

Effective July 1, 2010, the provinces of Ontario and British Columbia have agreed to harmonize their provincial sales tax with the federal Goods and services Tax (“GST”). This means that organizations in these provinces are required to make changes required to comply with the new Harmonized Sales Tax (“HST”) legislation. This document provides a summary of the significant changes and how it applies to not-for-profit organizations, more specifically the Ontario Minor Hockey Association (“OMHA”).

HST VS ORST

The HST is similar to the federal Goods and Services Tax (“GST”) but is significantly different than the Ontario Retail Sales Tax (“ORST”). The main differences are as follows:

HST	ORST
The seller is liable to collect the tax from the purchaser	The purchaser/ consumer or the end user is liable to pay the tax
Value added tax where organizations can recover the HST paid on expenses to the extent it is used in commercial activity	Organizations cannot recover the tax paid on the expenses
Tax applies on both goods and services	Tax applies on tangible goods and only some services which are defined as taxable services in the legislation
Exemption certificates are not used to support non-collection of taxes. The supplies are taxable, exempt or zero-rated	Purchase Exemption Certificates – such as goods for resale purposes are used to support non-collection of taxes.

TAX STATUS OF SUPPLIES

The HST legislation classifies the supplies into three different categories which impact the organizations in the following manner:

1. Taxable supplies – these are goods and services that are taxable at 13% as long as the goods and services are consumed in Ontario. For example, purchase of T.V from Best Buy, services of a lawyer or an accountant.
2. Zero-rate supplies – where goods and services are taxable, but at “zero” percent. The organizations do not collect HST on these taxable supplies. For example, T.V. sold by Best Buy to a customer outside Ontario
3. Exempt supplies – Where specific goods and services are exempted from HST and are listed in the exempt schedule. Example, services of a medical doctor, sales of medical equipment, supplies made by a charity, municipality or a not-for-profit organizations and financial services.

RECOVERY OF HST

Unlike the old ORST, the HST is a value added tax that is similar to the GST which has been in effect since Jan 1, 1991 at a federal level. Under the HST regime, organizations can recover the HST paid on its expenses and an input tax credit to the extent it is used in commercial activity. In addition, governments, municipalities, charities and other not-for-profit organizations can recover a portion of the HST paid on its expenses as a rebate.

Organizations that are involved in exempt activity cannot recover the HST paid on its expenses, since it is not used in commercial activity, which is excluded from the definition of “commercial activity” for GST purposes. For example, OMHA can recover the HST paid on its expenses as an Input Tax Credit (“ITC”) only to the extent that the expense is used in commercial activity.

TRANSITIONAL PROVISIONS

The HST legislation provides specific rules for dealing with transition from ORST to HST and application of the tax depends on the date of the transaction.

October 14, 2009 – HST does not apply on amounts paid before this date. Certain business and public sector bodies may have to self-assess the provincial component of HST on amounts paid or payable between October 14 and May 1, 2010 for goods or services received after July 1, 2010. This is to ensure that companies that cannot recover the taxes as an ITC do not prepay for delivery of goods or services after July 1, 2010.

OMHA SPECIFIC TRANSACTIONS

The following are some of the transactions of OMHA and its HST implications:

REGISTRATION FEES

Registration fees are not taxable for the following reasons:

- 1) The GST legislation defines “Recreational Activities” to include athletics and outdoor recreation; Recreational services are generally taxable for GST purposes but are specifically exempt as long as it is provided to a group of children that are below 14 years in age. (Schedule V, Part VI, section 12)
- 2) There is some flexibility in administering the 14 years age limit, as long as greater than 50% of the participants are under 14 years of age, the registrations should qualify for the exemption.

INSURANCE COSTS PASSED ALONG TO OMHA

- 1) Although insurance premiums are not taxable for GST/HST purposes as a financial instrument, Ontario has decided to tax insurance premiums and has not given up this source of revenue. The insurance company will be charging 8% tax in premiums even after July 1, 2010. It may not be called HST, but the cost still remains. Since the insurer is currently charging tax on the premiums, I am assuming that it is a taxable insurance premium and does not fall within any exception.
- 2) Charges from the Insurer to Hockey Canada would be considered insurance premium and exempt for GST/HST purposes. When these charges are passed along to other organizations like OMHA

they could lose their tax exempt status and become a taxable supply by being considered as a tax allocation charge.

CONTRACTS FOR ICE RENTAL

Most of the (at least the larger associations), contract early in the season with their local municipality for ice rentals for the upcoming hockey season. The ice rental is taxable for GST and HST purposes. The transitional provisions are based on the GST/HST rules of when tax is due. Since we are dealing with the contract, the terms of contract will determine when the tax is due

FUND-RAISING ACTIVITIES

GST/HST Sales of goods (except alcoholic beverages and tobacco products) are exempt when all the following conditions are met:

- i) you are not in the business of selling those goods;
- ii) all the salespersons are volunteers;
- iii) the sale price of each item is \$5 or less; and
- iv) the goods are not sold at an event where similar goods are sold by persons in the business of selling such goods.

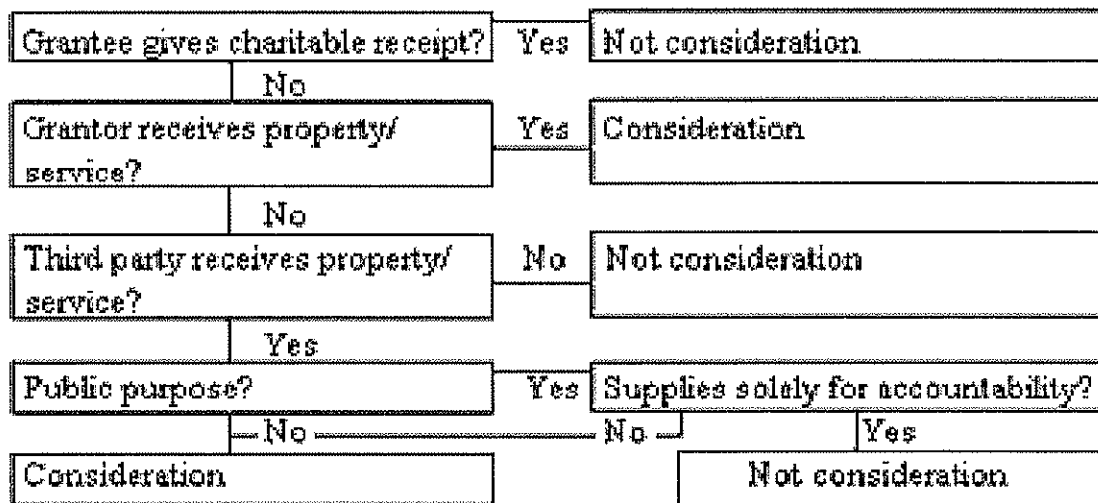
For example, players of a minor hockey league organization sell chocolate bars door-to-door for \$2 to raise funds for their activities. This is an exempt fund-raising activity.

SPONSORSHIPS

A payment to a non-profit organization in return for the right to use their logo will not be subject to GST/HST. A payment to such an organization in return for a full page advertisement in the organization's quarterly magazine will, however, be a normal taxable supply. Section 135 provides that certain sponsorship fees received by public service bodies are deemed not to be in return for a supply. Where a public service body, including a charity or non-profit organization, provides a promotional service or a license to use a logo or similar property to a sponsor, the provision of the service or right to the property is deemed not to be a supply. The sponsor exclusively in publicizing his business must provide the service or property for use. An exception to this rule is where the supply provided the public service body publishes one primarily of advertising by means of radio, television, newspaper, magazine or other publication periodically.

DONATION

The tax status of donations depends on whether a supply is made for the amount received and if there is a direct link between the amount paid as donation and supply made by the organization receiving the donation. No single factor determines the existence of a direct link between a payment and consideration for a supply. The following are among the criteria to be considered:



GAMBLING ACTIVITIES

Admissions to gambling events are exempt if you meet both of the following conditions:

- i) 90% or more of the administrative functions and taking of bets are carried out by volunteers; and
- ii) for a bingo or casino event, the games are not held in a commercial hall or any other place used primarily for gambling activities (including a temporary structure such as a bingo tent put up on a fair ground.)

AMATEUR PERFORMANCES AND EVENTS

Amateur Performances and Events – exempt if atleast 90% of the performers are not remunerated – get only prizes, gifts, travel or other incidentals. – There should be no professional competitor in the program.

REGISTRATION

Generally, businesses making over \$30,000 are required to register for GST purposes and the ones making below \$30,000 are considered to be small suppliers and can voluntarily register for GST/HST purposes. A non-profit organization is a small supplier in a particular calendar quarter and in the first month immediately following the particular calendar quarter if your worldwide revenues from taxable supplies are \$50,000 or less in the previous four consecutive calendar quarters.

If a non-profit organization is incorporated, the corporation has to register for GST/HST purposes as long as it is not a small supplier. The branches and divisions of the corporation need not register separately. However, if the organization is unincorporated, the branches and divisions have to register as independent entities.