



# **ONTARIO HST - PLANNING FOR THE TRANSITION**

**MONDAY, MAY 10, 2010**

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Ontario HST:

# Planning For The Transition

May 10, 2010

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# Agenda

- Background to the OHST
- Setting the Landscape
- Transitional Rules for OHST
- Specific Industries
- Planning for OHST
- Question/Answer Period



# Background to the OHST

- Part of Ontario's Comprehensive Tax Package
- Simultaneous decrease in rate of income tax for individuals, small businesses and corporations
- Intended to attract investment and employment to Ontario



# Background to the OHST

- Limits on guidance issued so far
  - Regulations not yet issued
  - Relying on budget comments, some pronouncements and informational releases
- Ontario released an information notice October 14, 2009 outlining proposed transitional rules.



# Background to the OHST

- Effective July 1, 2010
- Administered federally and will use the same tax base and structure as the current GST with a few exceptions
- Combined 13% HST rate of 8% for the provincial component Ontario HST (“OHST”) and 5% for the federal component GST
- Elimination of the 8% Ontario Retail Sales Tax
- Removal of purchase exemption certificate (“PEC”)



# Background to the OHST

- Private transfers of used vehicles will be subject to 13% OHST
- 8% RST will remain on certain types of insurance premiums – since no OHST then no ITC can be claimed
- Adjustments to fees, levies, etc. for alcohol that is presently subject to 10% and 12% RST
- Provincial portion of hotel room tax will be 8% (currently 5%)
- Fuel (gasoline/diesel) will increase by 8%
- First Nations – goods delivered or service performed on reserve to be exempt from HST



# Background to the OHST

## Benefits of Replacing ORST with OHST:

- “Simpler” compliance
  - Deal with only one government tax authority
  - One potential compliance audit
- ORST is subject to interpretation
  - Results in many judgment calls made by auditors
  - Limited legislative guidance
- Will eliminate embedded ORST previously absorbed by persons engaged exclusively in commercial activities as OHST recoverable as ITC’s



# Background to the OHST

## Costs of Replacing ORST with OHST:

- Additional tax to consumers
- Expenditures not currently subject to ORST:
  - i.e. professional fees, commercial rents, real property purchases
- Additional tax on entities not exclusively engaged in commercial activities (i.e. Exempt supplies)
  - Health Care services
  - Financial institutions
- Cash flow impact
  - Like the GST, OHST will be remitted when billed, not when collected
  - Purchases taxed at 13%



# Setting the Landscape

## When Do I Have to Register?

- Small supplier thresholds remain the same:
- Businesses with less than \$30,000 taxable sales are not required to register for OHST
- Public Service Bodies with less than \$50,000 taxable sales are not required to register for OHST
- Charities with less than \$250,000 gross revenues or \$50,000 taxable sales are not required to register



# Setting the Landscape

- Tax Relief from the OHST portion for:
  - Books (including audio books)
  - Children's clothing and footwear
  - Car seats and car booster seats
  - Diapers
  - Feminine hygiene products
  - Qualifying prepared food and beverages that are ready for immediate consumption and are sold for under \$4.00
- Tax relief provided via point of sale rebate



# Setting the Landscape

## Individual Transition Benefit

- Transition benefit for eligible individuals and families – up to \$300 for individuals with net incomes of \$80,000 or less and \$1,000 for single parents and couples with adjusted family net incomes of \$160,000 or less
- Payable in 3 installments starting June 2010 (2<sup>nd</sup> payment in December 2010 and last payment in June 2011)
- These credits will be based on prior year's adjusted taxable income.



# Setting the Landscape

## Small Business Transition Credit

- Available to businesses with annual sales under \$2M
- Intended to help offset the cost of adjusting point of sale and accounting systems
- Credit of up to \$1,000 available
- Credit calculation to be determined



# Setting the Landscape

## Quick Method

- Quick method will still be available under the new HST
- Charge and collect HST at 13%
- Quick Method remittance rates will need to be revised and they have not yet been published



# Setting the Landscape

## ITC Restrictions

- Recovery of ITC's restricted as follows:
- Financial institutions, "Large Businesses" (with TAXABLE sales over \$10,000,000 annually)
  - First 5 years
  - After first 5 years, phased in over next 3 years
- No restrictions for "farmers" as defined by the ITA



# Setting the Landscape

ITC restrictions related to:

- Energy (except for energy used for farming or for production of goods for sale)
  - Proxy may be available (Info Notice 5 – 02/01/10)
- Telecommunications services other than internet access or toll free numbers
- Road vehicles less than 3,000 kilograms and related fuel, parts and certain services
- Food, beverages and entertainment



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# Setting the Landscape – NPO's

- “Do I Need to Collect GST/OHST?”
- No general exemption
- Makes NPO's more likely to have taxable supplies
- Need to review sources of income carefully
- Many NPO's are not registered although they are required to register



# Setting the Landscape - Charities

- “Do I Need to Collect GST/OHST?”
- General exemption
  - A supply made by a charity of any property or service, with some exclusions

## Does not include:

- Supply of property used in taxable activities
- Sale of goods that were acquired, manufactured, or produced by the charity for the purpose of making a supply
- Certain sales and leases of real property
- Admissions to places of amusement
- Certain memberships
- Certain recreational activities



# Setting the Landscape – NPO's

- General rule: Taxable unless a specific provision exists
- Exempt:
  - Volunteer fundraising
  - Volunteer-run bingo or casino admission
  - Supplies for charge not exceeding direct cost
  - Admissions less than \$1
  - Amateur performances and events
  - Recreational services / camps for children, disabled and underprivileged
  - Relief of poverty or distress
  - Meals on Wheels
  - Certain memberships
  - Certain supplies of real property
  - Supplies by labour organizations to trade unions
  - Etc.



# Setting the Landscape

## GST/HST Rebates – Currently

- Charities:
  - 50% rebate for expenses incurred
- NPO's:
  - May be eligible for 50% GST rebate in respect of exempt activities:
    - Government funding test:
      - Minimum 40% of revenues from government sources.
      - In the current year or previous 2 years.
      - Financials must identify revenue as government funded
      - Can't be "fee for service"



# Setting the Landscape

## GST/HST Rebates – OHST

- Qualifications for rebate unchanged
- Public service bodies will need to track federal portion and provincial portion separately to calculate eligible rebates

	GST	OHST
Municipalities	100%	78%
Universities/Colleges	67%	78%
School Boards	68%	93%
Hospitals	83%	87%
Charities, Qualifying Non-Profit Organizations	50%	82%



# Setting the Landscape

## Harmonization Traps:

- 13% HST if not collected vs. 5%
- Significant contracts – what used to be a 5% mistake is now a 13% mistake
  - Commercial real estate deals
- Self-assessment liabilities



# Transitional Rules



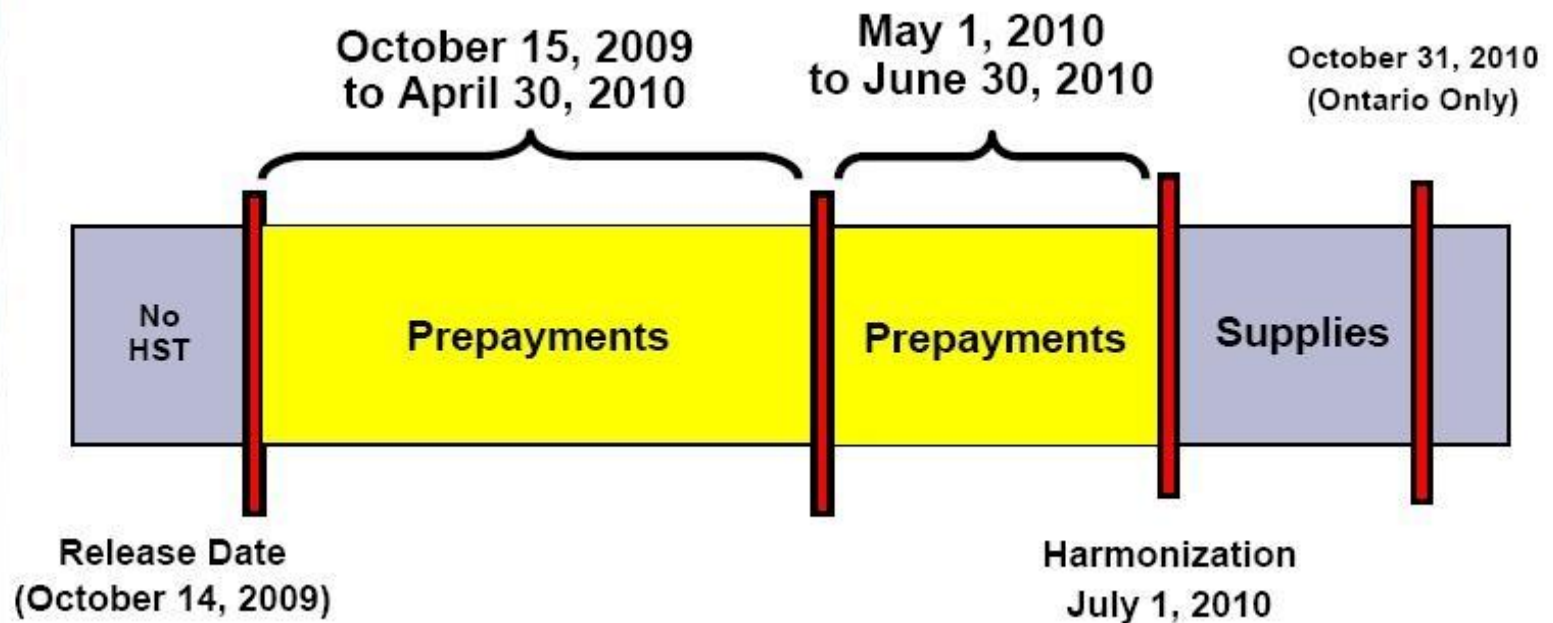
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# Transitional Rules for the OHST

- October 14, 2009 - Release date of Ontario information notice on “General Transitional Rules for Ontario HST”
  - Applicable to transactions that straddle the OHST implementation date
- July 1, 2010 - OHST implementation date
- May 1, 2010 – OHST due on consideration due or paid for after May 1 and before July 1 for property and services provided after July 1, 2010
- October 31, 2010 – RST due date for RST payable under the transitional rules



# Transitional Rules for the OHST



# Sale of Tangible Personal Property

- Rules for “TPP” (i.e. goods):
- General rule - When is GST Payable?
- Earlier of when the consideration for the supply:
  - Becomes due; or
  - Is paid without becoming due.
  - Subject to special over-ride rules
- Difference between a “deposit” and the payment of the consideration

# Sale of TPP

## General Rule for OHST

- OHST will generally apply (and ORST will cease to apply) to a sale of goods where the goods are delivered and ownership of goods are transferred after July 1, 2010
- Subject to certain override rules



# Transitional Rules for the OHST

## Tangible Personal Property ("TPP")

- Paid for on or after July 1, 2010 – 13% OHST applies
- Paid for or due after May 1, 2010 and before July 1, 2010 for TPP transferred after July 1, 2010:
  - 13% OHST applies to sale
  - The 8% Ontario component is to be remitted in the first reporting period that includes the July 1, 2010 date.



# Transitional Rules for the OHST

## Tangible Personal Property (“TPP”)

- Paid for or due after October 14, 2009 and before May 1, 2010 for TPP transferred after July 1, 2010:
  - May require self assessment of the Ontario component of OHST
  - Self assessment does not include:
    - Consumers
    - Businesses entitled to full input tax credits
  - Examples where self assessment may be required:
    - Universities, colleges and similar exempt organizations prepaying for goods
    - Businesses subject to ITC restrictions (large businesses)
    - Using simplified procedures (e.g. quick method filers)



# Sale of TPP

- Example:
  - Sale of TV occurs in April 2010
  - Purchased for \$2,500 for personal use
  - Pays for the TV in full at the time of purchase
  - TV gets delivered and ownership transfers on July 15, 2010



# Sale of TPP

- Result:
  - TV was paid in full April 2010 (before May 1, 2010)
  - GST is triggered in April 2010
    - Earlier of when consideration becomes due, or
    - when paid without becoming due
  - Therefore, no requirement to collect OHST

# Transitional Rules for the OHST

## Supplies Between Provinces - Tangible Personal Property ("TPP"):

- Destination based: Supply made in the province in which the goods were delivered or made available to the recipient
- Soon to be 3 HST rates across Canada:
  - Nova Scotia – 13% currently, 15% July 1 per budget
  - New Brunswick & Newfoundland – 13%
  - Ontario – 13%
  - BC – 12%



# Sale of TPP

- Supplies Between Provinces:
- Example:
  - Ontario retailer sells a stereo to a customer in Halifax
  - Retailer is registered for GST/HST
  - Seller ships the unit to the customer in Halifax
- Result:
  - Stereo sale is subject to HST at a rate of 13% (5% federal component and 8% Nova Scotia component)



# Sale of TPP

- Supplies Between Provinces:
- Example:
  - Ontario retailer sells a snowboard to a customer in Vancouver
  - Retailer is registered for GST/HST
  - Seller ships the item to the customer in Vancouver
- Result:
  - Sale is subject to HST at a rate of 12% (5% federal component and 7% British Columbia component)



# Sale of TPP

- Goods Brought Into a Participating Province:
- Current Rule:
  - Required to self-assess the provincial component of HST where you bring goods into an HST participating province from a non-participating province
- New: Expanded Rule:
  - Self-assessment rule also applies where you bring goods into Ontario from BC where the provincial component is lower



# Sale of TPP

## Returns and Exchanges

- Where a customer purchases a good before July that is subject to RST but returns it after July 1, 2010 and before November 2010
  - If a full refund is given, RST is to be refunded
  - If exchanged for a product of equal value, no RST would be refunded and OHST would not be payable
  - If exchanged resulting in an additional payment, no RST would apply but HST would apply to the additional payment



# Sale of TPP

## Returns and Exchanges

- Example:
  - Customer purchases a shirt for \$40 in June 2010
  - Shirt is exchanged for a \$60 shirt in July 2010
- Result:
  - Vender will collect the Ontario component of HST on \$20



# Sale of Services

- General Rules
  - Starting May 1, 2010 need to collect OHST on transactions that straddle July 1, 2010
  - OHST applies to services provided after July 1, 2010
- Exception:
  - No OHST to be charged on a supply of a service that is 90% performed before July 1, 2010
- Billings will require adjustments to correctly apply tax to pre and post OHST services



# Transitional Rules for the OHST

## Services

- Services paid for or due after May 1, 2010 and before July 1, 2010:
  - 13% OHST applies to portion of service attributable to July 1, 2010 or after.
  - The 8% Ontario component is to be remitted in the first reporting period that includes the July 1, 2010 date.
  - 5% GST applies to portion of the service performed before July 1, 2010



# Sale of Services

- Example:
  - Issues an invoice on August 15, 2010, for \$1,000
  - Maintenance period from June 1, 2010 to December 31, 2010
  - Does OHST need to be collected?



# Sale of Services

## Result:

- Consideration becomes due on August 15, 2010
  - Date of invoice
- OHST and GST charged for period July 1, 2010 to December 31, 2010 ( $\$857.14 \times 13\% = \$111.42$ )
- GST charged for the month of June, 2010 ( $\$142.86 \times 5\% = \$7.14$ )
- \$118.56 remitted in return covering August 15, 2010



# Transitional Rules for the OHST

## Services

- Supplies Between Provinces: New Rules!
- Where the supplier obtains a business address of a recipient in Canada, supply will be regarded as made in the province in which the address of the recipient is located
- If no address is provided, sale is made in the province in which the greatest proportion of the work is performed
- If performed in equal proportions in two or more provinces, the highest tax rate applies



# Sale of Services

- Place of Supply Rules:
- Example:
  - HR firm in Guelph, Ontario provides consulting work to a company with a business address in Kelowna, BC
  - 60% of the work is performed in Guelph, 40% is performed in Kelowna
- Result:
  - Because the supplier obtains the customer's business address in BC, the service is subject to HST at 12%



# Sale of Services

- Place of Supply Rules:
- Example:
  - HR firm in Guelph, Ontario provides consulting work a U.S.-based company
  - Guelph company does not obtain a Canadian business address or any other address in Canada in connection to the work
  - Executive search performed in Ontario (70%) and BC (30%)
- Result:
  - Because the service is primarily provided in Ontario, the service will be subject to HST at a rate of 13%



# Leases

- Rules
  - OHST would generally apply to a supply of property by way of lease, license or similar arrangement for the part of a lease interval that occurs on or after July 1, 2010.
  - The OHST would not, however, apply to a supply of property by way of lease, license or similar arrangement if the lease interval begins before July 2010 and ends before July 31, 2010.



# Transitional Rules for the OHST

## Memberships

- Deemed to be a supply of a service
- Follow transitional rules for services
- Essentially HST is due on the consideration for the portion of the membership fee that is attributable to the July 1, 2010 implementation date and beyond.
- Separate rules for lifetime memberships



# Sale of Memberships

- Example:
  - Golf Membership for 2010
  - Membership to be billed in 3 equal installments
  - \$1,000 each on January 1, May 1 and September 1
  - Does the OHST apply?



# Sale of Memberships

- Result:
  - Considered to be a service
  - OHST to be collected on fees that become due or paid after April 2010 but relate to post July 1, 2010 period (May and September)
  - First payment not subject to OHST
  - No self assessment on fees required since OHST paid on post July 1, 2010 period
  - OHST to be collected on ½ of the May invoice (July and August portion)



# Real Property

- Rules
  - Determining when GST is payable
  - GST is generally payable when consideration is paid or becomes due
  - Override rule for real property construction services\*
    - GST is deemed to become due on any consideration that has not been paid or invoiced on the last day of the month following the month in which substantial completion is reached.
- Applies to construction, renovation, alteration or repair of real property

# Real Property

- Rules: OHST and Real Property contracts
  - OHST applies if the payment is attributable to property delivered or services performed after July 1, 2010
  - OHST applies to amounts due or paid without becoming due before July 1, 2010
    - Exception to the May 1, 2010 rule
    - e.g. OHST applies to April 2010 progress billing if attributable to property delivered or services performed after July 1, 2010
  - If OHST applies to pre July 1, 2010 billing it is reported on GST/HST return that includes July 1, 2010 and before November 2010
  - Rules do not apply to sale of residential property



# Real Property

- OHST and the Sale of Commercial Real Property
- General Rule: OHST will apply where both ownership and possession of the property is transferred on or after July 1, 2010



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# Real Property

## Commercial Real Property - Example

- Purchase of vacant land from developer
- In June 2010, the purchaser takes possession under a written agreement of purchase and sale for the land
- Title transfers to the purchaser on July 5, 2010

### Result:

- HST does not apply since possession transferred before July 1, 2010.
- GST at 5% will still apply



# Specific Industries



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# Ontario Harmonized Sales Tax

## Agriculture Sector

- Currently:
  - Paying GST at 5% on certain goods/services
  - Certain purchases zero-rated
- OHST:
  - Will pay at 13% on certain goods/services
  - Zero rated purchases will continue
- Consider:
  - Cash flow issues
  - Filing period



# Ontario Harmonized Sales Tax

## Impact of HST would do for Ontario Farm Inputs

- Most farm inputs would continue to be zero-rated and would be purchased without paying any tax  
Examples: feed, fertilizers, grain bins and dryers, seed, farm equipment and machinery, livestock purchases, pesticides, quota and tractors greater than 60 hp.
- Farm inputs that are currently taxed with the ORST would be subject to the OHST and also be eligible for an offsetting input tax credit  
Examples: pick-up trucks used on the farm, computers and office equipment used in the farm's business.



# Ontario Harmonized Sales Tax

## Impact of HST would do for Ontario Farm Inputs

- Farm inputs that are exempt from the ORST but not the GST would be subject to the OHST, and also be eligible for an input tax credit

Examples: contract work, freight and trucking, veterinary fees and drugs, custom feeding, machinery lease and rental, hand tools, fuel, oil and grease.



# Ontario Harmonized Sales Tax

## OHST Benefits for Ontario's Farmers:

- Farmers would experience a net decrease in the sales tax they pay under the new proposed OHST
- Ontario's farmers would no longer pay sales tax on many items such as trucks, light vans and parts, furniture, lawnmowers, computers, freezers and other equipment.
- Approximately \$30 million in new benefits under the OHST
- Many farms eligible for small business transition credit of up to \$1,000



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# Harmonized Sales Tax

## New Home Builders:

- Sale of real property currently subject to GST but not PST
- Builders currently pay unrecoverable PST on building materials and supplies and pass through to consumers
- Under OHST sale of new homes will be subject to HST at 13%
- Ontario has proposed a rebate of 75% of the province's portion of HST (6%) for new homes sold under \$400,000
- Rebate capped on \$400,000 home
  - \$24,000 ( $\$400k * 8% * 75%$ )
- Inventory rebate, transitional tax rebate



# Ontario Harmonized Sales Tax

## Freight Transportation Services

- Service begins before July 2010
  - GST applies regardless of when the amount for the service becomes due or is paid without having become due
- Service begins on or after July 1, 2010
  - OHST applies to any amount that becomes due or is paid without having become due on or after May 1, 2010
- Place of supply rules for domestic shipments
  - Destination based



# Ontario Harmonized Sales Tax

## Commercial Rents

- Currently charge / pay GST at 5%
- HST:
  - Will charge HST at 13%
  - Will pay HST at 13%
  - May recover HST if registered
- Consider:
  - Status of tenants
  - Registration



# Ontario Harmonized Sales Tax

## Service Entities

- Auctioneers
- Accountants
- Bookkeeping Services
- Lawyers
- Real Estate Agents
- Hair Stylists
- Janitorial / Cleaning Services
- Lawn Maintenance Services
- Consulting Services
- Trades
- Funeral Services
- Car Washes
- Photographers
- Campground Operators (site rental)



# Ontario Harmonized Sales Tax

## Service Entities

- Currently:
  - Charge/pay GST at 5%
  - Pay PST on certain expenditures at 8%
  - No PST charges
  - Recover GST at 5%
- HST:
  - Will charge/pay HST at 13%
  - Will recover HST at 13%
- Consider:
  - HST status of recipient of services (registrant/non-registrant)
  - Deferring equipment purchases
  - HST reporting period



# Planning for OHST



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# Planning for OHST

- Phase 1: OHST Impact Analysis
  - Cash flow, budget
  - Direct Costs
  - Changes to funding requirements
- Phase II: OHST Implementation Strategy
  - Accounting System
  - Review Contracts
- Phase III: Staff Training
  - A/P and Billing Functions
- Phase IV: Post-Implementation Review
  - Review Actual to Estimates
  - Test compliance



# Planning for OHST

## Phase I – Impact Analysis:

- Risk of error increases to 13% risk if GST/HST is not collected
  - Ensure comfortable with tax status of supplies
  - If unsure, contact your BDO advisor
- Contracts with Provincial Governments
  - Grants vs. Consideration for a Supply
  - Failure to collect 13% OHST
- Cash flow, budgets
- Changes to funding requirements
- Quick Method



# Planning for OHST

## Phase I – Impact Analysis:

### Planning Opportunities

- May voluntarily register for GST if small supplier
  - Input tax credits may become available in respect of the taxable supplies
  - OHST will be a 13% cost
- Consider whether to change filing frequency
  - Smaller entities have the choice to file annually, quarterly or monthly GST returns
  - Evaluate cash flow issues relating to the OHST on expenses and revenues



# Planning for OHST

## Phase I – Impact Analysis:

### Planning Opportunities

- Accelerate purchases before July 1, 2010 with no RST but Ontario HST
  - Most services (subject to transitional rules)
  - Where full recovery of OHST is not available
- Delay purchases that have RST charged
  - RST is an additional unrecoverable cost
  - OHST may be eligible for a rebate or ITC
  - Lease now; buy later? (contract structuring)



# Planning for OHST

## Phase II – Implementation Strategy:

### Accounting Issues

- Systems implementation to provide for HST and elimination of Ontario RST
  - Ensure picking up/charging correct tax rate
- Tracking ITC's is important again
  - A/P needs to separate GST and OHST paid
    - Ex. 50% rebate on GST, 82% rebate on OHST
  - On which expenses can you claim an ITC?



# Planning for OHST

Phase II – Implementation Strategy:

## Structuring of Contracts

- Current contracts that extend beyond July 1, 2010
  - Impact of the OHST?
  - “Tax excluded” or “tax included”
  - “Cost plus” contracts
  - Reduction in costs due to ORST elimination



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# Planning for OHST

Phase II – Implementation Strategy:

## Structuring of Contracts

- New contracts that straddle July 1, 2010
  - Need to deal with both ORST and OHST
- New contracts starting after July 1, 2010
  - Need to provide for the OHST



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# Planning for OHST

## Phase III – Staff Training:

- A/P and billing functions require training on tracking GST/OHST paid and
- Budgeting process with OHST

## Phase IV: Post-Implementation Review:

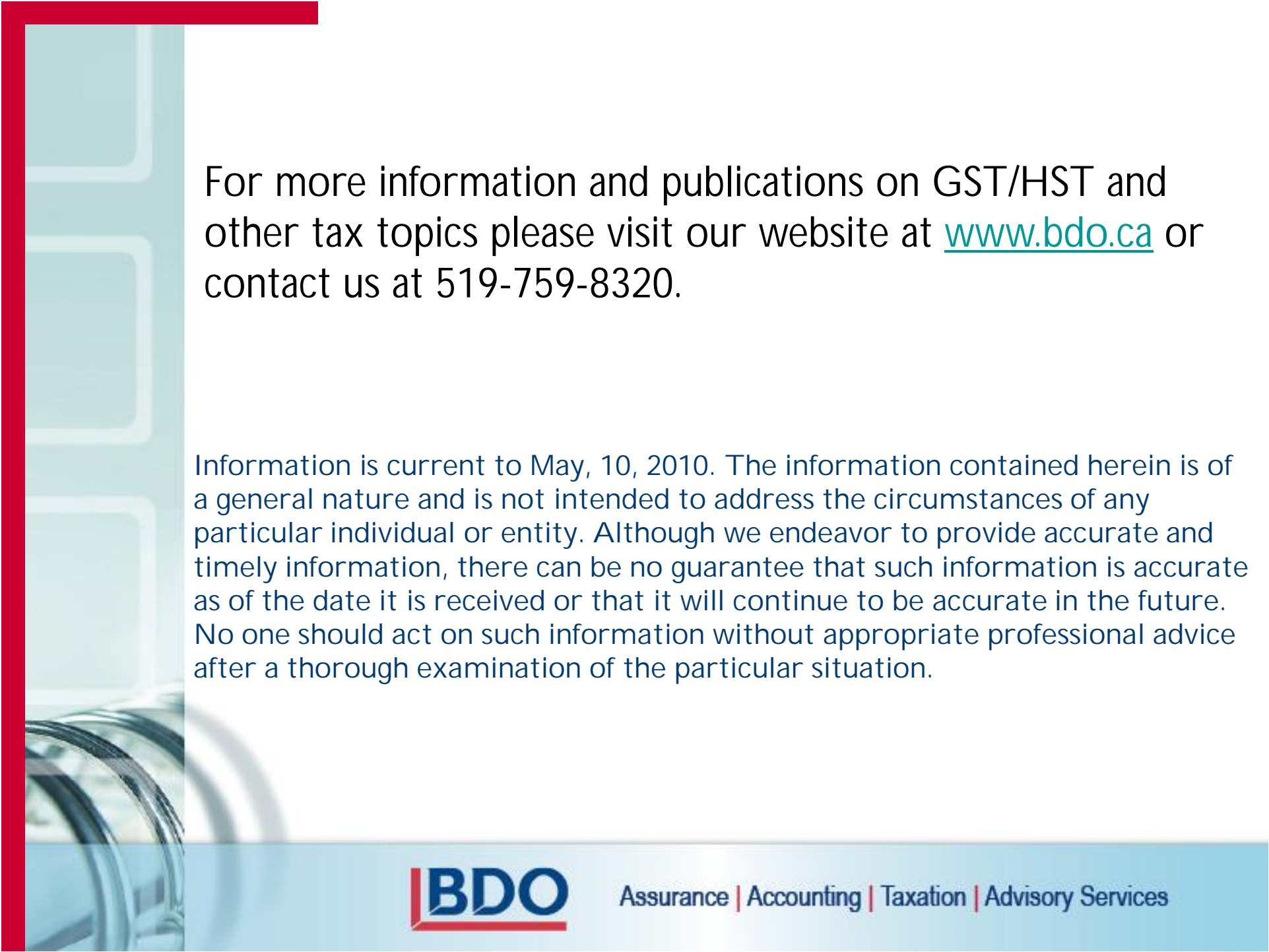
- Review Actual to Estimates
- Test compliance



# CRA Information Sheets

- <http://www.cra-arc.gc.ca/gncy/hrmnztn/pblctns-eng.html>
- GI-071 – Tour packages
- GI-053 – Freight Transportation Services
- GI-054 – Passenger Transportation Services
- GI-055 – Transportation Passes
- GI-056 – Services
- GI-057 – Memberships
- GI-058 – Admissions
- GI-059 – Intangible Personal Property
- GI-069 – Direct Sellers and Independent Sales Contractors
- GI-070 – Goods





For more information and publications on GST/HST and other tax topics please visit our website at [www.bdo.ca](http://www.bdo.ca) or contact us at 519-759-8320.

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