

ONTARIO'S THIRTEEN PART HARMONY

In the last provincial budget, Ontario has taken several business friendly tax initiatives. They have lowered the provincial corporate income taxes to bring them in line with other provinces. One initiative to pay for that lost revenue, is the change from Retail Sales Tax to a Harmonized Sales Tax of 13% to become effective July 2010. To welcome Ontarians to the world of harmonized sales taxes, the Feds require that the tax be levied on basically everything that GST was levied on, including goods and services that were previously exempt from provincial sales tax. The HST is like a spoon of cod liver oil. It may be good for you, but many will gag when paying 13% tax on items which were previously exempt from RST.

This will affect the leasing market as rents and occupancy costs which were never subject to the 8% RST will now include 13% HST. Businesses that remit GST and are entitled to the input tax credits will now have to pay the extra 8% then claim the credit on their HST returns. While in the long term that will be a wash, businesses will have to fund that extra tax paid (for rent and other inputs) through their cash flow or by their credit facilities.

The worst hit will be business tenants which are GST exempt as they are not entitled to claim input tax credits and therefore have to bear the full 13% tax on their rents and occupancy costs, as well as other supplies. The most common examples of these types of businesses are most health care and dental providers, certain childcare services, and many educational services.

In addition the cost of other services associated with leasing premises will be subject to the increased tax such as legal and accounting services and real estate commissions.

So, open wide and swallow hard. The new HST will help some but cost everyone.

Morris Sosnovitch is a partner at the Toronto law firm of MORRISON BROWN SOSNOVITCH LLP and practices real estate law.

For more information he can be reached by:

telephone at (416)368-6444

facsimile at (416)368-6068

email at msosno@businesslawyers.com

Visit www.businesslawyers.com