imposing a PST has enacted new legislation imposing registration and collection obligations for e-commerce businesses and platform operators. Businesses doing business in any of these provinces must closely examine these new rules, which apply broadly, to determine whether they apply to them or not.

Alberta is the only province that does not impose a PST; accordingly, only the 5% GST applies in Alberta.

Provincial Payroll Taxes

Manitoba, Ontario and Newfoundland and Labrador levy an employer payroll tax that is calculated based on a percentage of remuneration paid in the province (subject to a certain threshold). Québec also levies a similar employer tax in the form of contributions to a provincial health services fund.

Other Taxes

The federal government imposes other taxes, including customs duties and excise taxes. Various provinces also impose other taxes, including provincial capital taxes (often limited to financial institutions), fuel tax, carbon tax, insurance tax, real estate transfer taxes and underused housing tax. Most municipalities impose annual taxes on the ownership of real estate.

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