



Ronald S. Minken,
B.A. (Hon.), LL.B.
Senior Employment
Lawyer



Sara A. Kauder, LL.B.

Tax Harmonization in Ontario: Barrier to Justice

What is the new tax harmonization and how will it affect Ontarians? According to Ronald S. Minken, one of Canada's leading employment lawyers, this move represents yet another barrier to justice for companies and individuals alike. Here he explains why.

On March 26, 2009, Ontario Premier McGuinty unveiled the new budget which included changes to the way goods and services are taxed. Specifically, the Ontario Government announced "tax harmonization", which means that effective July 1, 2010, Ontarians will be required to pay a single 13% tax (being a blend of the 8% provincial tax and 5% federal tax) on many items which were previously subject only to federal tax.

One of these items is legal fees. As a result, the total cost of legal fees will increase significantly for Ontarians. By implementing tax harmonization, the Ontario Government has erected yet another barrier to justice for many of its citizens. This new tax was established without consultation and behind closed doors.

In this time of economic downturn, many employees are dealing with the reality of mass terminations. Similarly, many employers are faced with tough decisions as they endeavour to keep their businesses in the black. Both employees and employers require legal advice and representation to guide them through the maze of employment law issues and ensure that all legal obligations are being met.

However, with the increased total costs of legal fees as a result of tax harmonization, fewer employees and employers will be able to afford legal advice, and may be forced to represent themselves in legal matters without the proper skills and knowledge to adequately do so.

Employees are being terminated and provided with nothing more than their minimum entitlements under the Employment Standards Act, 2000 (the "Act"), when their common law notice entitlements are well in excess of the amounts provided under the Act, sometimes five to 10 times greater. These employers hope that, once terminated, their former employees will not have the resources to obtain legal advice or representation, and will not pursue the often significant sums of money to which they are actually entitled.

Similarly, employers needing to downsize their workforce must ensure that any action taken are in compliance with their notice obligations to these employees, failing which they may be forced to incur significant costs in defending a wrongful or constructive dismissal action. Implementing tax harmonization will create a barrier to justice to numerous employees and numerous employers.

McGuinty's tax harmonization is an attack on the justice system and the ability of Ontarians to access justice in a meaningful way. In light of the economic difficulty we are presently experiencing, legal advice and representation are even more crucial for Ontario's employers as well as employees, both being particularly vulnerable in time of economic downturn. Tax harmonization, in these economically critical times of global recession, will produce a barrier to justice and a threat to our rights to justice in a free and democratic society as guaranteed by the Canadian Charter of Rights and Freedoms which Canadians have worked for almost 142 years to attain. **MB**

Ronald S. Minken of Minken & Associates P.C. is one of Canada's Top Employment Lawyers. His employment law boutique is located in Markham, Ont., www.EmploymentLawIssues.ca. Ronald gratefully acknowledges Sara Kauder for her assistance in preparation of this article.

Disclaimer: This article is not legal or professional advice. If you require legal advice on employment issues contact an employment lawyer.