



# Ontario HST and the Real Estate Market

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# Agenda

- Overview of the Ontario Harmonized Sales Tax (OHST)
- Commercial Properties
- Residential Properties
- Commercial Leasing
- Residential Leasing
- Conclusion

# Overview of OHST

- Federal Goods and Service Tax (GST)
  - Currently 5% on most goods and services
  - Generally recoverable (value added tax)
- Ontario Retail Sales Tax (RST)
  - Currently 8% on most goods and some services
  - Many services and some goods exempt
  - Generally not recoverable
  - Embedded in price

# Overview of OHST

- Change on July 1, 2010
  - RST combined with GST to create one value added tax known as the Ontario Harmonized Sales Tax (OHST)
  - OHST rate will be 13% made up of the 5% federal portion replacing the GST and 8% provincial portion replacing the PST
  - Administered by the Federal Government on behalf of the Federal Government and the Ontario Provincial Government
  - Just like income tax, the Federal Government collects the 13% tax and remits the provincial portion to Ontario

# Overview of OHST

- GST Rules = OHST Rules
  - Generally the exceptions, definitions and input credits that apply to the GST will apply to the OHST
  - Registration under GST will automatically become registration under OHST
  - Regulations are not finalized yet so best estimate based on information currently available

# Commercial Properties

- Purchase

- New or used (resale) - no real change from GST rules
- If ownership and possession occurs after June 30, 2010 then OHST applies
- If purchaser is registered with an OHST number then can self assess and claim an input tax credit
- No additional cash flow issue since the input tax credit is claimed at time of filing

# Commercial Properties

- Condominium Common Expenses
  - Will be subject to OHST
  - Owner of Condo Unit can claim input tax credit
  - No net effect except cash flow issue

# Commercial Properties

- Real Estate Commissions, Legal Fees, Appraisal Fees
  - Not currently subject to RST but subject to 5% GST
  - After June 30, 2010 will be subject to 13% OHST
  - Owner can claim input tax credit
  - No net effect except cash flow issue



# Commercial Properties

- Mortgage Broker Fees and Title Insurance Premiums
  - Exempt - no OHST payable
- Commercial Leasing
  - To be addressed by Adam Perzow

# Residential Properties

- Purchase
  - Used Residential
    - Both apartment buildings and housing units are exempt
      - no OHST payable
  - New Residential
    - Both apartment buildings and housing units will be subject to full 13% OHST, if:
      - the agreement was signed after June 18, 2009; and
      - occupancy and closing takes place after June 30, 2010;
    - there are certain rebates

# Residential Properties

## – Rebates

- There are two permanent and one transitional rebate
- Rebate of the Federal Government portion (5%) of the OHST
- This parallels the current GST rebate scheme
- The effective lower rate for the Federal Government Portion is 3.2% on properties costing under \$350,000
- With a phase out entirely of the rebate of the Federal Government portion for properties costing from \$350,000 up to \$450,000
- For properties above \$450,000 there is no rebate at all

# Residential Properties

## – Rebates (continued)

- Provincial rebates are in addition to the rebate of the Federal Government portion (5%) of the OHST
- CMHC statistics show 2% of housing costs represent embedded RST
- Province to discount the Ontario portion (8%) of the OHST to 2% for the first \$400,000 of purchase price
- Applies to both new homes and condominiums (New Housing Rebate) as well as multi unit properties (New Residential Retail Property Rebate)
- New Residential Retail Property Rebate cannot be credited on closing and must be applied for after closing and payment of the full tax
- Still applies to properties over \$400,000

# Residential Properties

Unit Cost	OHST New Housing Rebates
Less than \$350,000	Full Federal New Housing Rebate (5% reduced to 3.2%) Full Ontario New Housing Rebate (8% reduced to 2%)
\$350,000-\$400,000	Partial Federal New Housing Rebate (phase out to 5%) Full Ontario New Housing Rebate (8% reduced to 2%)
\$400,000-\$450,000	Partial Federal New Housing Rebate (phase out to 5%) Full Ontario New Housing Rebate (rate = 8% - \$24,000)
Over \$450,000	No Federal New Housing Rebate (rate = 5%) Full Ontario New Housing Rebate (rate = 8% - \$24,000)

# Residential Properties

- Rebates (continued)
  - Transitional rebate of a portion of the 2% embedded RST applies for deals where
    - contract is signed after June 18, 2009 but before July 1, 2010; and
    - both possession and closing occur after June 30, 2010
  - Rebate is based on the percentage that construction of the unit is completed on July 1, 2010
  - Not available to purchasers of condominium units as rebate goes to the builder in that case

# Residential Properties

- Condominium Common Expenses
  - No OHST on these expenses as exemption applies
  - However, actual monthly payments are likely to rise significantly
  - Many of the services provided by condominium corporations are not subject to RST but will be subject to the 13% OHST and therefore the cost will rise by 8%
  - Examples: utilities – gas, electricity, cable, landscaping, management, professional fees
  - Also reserve funds were prepared without allowing for OHST on repair costs and therefore will increase proportionally
  - Presently estimated that increases in repair costs based on implementation of the OHST will average about 6.5%

# Residential Properties

- Real Estate Commissions, Legal Fees, Appraisal Fees
  - Not currently subject to RST but subject to 5% GST
  - After June 30, 2010 will be subject to 13% OHST
  - Seller cannot claim input tax credit as with commercial properties



# Residential Properties

- Mortgage Broker Fees and Title Insurance
  - Exempt - no OHST payable
- Residential Leasing
  - To be addressed by Adam Perzow

# Commercial Leasing

- OHST applies to all commercial tenancies after June 30, 2010
- Transitional Rules
  - Leases entered into after May 1, 2010 which provide for payments to be made after May 1, 2010 but before July 1, 2010 where such payments are to be applied after June 30, 2010 (e.g. rent deposits and security deposits) then pay OHST on the date payment is made.
  - No OHST payable in respect of leases which commenced any time prior to July 1, 2010 and which end on or before July 31, 2010.
- Additional Rent payments generally must add OHST
  - Creates cash flow issues
- Input Tax Credits
  - Creates cash flow issues

# Commercial Leasing

- Recommended Clause for Leases
  - “Sales Taxes” means all business transfer, goods and services, harmonized sales, multi-stage sales, sales, use, consumption, value-added or other similar taxes imposed by any federal, provincial or municipal government upon Landlord, or Tenant in respect of this Lease, or the payments made by Tenant hereunder or the goods and services provided by Landlord hereunder including, without limitation, the rental of the Premises and the provision of administrative services to Tenant hereunder”.
- Dealing with Existing Leases
  - GST reference in lease
  - No reference to tax in lease
  - The remedy of Distress has become slightly more risky

# Residential Leasing

- OHST does not apply
- However landlord's costs will increase because they pay OHST on their costs
- Residential landlord's cannot claim input tax credit
- Can they ask for larger rent increases?

# Conclusion

- For the most part, other than cash flow issues, commercial properties will not be impacted in a major way as the increased cost will be passed through to customers by claiming corresponding input tax credits
- However, there will be significant additional costs for residential properties both for apartments and homes/condominium units



# Thank you

Thank you very much  
for attending today's  
session.

If you have additional  
questions or  
comments, please  
contact any of today's  
presenters.

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