



HST Transitional Rules for Law Firms

Although the B.C. Harmonized Sales Tax was announced on July 23, 2009, draft legislation outlining how we will transition to the new tax regime is still pending. If we look to the 1997 transitional rules that applied to the Atlantic provinces, HST would generally apply to the portion of services rendered after June 30, 2010. Accordingly, law firms are required to collect 5% GST on the portion performed prior to July 1, 2010 and HST at 12% on the portion performed after June 30, 2010 in respect of invoices issued on or after May 1, 2010. The existing 7% PST on certain legal services will continue to apply until June 30, 2010.

The Atlantic harmonization rules, if applied to British Columbia, would allow an entire invoice to be GST taxable at 5% rather than HST taxable at 12% even though it may be issued after June 2010. The reduced rate of tax would be allowed only where the work was 90% or more complete on June 30, 2010 and the work was invoiced on or before October 31, 2010. This harmonization rule may be amended in conjunction with a phase out of the PST on certain legal services in order to avoid the possibility of double taxation.

The Atlantic harmonization rules, if applied to British Columbia, would require most services performed prior to July 1, 2010 to be invoiced on or before October 31, 2010 to avoid the application of the 7% provincial portion of the HST. Relief from the October 31, 2010 deadline would be available for legal fees received on a contingency basis, legal and trustee fees subject to court approval and trustee fees subject to the approval of beneficiaries. Again, these rules may be amended due to the phase out of the PST.

We will have more clarity as to how HST will affect law firm billings once draft legislation is released later on this year.