

# GST on Imports Into Canada

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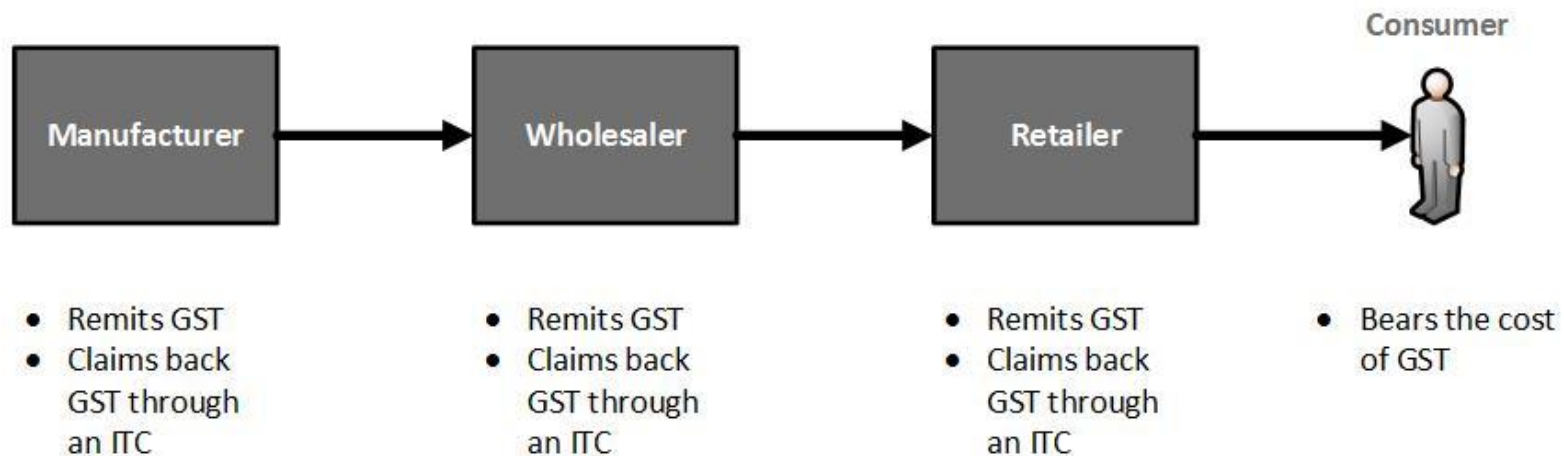
## GST on Imports

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- Generally, imports are assessed GST at the border
- Rate is 5%, but some provinces combine with a provincial sales tax to form a “harmonized sales tax” (HST)
- Categories:
  - Taxable Supplies
  - Zero-rated Supplies
  - Exempt Supplies
- Many complex rules and polices depending on whether import is goods or services, tangible or intangible, and specific types of goods

# GST (a value-added tax)

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## Non Resident Importer – Registering for GST

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- First question: is non-resident company required to register for GST?
  - Mandatory Registration
  - Optional Registration

## Non Resident Importer – Mandatory Registration

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- Mandatory Registration where non-resident is “carrying on business in Canada”
  - Registration required irrespective of “permanent establishment”
- Carrying business in Canada is a factual, common law test
  - Place where contract is made
  - Location of operations
  - Place of payment
  - Place where purchases are made
  - Place of manufacture

## Non Resident Importer – Mandatory Registration

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- Carrying business in Canada (cont'd)
  - Location of a bank account
  - Location of a branch office
  - Distributorships and agency arrangements in Canada
  - Place where business is solicited
- GST registrants are required to collect, file, and remit GST
- In many situations, registration may not be mandatory for a non-resident importer, but it may be *optional*

## Non Resident Importer – Optional Registration

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- Why register?
  - Avoid potential exposure to penalties
  - Avoid bearing the cost of GST – only registrants can claim input tax credits (ITCs)
  - Availability of certain GST elections for reorganizations and certain corporate transactions

## Non Resident Importer – Optional Registration

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- Non-resident carrying on business outside Canada may register if:
  - Orders are regularly solicited for supply of tangible goods for export/delivery in Canada; or
  - Services are performed in Canada; or
  - Intangibles that relate to property or services in Canada
- Makers of “exempt supplies” may not register, for example:
  - Residential housing
  - Many financial services
  - Many health care services



## Non Resident Importer – Optional Registration

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- Potential disadvantages to optional registration:
  - May be required to post a bond if no “permanent establishment” (defined differently than in tax treaties)
  - Administrative burden of filings and remittances (not huge)

## Other issues to consider

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- Importer of record and constructive importer
- Drop-shipments
  - Avoids registration
- Flow through ITCs
  - ITC claim passed from non-resident to Canadian registrant
- Double tax creates cash flow problem
  - Division III requires the “importer of record” to pay 5% GST at the border
  - Division II taxes every recipient of a “taxable supply”



## Conclusions

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- If a non-resident is carrying on business in Canada  
→ required to register for GST
  - “Carrying on business” is very broad
- Only GST registrants may claim input tax credits
- Non-resident importers should consider optional registration to avoid bearing the GST cost