



KPMG ENTERPRISE



Do I have to register and collect Canadian GST/HST?

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Are you selling goods or services into Canada? Are you carrying on business in Canada? Is your business paying taxes on imports into Canada? If you've answered yes to any of these questions, you should consider your Canadian indirect tax obligations, including whether you are required to register and collect the federal goods and services tax (GST) and the harmonized sales tax (HST) and whether you could be entitled to recover the GST/HST paid in Canada.

While the basic GST/HST rules are generally the same for most businesses resident in Canada, some rules vary for non-resident suppliers.

Non residents and the Canadian GST/HST system

The Canadian system has specific rules for non-residents, including special deeming provisions, registration rules, security deposits, zero-rating provisions specifically applicable

to some non-residents, and other relieving programs for GST/HST paid by non-residents. Whether a particular provision applies is generally based on the non-resident's specific facts and circumstances.

One of the first steps is to determine whether a person (e.g., a corporation) is a resident or a non-resident of Canada and whether the person has a permanent establishment for GST/HST purposes. While a person may determine that it is generally a non-resident for GST/HST purposes, special rules could apply to consider a non-resident as a Canadian resident in relation to activities carried on through its permanent establishment in Canada.

Another important step is to determine whether a non-resident person is carrying on business in Canada. A non-resident person carrying on business for GST/HST purpose is generally required to register

and collect GST/HST on taxable sales in Canada. The meaning of "carrying on business" is a question of fact and the circumstances will differ from one business to another. Several factors can apply for this determination, including the place of delivery, the location of employees, and storing of inventory and advertising in Canada. To complicate matters, a separate determination must be made for Canadian income tax and GST/HST purposes. As a result, a non-resident person could be carrying on business for income tax purposes but not for GST/HST purposes, or vice-versa.

A non-resident that is considered not to be carrying on business in Canada may voluntarily register for GST/HST purposes in some circumstances. While the non-resident registered for GST/HST would generally have to collect the GST or the HST on its sales in Canada, it could be entitled to claim credits

Overview of Canadian sales taxes

The Canadian federal government levies a 5 percent GST that applies to taxable goods and services in Canada. In addition, all provinces, except for Alberta, impose a value-added tax (VAT) or a provincial sales tax (PST) on taxable goods and services. Five provinces apply an HST at rates that range between 12 and 15 percent, which includes both a federal component (5 percent GST) and a provincial component (7 to 10 percent). The GST/HST apply generally to the same goods and services and are administered by the federal government.

The province of Quebec applies an 8.5 percent VAT known as the Quebec sales tax (QST). Three provinces levy a PST (also known as a retail sales tax or RST) that range from 5 percent to 10 percent. The GST/HST rules and obligations vary from those applicable to the QST and the various PSTs.

In general, under the GST/HST and QST, suppliers collect the applicable GST/HST and QST from their customers and qualifying customers can claim credits for such tax paid. Under the PST systems, suppliers are required to collect the applicable PST from their customers and no credits are available (though some exemptions may apply to qualifying customers).

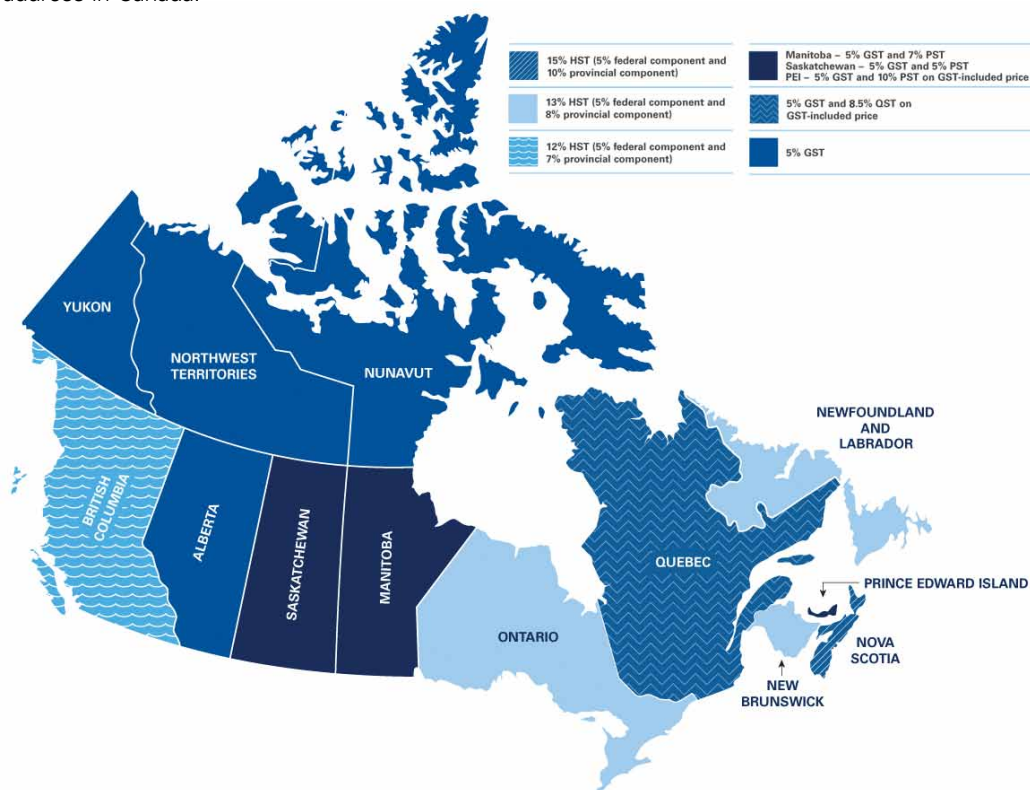


for GST/HST paid on its expenses. In many cases, a non-resident with no permanent establishment in Canada that applies for GST/HST registration must provide a security deposit ranging from \$5,000 to \$1 million.

Special registration rules apply to non-residents who provide conventions and admissions to a place of amusement, a seminar or an event held in Canada. Other special rules apply to persons who sell books, newspapers or magazines to be mailed to an address in Canada.

The Canadian GST/HST system also offers relief to qualifying non-registered non-residents for tax paid on some of their purchases in the form of a credit passed on to the non-resident's qualifying clients. There are also special programs for non-residents that use Canada for undertaking contract and/or toll manufacturing, inward processing and export distribution. Note that various conditions apply to all of these circumstances.

Non-residents selling or buying goods or services in Canada should carefully review their obligations and responsibilities under the GST/HST. Failure to do so could result in penalties and interest. Non-residents must also consider whether they are required to register and account for Canadian provincial sales taxes, which have their own rules not included in this article.



Contact us

To find out more about how KPMG Enterprise can help your business manage its indirect tax obligations, please contact one of the following KPMG Enterprise professionals who specialize in indirect tax professionals:

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