

# The HST and You!

## Impact of the Ontario HST on For Profit Companies

Presented by:

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# SPEAKER'S BIOGRAPHY



## Harry Chana, CA, Senior Tax Manager

Harry Chana joined BDO Canada LLP in January 2010 with responsibility in Canadian and international income tax services to both public and private corporations. Prior to joining BDO, Harry was a Tax and Treasury Manager at Levi Strauss & Co. (Canada) Inc. with oversight of all corporate, commodity and excise taxes impacting the Canadian operations. During this time, Harry successfully concluded several international tax matters with the Canadian and foreign tax authorities, implemented new customs initiatives by partnering with the Canada Border Services Agency and successfully advocated Levi's position on various tax audits. Prior to joining Levi's, Harry was a Tax Manager at PricewaterhouseCoopers LLP where he specialized in private owner-manager tax issues and public companies. Harry received his CA designation in 2002 and is a member of the Canadian Tax Foundation.

## SPEAKER'S BIOGRAPHY



Glenn Lott, Partner

- Lott & Company
- 16 years working with owner-managers
- Accounting, tax and business advisory
- KPMG senior audit manager
- Past chair of Richmond Hill Chamber of Commerce

**GDL**

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*Chartered Accountants*



# Outline

- Background to the HST
- The Potential Impact
- Transitional Rules
- Planning
- Electronic Filing
- Questions

# Background to the HST Information Released

- Limited legislation has been issued (Bill C-62 and Bill 218 Royal Assent - Dec 15/09)
  - Most rules will come via Regulation
- HST Notices
  - Transitional Rules (Oct 14/09)
  - POS exemptions (Nov 12/09)
  - Residential Housing (June 18/09 and Nov 19/09)
  - Various GST Info Sheets (January 2010)
  - Temporary Recapture of Input Tax Credits (February 2010)
  - Place of Supply Rules (February 2010)
- Ontario's Tax Plan for Job's and Growth (Nov 09)



# Background to the HST Basics

- Effective July 1, 2010
- Rate of 8% for the Ontario HST and 5% for the GST
- Parallels the GST
- HST is a “value-added tax” rather than the Ontario Retail Sales Tax (PST) which is a consumption tax
- Elimination of the Ontario Retail Sales Tax (except on insurance)



# Background to the HST Benefits - Government

- Encourage new investment
- Create growth in the economy
- Create jobs in local community
- Eliminate hidden costs for consumers



# Background to the HST Benefits

- “Simpler” compliance
  - Deal with only one government tax authority
  - One potential compliance audit
- PST is subject to interpretation
  - Results in many judgment calls made by auditors
  - Limited legislative guidance
- Will eliminate embedded PST previously absorbed by persons engaged exclusively in commercial activities as HST is recoverable as ITCs



# Background to the HST

## Costs of Replacing PST with Ontario HST

Expenditures not currently subject to PST:

- i.e. professional fees , commercial rents, real property purchases

Additional tax on entities not exclusively engaged in commercial activities  
(i.e. exempt supplies)

- Many Public Service Bodies
- Health Care services
- Financial institutions
- Consumers

Cash flow impact

- Like the GST, Ontario HST will be remitted when billed, not when collected
- Purchases taxed at 13%



# The Potential Impact

# Potential Impact

## Tax Collection - GST/HST

- GST tax status does not change - only the rate
  - Was an exempt supply remains an exempt supply
  - 5% = 13%
  - Except for Point of Sale Rebates
- Filing Frequency
  - No change as frequency based on annual sales
  - Electronic filing may be required\*
- Registration Threshold
  - Still need sales to exceed small supplier threshold (30K)



# Potential Impact Tax Collection - PST

Generally,

- As of July 1, 2010, PST will cease to apply on goods and services\*
- As of July 1, 2010, PST will cease to apply on goods brought into Ontario or imported by a resident
- Final PST returns due July 23, 2010
- PST collected or becomes payable after June 2010 supplemental PST returns to be filed by 23<sup>rd</sup> day of following month. All supplemental RST returns would be required to be filed no later than November 23, 2010.



# Potential Impact

## Tax Collection - Point of Sale Rebates

Tax Relief from the Ontario HST (8%) for:

- Meals under \$4.00
- Books and newspapers
- Children's clothing and footwear
- Car seats and car booster seats
- Diapers
- Feminine hygiene products



## Potential Impact

# Tax Collection - Provincial and Federal Governments

Provincial and Federal Governments will now pay the GST and the New HST

- BC and Ontario will pay the HST (did not previously pay GST)
- Federal Government will now pay the provincial portion of HST (did not previously pay the PST)



# Potential Impact

## Tax Paid - ITC Restrictions on Ontario HST Paid

- ITCs Restricted for “Large Businesses”
  - Taxable sales over \$10,000,000 annually
  - On an associated basis
  - May impact Transitional Rules
- Restricted ITCs
  - First 5 years
  - After first 5 years, phased in over next 3 years



# Potential Impact

## Tax Paid - ITC Restrictions - Self assessment

### Transactions after October 14, 2009 and before May 1, 2010

- Applies to large businesses that are subject to the restrictions
- Applies where the HST was not collected
- Applies to straddle transactions that relate to the post June 30, 2010 period
- Can't prepay or purchase before May 1, 2010 and avoid the HST



# Transitional Rules

When do we charge/pay PST?  
When do we charge/pay the Ontario HST?  
When do we have to self-assess?

# Transitional Rules

## GST - When is tax payable?

### General Rule for GST

Earlier of when the consideration for the supply:

- Becomes due; or
- Is paid without becoming due.

# Transitional Rules

## PST - When is tax payable?

### General Rule for PST

- PST will generally cease to apply to a sale of goods where the goods are delivered and ownership of goods are transferred after July 1<sup>st</sup>, 2010

### PST Override Rules

After October 14<sup>th</sup>, 2009 and before May 2010

- Where consideration becomes due or is paid within these dates
- PST should be collected on July 1, 2010 straddle transactions

No PST required to be collected if:

- Self assessment of HST by purchaser required, or
- TPP/Service used exclusively in commercial activities (ie. resale of goods)

# Transitional Rules

## HST - When Does My Business Have to Charge HST?

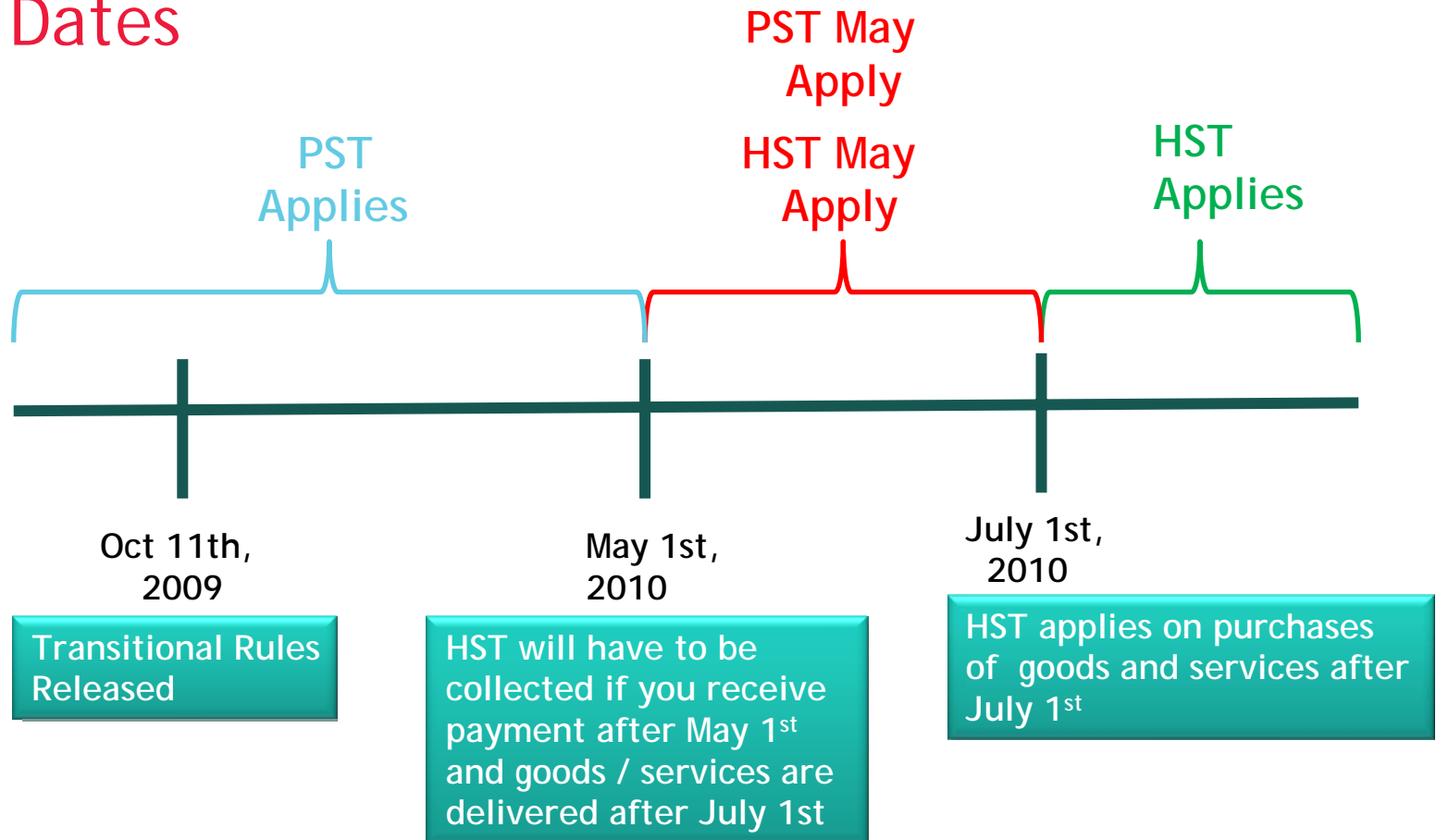
### General Rule for HST

Businesses that supply goods or services:

1. Deliver / perform services after July 1<sup>st</sup>, 2010;
2. That are delivered / performed on or after July 1<sup>st</sup>, 2010 and are paid after May 1<sup>st</sup>, 2010
  - HST transitional rules apply

# Transitional Rules

## Key Dates



# Transitional Rules

## Sale of Goods (Tangible Personal Property)

Consideration becomes due (e.g. invoiced) or is paid for taxable goods delivered after June 30<sup>th</sup>, 2010

### 1. Invoice dated on or after May 1, 2010

- HST collected by vendor
- PST not collected

### 2. Invoice dated between October 14, 2009 and May 1, 2010

- HST not collected by vendor (GST collected)
- PST collected by vendor
- Purchaser may be required to self-assess (double taxation?)

# Transitional Rules

## Sale of Goods

### Example 1

- Sale of TV occurs in April 2010. Purchased for \$1,000 for individual personal use (i.e., consumer). Pays for the TV in full at the time of purchase. TV gets delivered and ownership transfers on July 15, 2010

### Result

- Consideration was paid in full April 2010 (before May 1, 2010), GST is triggered in April 2010, earlier of when consideration becomes due, or when paid without becoming due.
- GST is collected - no Ontario HST
- PST is collected - No self-assessment (consumer)

# Transitional Rules

## Sale of Goods

### Example 2

- Company on the GST quick method buys a TV in April 2010. Delivered in July 2010. Ownership transfers in July 2010

### Result

- GST is paid.
- Self-assess the Ontario component of HST (8%) on the purchase of the TV, remit tax in GST return that includes July 1, 2010, or before November 2010 on prescribed form (whichever is earlier)
- If PST is paid, PST refund opportunity



# Transitional Rules

## Sale of Goods

### Example 3

- Company A sells its product to a customer in Ontario on May 15<sup>th</sup>, 2010. The amount is invoiced and delivered to the customer the same day.

### Result

- Consideration was due May 15<sup>th</sup>, 2010, GST is triggered the earlier of when consideration becomes due, or when paid without becoming due.
- GST is collected
- No Ontario HST as goods delivered before June 30<sup>th</sup>

# Transitional Rules

## Sale of Goods

### Example 4

- Company A sells its product to a customer in Ontario on June 15<sup>th</sup>, 2010. The amount is invoiced same day, however the goods are delivered July 5<sup>th</sup>, 2010.

### Result

- Transitional rules apply.
- Consideration was due June 15<sup>th</sup>, 2010, GST is triggered the earlier of when consideration becomes due, or when paid without becoming due.
- GST is collected
- Ontario HST applies as goods delivered after June 30<sup>th</sup>



# Transitional Rules

## Sale of Goods

### Example 5

- ECS sells its product to a customer in Ontario on July 15<sup>th</sup>, 2010. The amount is invoiced and delivered to the customer the same day.

### Result

- 13% HST collected



# Transitional Rules

## Sale of Goods

### Example 6

- Company A sells its product to a customer outside of Canada (ie. US) on July 15<sup>th</sup>, 2010. The amount is invoiced and delivered to the customer outside of Canada on July 20<sup>th</sup>.

### Result

- Sale made to non-registrant
- No GST / HST collected



# Transitional Rules Services

## Special Transitional Rule for Services

- No Ontario HST to be charged on a supply of a service that is 90% performed before July 1, 2010. GST is charged. PST is charged if subject to PST.

\*Acceptable documentation will need to be maintained.

# Transitional Rules Services

## Example #1

- Your business provides GST and PST taxable services for 3 months ending August 31<sup>st</sup>, 2010. An invoice is issued on August 31<sup>st</sup>, 2010 for 3 months. The service is provided evenly over 3 months

## Result

- GST is payable at 5% on August 31<sup>st</sup>, 2010 for the entire invoice
- PST is payable @ 8% on August 31<sup>st</sup>, 2010 on one-third of the invoice (June)
- HST is payable at 8% on August 31<sup>st</sup>, 2010 on two-thirds of the invoice (July and August)

# Transitional Rules Services

## Example #2

- Your business provides GST and PST taxable services for 3 months ending July 31<sup>st</sup>, 2010. An invoice is issued on July 31<sup>st</sup>, 2010 for 3 months. Majority of the work (> 90%) is completed by June 30<sup>th</sup>, 2010- some clean-up work is required in the month of July.

## Result

- GST is payable at 5% on July 31<sup>st</sup>, 2010 for the entire invoice
- PST is payable @ 8% on July 31<sup>st</sup>, 2010 for the entire invoice
- Need to document (ie. on invoice) timing of when work performed to ensure proper compliance

# Transitional Rules Services

Service performed straddles July 1, 2010, implementation date. Service subject to GST, not PST.

## Example 3

- Lawn maintenance package purchased (paid for) on April 15, 2010
- Service covers period from June 1, 2010, to December 31, 2010

## Result

- No HST is collected since the service is paid for before May 1, 2010
- Self assessment may be required on cost of maintenance package that relates to post July 1, 2010 period (only for “non-consumers” and only if a full ITC is not claimable)



# Transitional Rules Services

## Example #4

- Lawn maintenance package, vendor issues an invoice on August 15, 2010, for \$1,000 no pre-payment made. Maintenance period from June 1, 2010 to December 31, 2010

## Result

- Consideration becomes due on August 15, 2010
- HST charged for period July 1, 2010 to December 31, 2010  
(\$857.14 x 13% = \$111.42)
- GST charged for the month of June, 2010 (\$142.86 x 5% = \$7.14)
- \$118.56 remitted in return covering August 15, 2010



# Transitional Rules

## PST - When is tax payable?

### General Rule for PST

- PST will generally cease to apply to a sale of goods where the goods are delivered and ownership of goods are transferred after July 1, 2010

# Transitional Rules

## Goods for “resale”

My customers are all currently PST exempt because they buy for “resale”. How will HST apply?

- Exemption for PST on goods acquired for “resale” no longer applies as of July 1<sup>st</sup>, 2010
- HST will generally be applicable
- Recover of HST will generally be available depending on tax status of customer



# Transitional Rules

## Returns and Exchanges

Applies where:

- Property purchased prior to July 1, 2010
- Returned after June 30, 2010 and before November 2010

### Scenarios

1. Full Refund- PST is refunded
2. Exchange Only- no PST refund, no HST applicable
3. Partial refund - PST refundable on difference, no HST payable
4. Return for higher priced item - HST applicable on difference, no PST

Need to file returns with Ministry to get back PST refunded



# Transitional Rules

## Returns and Exchanges

### Example 1

- Return of \$40 clothing on July 10, 2010 that was purchased June 15, 2010
- PST was paid on the purchase
- Exchange for a \$60 item

### Result

- Collect the 8% HST and the 5% GST on the \$20 difference



# Transitional Rules

## Returns and Exchanges

### Example 2

- Return of \$10 grocery item on July 4, 2010 that was purchased June 30, 2010
- No PST or GST applied to the item
- Exchange for another \$10 item but GST/HST applies to item

### Result

- Collect the 8% HST and 5% GST on the \$10

# Transitional Rules

## Returns and Exchanges

### Example 3

- Return of \$250 women's coat after November 1, 2010 that was purchased June 30, 2010
- GST and PST applied to the item
- Exchanged for another coat

### Result

- No adjustment for the PST at point of sale; purchaser would file refund from Ministry.
- Refund the 5% GST on the return
- Collect 8% HST and 5% GST on \$250 the new coat

# Transitional Rules

## Imported Goods

- The general rule is:
  - Commercial goods brought into Ontario by a GST / HST registrant for consumption, use or supply exclusively in commercial activity
- Would *not* be subject to the HST



# Transitional Rules

## Self-assessment

Who is required to self-assess Ontario component of HST (8%)?

- Businesses acquiring supply not exclusively in commercial activities
- Large Business acquiring supply subject to ITC restrictions
- Using simplified procedures (i.e. charities, quick method)
- Selected listed financial institutions
- \*Excludes consumers

Remit Ontario HST earlier of the GST/HST return for July 1, 2010 and before November on prescribed form



# Transitional Rules Memberships

## Rule

- A supply of a membership in a club, organization or association deemed to be a supply of a service for purposes of the transitional rules.
- Ontario HST is payable with respect to the period after July 1, 2010

# Transitional Rules Memberships\*

## Example

- Golf Membership for 2010 sold to consumer. Membership to be billed in 3 equal installments, \$1,000 each on January 1, May 1 and September 1

## Result

- January 1 invoice - GST only
- May 1 invoice - GST on entire invoice, Ontario HST on half of invoice (July & August)
- September 1 invoice - HST on entire invoice

\*Special rule for lifetime membership - payments made before May 1, 2010, may be subject to HST.

# Transitional Rules

## Lease

### Rule

- Ontario HST would generally apply to a supply of property by way of lease, licence or similar arrangement for the part of a lease interval that occurs on or after July 1, 2010.
- The Ontario HST would not, however, apply to a supply of property by way of lease, licence or similar arrangement if the lease interval begins before July 2010 and ends before July 31, 2010.

# Transitional Rules

## Lease

### Example

- 2008 computer lease (5 years) “Lease interval” May 1, 2010 to October 31, 2010
- Payment due March 31, 2010. Recipient uses the Quick Method

### Result

- No “grandfathered” leases
- No HST to be collected since payment due before May 1, 2010. GST would be due on March invoice
- Purchaser needs to self assess 8% portion of HST on post July 1, 2010 period since on the Quick Method
- PST applies for the pre July 1, 2010 period
- If PST is paid on entire lease interval, eligible for rebate for post July 1, 2010 period

# Transitional Rules

## Real Property - Tax Payable

- GST is generally payable on earlier of when consideration is paid or becomes due
- Override rule - for sale of real property GST is due on the earlier of the day ownership or possession transfers
- Override rule for real property construction services\*
  - GST is deemed to become due on any consideration that has not been paid or invoiced on the last day of the month following the month in which substantial completion is reached.

\* Applies to construction, renovation, alteration or repair of real property



# Transitional Rules Recovery Opportunities

## PST Charged After October 14, 2009

- Examples:

- Leased equipment for the period after July 1, 2010
- Goods delivered after July 1, 2010
- Services provided after July 1, 2010
- No PST required to be collected if:
  - Self assessment of Ontario HST by purchaser, or
  - Exclusively in commercial activities

# Planning



# Planning

## Compliance - Points to Consider

- HST Impact Analysis
  - Cash Flow
  - Direct Costs (5% - 13%)
- HST Implementation Strategy
  - Accounting System
  - Review Contracts
- Staff Training
  - A/P and Billing Functions
- Post-Implementation Review



# Planning for HST

## Potential Risk Areas

- System errors (5% versus 13%)
  - Not picking up or charging correct tax rate
- Exempt versus 13% taxable supplies
  - Registered but not aware taxable supply
- Tracking Restricted ITCs
  - Self-assessment



# Planning Opportunities

Accelerate non-taxable PST purchases

- custom software
- real property
- non-taxable services

Delay purchases that are currently subject to PST until after June 30, 2010

- virtually all goods
- taxable services
- software



# Planning Strategy

## Consider Whether To Change GST Filing Frequency

- Smaller entities have the choice to file annually, quarterly or monthly GST returns
- Evaluate cash flow issues relating to the HST on expenses and revenues

# Planning for HST

## Potential Risk Area - Imported Taxable Supplies\*

### Pre July 1, 2010

- A recipient of an imported taxable supply was required to self assess the GST on the value of consideration for the supply.
  - A person who was entitled to a full ITC or rebate was not required to self-assess
  - Generally required entities to self assess GST on imported services and intangibles (e.g., software)

### Post June 30, 2010

- A recipient of an imported taxable supply may be required to self-assess both the GST and Ontario HST on the following supplies if a full ITC is not claimable.
  - Services and intangible property acquired outside Canada
  - Any taxable supply that is imported into Ontario from another province



# Planning for HST

## Potential Risk Area - Place of Supply Rules\*

### Types of Supplies

- Tangible Personal Property
- Intangible Personal Property
- Real Property
- Services
- Transportation Services
- Postage
- Telecommunication Services
- Deemed and Prescribed Supplies

# Planning for HST

## Place of Supply Rules - Tangible Personal Property (TPP)

### Current Rule

- Sales of tangible personal property are made in a province if the supplier delivers the property or makes it available in that province to the recipient of the supply.
  - if a supplier in Ontario ships or mails taxable TPP to Saskatchewan, or arranges for a common carrier to do so, possession will have taken place in Saskatchewan and 5% GST will apply.
  - If a supplier in Alberta sells TPP to a purchaser in Ontario, and the purchaser arranges to pick the TPP up in Alberta and will use the TPP exclusively in Ontario it may be required to self assess the 8% Ontario HST.

# Planning for HST

## Place of Supply Rules - Services

### Current Rule

- Generally, a service is considered to be supplied in a particular province if all or substantially all (90% or more) of the Canadian element of the service is performed in that province. The "Canadian element" of a service is the portion which is performed in Canada.
  - If a supplier in Ontario performs a taxable service and 90% or more of the service is performed in Alberta, only GST will apply to the service
  - If a purchaser acquires a service that is performed 90% or more in Alberta that is primarily for use in Ontario and the purchaser is not entitled to a full ITC it would be required to self-assess the Ontario HST (8%).



# Planning for HST

## Place of Supply Rules - Intangible Personal Property

- The place of supply rules for intangible personal property (e.g., franchise rights, memberships, admissions to business conventions, intellectual property) include four categories of supplies of intangible personal property relating to:
  - real property;
  - tangible personal property;
  - services to be performed; and
  - other supplies of intangible personal property not relating to real property, tangible personal property, or services to be performed
- To the extent that the supply relates to property located in Ontario or services to be performed in Ontario the 8% Ontario HST will apply and self-assessment may be required.

# Electronic Filing



# Electronic Filing

## Who is Required\*

- Required to recapture Input Tax Credit (NETFILE)
- Your annual threshold amount is >\$1.5 million
- You are a builder who makes certain supplies

\*Refer to CRA Notice 249 for complete information



# Electronic Filing Threshold Amount

Include:

- Total taxable goods and services made in Canada in previous fiscal year
- Zero-rated goods and services

(These include those of your associates)

Exclude:

- Supplies made outside Canada
- Zero-rated export of goods and services
- Zero-rated financial services
- Taxable sales of capital real property
- Goodwill



# Electronic Filing Types

- NETFILE

File the returns directly with the CRA over the internet

- TELEFILE

File the returns using the touch-tone telephone and a toll-free number

- EDI (Electronic Data Interchange)

File the returns using EDI (computer-to-computer exchange of information)

- GIFT (GST/HST Internet File Transfer)

File the returns using third-party CRA-approved accounting software

Questions?