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## Canadian Indirect Tax News

### Quebec update

November 15, 2012 (12-8)

### QST harmonization

In March 2012, the governments of Canada and Quebec entered into a comprehensive integrated tax coordination agreement containing undertakings intended to better harmonize the Quebec sales tax (QST) regime with the federal goods and services tax (GST) and harmonized sales tax (HST) regimes. These harmonization measures are scheduled to take effect on January 1, 2013.

The announced harmonization measures are described in the June 4, 2012 issue of *Canadian Indirect Tax News*.

With the effective date of these measures just around the corner, we wish to highlight the significant implications for financial services companies and identify some planning ideas.

#### Transitional period – Invoicing to businesses in the financial sector

Under the current QST system, businesses in the financial sector (including banks, holding companies having investment income, insurance companies, insurance brokers, pension entities and loan companies) can recover the QST paid on inputs used in providing financial services because these services are not exempt, but rather are zero-rated.

However, when the QST is harmonized with the GST/HST on January 1, 2013, financial services will become exempt for QST purposes, just as they are now exempt for GST/HST purposes. This means that financial institutions that supplied services for which the QST will become payable as of January 1, 2013 will no longer be eligible for input tax refunds (ITRs) for expenses incurred in providing such exempt financial services.

Generally, the QST becomes payable on the earlier of:

- the date on which the consideration is paid; and
- the date on which the consideration becomes due.

The consideration becomes due on the earlier of:

- the date on which the supplier delivers an invoice to the purchaser;
- the date shown on the invoice; and
- the date of payment indicated in a written agreement.

As such, if goods or services are supplied to a business in the financial sector in, for example, December 2012 and the invoice is issued in January 2013, the company cannot claim an ITR in respect of the QST charged on the goods or services supplied in December 2012. If, however, the invoice is issued before January 1, 2013, the QST can be recovered.

In some cases, the consideration may become due before January 1, 2013 even if the goods are delivered or the services performed after December 31, 2012.

Businesses in the financial sector should ask their suppliers to issue invoices before January 1, 2013 in order to recover the QST paid.

### **Holding companies**

Holding companies should keep in mind that they will no longer be eligible for input tax refunds (ITRs) on inputs used to supply exempt financial services once the QST is harmonized with the GST on January 1, 2013.

Holding companies are usually registered for QST purposes since financial services are currently zero-rated for QST purposes. However, these companies are not necessarily registered for GST/HST purposes. As of January 1, 2013, holding companies will be required to ask the tax authorities to cancel their QST registration if they are not registered for GST/HST purposes. Companies that are registered for the GST/HST may continue to be registered for the QST.

#### *Information sent to registrants by Revenu Québec*

Revenu Québec recently sent a letter to many investment or holding companies explaining the main changes to be made to the QST regime as a result of the harmonization of the QST with the GST. Registrants also received a form to complete in order to request cancellation of their QST registration.

Registrants who provide financial services and have a QST number, but are not registered for the GST, must cancel their QST registration as of January 1, 2013. However, before making such a request, registrants should ensure that they have claimed all ITRs to which they were entitled in respect of amounts that were paid or become payable before January 1, 2013.

Note that QST registrants who are also registered for GST purposes and have taxable supplies may remain registered in order to recover ITRs on inputs used in the course of their commercial activities.

#### *Should taxpayers cancel their QST registration?*

Before deregistering, taxpayers should think about how this may affect their business. For instance, for QST purposes, a company may be considered to be a "listed financial institution" if it receives more than \$1 million in interest payments from an unrelated person. In these circumstances, the following issues should be considered:

- the requirement to file annual information returns (GST-111);
- the option of making an election for intercompany transactions if the corporate group includes a listed financial institution; and
- the obligation to keep a record of information for purposes of evaluating the "tax content" of capital property and eventually recovering certain tax costs.

## Plan ahead

Holding companies and companies in the financial services sector with transactions that will straddle January 1, 2013 for either the purchase or sale of goods and services in Quebec, should refer to the material published by Revenu Québec on this matter and consult their tax advisors in order to fully understand the implications of the transitional rules.

## Quebec's recovery program extended to electronic products

In 2011, the Quebec government adopted the Regulation respecting the recovery and reclamation of products by enterprises ("Regulation") under the Environmental Quality Act. Pursuant to this Regulation, producers of batteries, mercury lamps and electronic products are required, as of July 14, 2012, to implement recovery programs for products they market.

### *Product recovery and reclamation*

The Regulation is aimed at reducing the quantity of residual materials sent for disposal by making enterprises responsible for the recovery and reclamation of the electronic products they market and by encouraging the design of more eco-friendly products.

The Regulation covers the following categories of electronic products, notably:

- laptop computers
- desktop computers
- computer accessories
- display devices
- conventional telephones and answering machines
- cellular phones and pagers
- office/desktop printers, photocopiers, fax machines and multifunction devices
- standing printers, photocopiers, fax machines and multifunction devices

Generally, an enterprise that markets a regulated new product under a brand name or distinguishing guise owned or used by the enterprise must recover and reclaim, through a recovery and reclamation program, any product of the same type that is left at one of its drop-off centres or for which the enterprise provides a collection service. This obligation does not apply to "small suppliers", as defined under the Act Respecting the Quebec Sale Tax.

Affected enterprises must comply with the Regulation individually or through an organization which will implement a product recovery and reclamation system for members (the Electronic Products Recycling Association (EPRA-Québec) is such an organization).

### *Application of an eco-fee as of October 1, 2012*

As of October 1, 2012, members of EPRA-Québec must apply an environmental handling fee, or "eco-fee," to the cost of specified new electronic products sold in Quebec. Eco-fees ranging from \$0.10 to \$42.50, depending on the product category, will finance the implementation of drop-off centres and cover the cost of collecting, transporting and reclaiming electronic products, which will be sent for reuse, refurbishment or recycling.

In a press release issued on September 28, 2012, the Ministry of Sustainable Development, Environment, Wildlife and Parks specified that eco-fees are not a "green

tax,” but “environmental handling fees” that will fund the deployment of an electronic product recovery and reclamation program across Quebec. It was further explained that enterprises can inform consumers of the cost of recovering products but, unlike the GST/QST, cannot display it as an addition to the initial price.

Penalties may be charged in cases of non-compliance with the requirements under the Regulation.

#### *Extension of the program in 2013*

Starting July 14, 2013, the program will be extended to the following products:

- video game consoles and their peripherals, projectors designed to be used with electronic equipment, readers, recorders, burners or sound, image and wave storage devices, amplifiers, equalizers, digital receivers and speakers designed to be used with an audio video system; the products referred to in this category include those marketed as part of a set such as home theatre systems;
- portable digital players, radio receivers, docking stations for portable digital players and other portable devices, walkie-talkies, digital cameras, digital photo frames, camcorders and global positioning systems;
- routers, servers, hard drives, memory cards, USB keys, speakers, webcams, earphones and wireless devices.

For more information about joining the EPRA, regulated electronic products and eco-fees, please refer to the [EPRA's site](#) or contact your Deloitte advisor.

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