Blaney McMurtry
BARRISTERS & SOLICITORS LLP

EXPECT THE BEST

New Ontario Sales Tax Regime Net Good News For Business

by Mona Taylor
Originally published in *Blaneys on Business* (June 2009) - **Read the entire newsletter**

Mona Taylor is a member of Blaney McMurtry's tax group. Her practice includes the areas of family wealth planning, charitable organizations and not-for-profit organizations. She also deals with retirement planning issues and commodity taxes, including the Goods and Services Tax and Retail Sales Tax.

Mona may be reached directly at 416.593.3967 or mtaylor@blaney.com

The 2009 Ontario Budget proposes that the existing provincial retail sales tax system be replaced with a single harmonized sales tax that will apply to most purchases and transactions occurring in the province after July 1, 2010. In general terms, the harmonization will result in the combination of the 8 per cent Ontario retail sales tax with the 5 per cent federal goods and services tax to form a 13 per cent harmonized sales tax.

On balance, this appears to be positive news for business, although several sectors stand to be affected negatively. And while consumers will have concerns about direct near-term impacts, the province contends there will be longer term overall economic benefits because of lower business costs and enhanced competitiveness.

The new harmonized sales tax is expected to apply in the same manner as the GST to goods and services provided in Ontario. The difference that will be noticed by Ontario residents is that they will be paying the provincial portion of the harmonized tax on products and services that are not currently subject to Ontario retail sales tax, such as gasoline, home heating fuel, rent, real estate fees, professional fees (such as legal, accounting and consulting fees) and personal services (such as haircuts, beauty treatments and dry cleaning).

New homes worth more than $400,000 will be subject to an additional 8 per cent tax when the harmonized tax is implemented. Both the purchase and the leasing of commercial property will be subject to a similar increase in the incidence of tax. Businesses that qualify for input tax credits will not feel the effect of the increase. However, those businesses involved in exempt activity (ie. banks and insurance companies) will feel the increase on their bottom line.

Similarly, certain services associated with a real estate transaction currently attract GST and not PST. After the harmonization, consumers will be required to pay 8 per cent more for things like legal fees, home inspection fees, mortgage insurance premiums, moving costs and real estate commissions.

Another industry very concerned with the concept of harmonization is the investment management industry. If the proposed harmonized sales tax is applied to the same items as the GST, it would result in an additional 8 per cent tax being applied to investment management services, including mutual funds, segregated funds and other managed investment accounts, which are part of many registered savings plans, registered income funds, locked-in retirement accounts and defined contribution pension plans.

To soften the initial blow, many consumer goods will be exempt from Ontario's 8 per cent portion of the new harmonized sales tax. For example it is currently proposed that books, children's clothing and footwear, car seats and car booster seats and feminine hygiene products will be exempt. Purchasers of new homes worth up to $500,000 would receive a housing rebate on the provincial portion of the single sales tax. The proposed provincial rebate rate would be more than twice as generous as the GST housing rebate rate. The effect of the housing rebate would be to ensure that, on average, new homes under $400,000 would not be subject to an additional tax burden.

Families earning less than $160,000 a year will get three cheques totalling $1,000 annually to offset the higher prices. Single people earning under $80,000 will receive $300 under a similar schedule.

Despite the anticipated unhappiness of the general public – some Liberal back benchers, apparently, are so concerned that they reportedly want the government to hide the tax from the consumer by "burying" it in the overall price of a good or service – many industries favour harmonizing the taxes. It completely eliminates the compliance costs associated with the existing provincial sales tax and it will allow most businesses to recover money currently lost to retail sales taxes. Presently, most businesses recover GST paid on inputs necessary for their business through the input tax credit system. No similar refund currently exists for businesses that pay RST.

It is important to note that, under the proposal, large businesses (those with annual taxable sales in excess of $10 million) and financial institutions would not be able to claim input tax credits in certain areas (ie. expenditures related to energy, certain telecommunication services, certain road vehicles, food, beverages and entertainment). These restrictions would be temporary, during the initial implementation of the single sales tax, and would apply only to the provincial portion of the tax. After the first five years of single sales tax implementation, full input tax credits on their taxable supplies would be phased in over a three-year period.

It is also expected that the 8 per cent provincial portion of the harmonized tax would still apply to certain types of insurance. ■