



37 Main Street
Toronto, Ontario M4E 2V5

Tel. 416-690-6800

Fax. 416-690-9919

Web Page:
www.krienslarose.com

On December 9, 2009, Bill 218 was passed which means that the Ontario HST will be implemented effective July 1, 2010. There are many transitional and implementation questions that need to be addressed by our clients, and we anticipate doing this on a client by client basis as requested over the next few months. In the meantime, we have attached the Ministry's transition rules as well as their article on the change and what it means. Furthermore, below you will find a summary of how HST will apply to memberships, specifically written for our not-for-profit Association clients as they are commencing their annual billings for membership fees.

MEMBERSHIPS

HST generally applies to any consideration that becomes due, or is paid without having become due, on or after May 1, 2010, for a supply of a membership in a club, organization or association to the extent that the consideration relates to any part of a membership period on or after July 1, 2010. However, the HST would not apply if 90% or more of the membership period is before July 1, 2010.

If any consideration for a lifetime membership in a club, organization or association becomes due, or is paid without having become due, during the period after October 14, 2009 and before July 2010, and that consideration exceeds 25 per cent of the total consideration for the lifetime membership, the amount in excess of that 25 percent portion would be treated as having become due on July 1, 2010 and would be subject to the HST.

If the supply is a right to acquire a membership in a club, organization or association, then the general transitional rules for intangible personal property would apply to the supply of that right.

Intangible personal property

A supply by way of sale of intangible personal property (e.g., contractual rights, patents) would generally be subject to the HST if the consideration for the supply becomes due, or is paid without having become due, on or after July 1, 2010. Passenger transportation passes, memberships, and admissions have special transitional rules.



I operate a club and sell year-long memberships. The full membership fee becomes due at the time of sale. On January 2, 2010, I sell a membership which expires on December 31, 2010.

The HST does not apply to the sale of the membership, since the membership fee becomes due before May 2010. Self-assessment of the provincial part of the HST may be required by persons who are not consumers since the amount became due after October 14, 2009 and before May 2010.

I operate a club and sell year-long memberships. The full membership fee becomes due at the time of sale. On May 2, 2010, I sell a membership which expires on April 30, 2011.

Since less than 90% of the membership period is before July 2010, the membership fee is prorated for purposes of charging the HST. The HST does not apply to the portion of the membership fee relating to the period before July 2010. However, the HST applies to the portion of the membership fee relating to the period on or after July 1, 2010 (i.e., 10 of the 12 months).

I operate a club and sell year-long memberships to individuals. I sell a membership on January 4, 2010. Under the terms of the membership agreement, the member makes a monthly membership payment on the first day of each month. On June 15, 2010, a member pre-pays his monthly membership fees for the portion of the membership period covering July 1, 2010 to December 31, 2010.

The HST does not apply to the membership fees relating to the portion of the membership period before July 2010. However, the HST applies to the membership fees relating to the portion of the membership period on or after July 1, 2010, including any prepayments made on or after May 1, 2010, and before July 2010, that relate to the portion of the membership period on or after July 1, 2010.

A professional association issues invoices on May 8, 2010 for the renewal of annual memberships in the association. The membership fees are payable in full upon receipt of the invoice. The annual membership period is June 1, 2010 to May 31, 2011.

Since the consideration for the membership becomes due on or after May 1, 2010, the HST applies to the 11-month portion of the membership period from July 1, 2010 to May 31, 2011, even though the membership fees become due before July 2010.