

# GST/HST Notice

No. 213

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## FOR DISCUSSION PURPOSES ONLY

### Draft GST/HST Memorandum 1.4, *Excise and GST/HST Rulings and Interpretations Service*

This memorandum has been revised. It is being disseminated by the Canada Revenue Agency in draft form for comments from the public. Comments or suggestions should be sent by October 31, 2006 to:

Director  
Technical Publications and Programs Division  
Excise and GST/HST Rulings Directorate  
15<sup>th</sup> Floor, Place de Ville, Tower A  
320 Queen Street  
Ottawa ON K1A 0L5  
Telephone: (613) 952-9200 · Fax: 613-952-2656

**DRAFT**

## 1.4 Excise and GST/HST Rulings and Interpretations Service

### Overview

This memorandum explains the rulings and interpretations service offered by the Canada Revenue Agency (CRA) in respect of the goods and services tax/harmonized sales tax (GST/HST), excise taxes, excise duties, the air travellers security charge, the tax on insurance premiums and First Nations taxes. It does not, however, deal with income tax rulings. For information on income tax rulings refer to Information Circular IC 70-6R5 *Advance Income Tax Rulings*.

Revenu Québec administers the GST/HST in the Province of Quebec. Therefore Revenu Québec, rather than the CRA provides rulings and interpretations and answers technical enquiries on the GST/HST for persons located in the Province of Quebec. You can contact Revenu Québec at 1-800-567-4692.

### Note

This memorandum supersedes GST Memorandum 1.4, *Goods and Services Tax Rulings*, dated September 1994.

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Canada Revenue  
Agency

Agence du revenu  
du Canada

La version française de ce mémorandum est intitulée *Service de décisions et d'interprétations en matière d'accise et de TPS/TVH*.

**Canada**

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## General

- Purpose
1. The CRA offers a rulings and interpretations service in respect of taxes and duties on goods and services. This is referred to as the Excise and GST/HST Rulings and Interpretations Service. As part of this service, the CRA issues technical publications and provides a technical telephone enquiry service, in addition to issuing rulings and interpretations on these taxes and duties. The purpose of the Excise and GST/HST Rulings and Interpretations Service is to assist clients (e.g., GST/HST registrants, excise tax licensees, excise duty licensees and registrants, and other interested persons) to comply voluntarily with the law by providing them as much information as possible on how the relevant provisions of the applicable legislation affect their operations or transactions.
- Free service
2. The CRA does not charge a fee for this service.
- Scope of service
3. This service applies to the following taxes and duties:
    - the GST/HST under Part IX of the *Excise Tax Act*;
    - excise taxes under Part III of the *Excise Tax Act*;
    - excise duties under the *Excise Act, 2001* and the *Excise Act*;
    - the air travellers security charge (ATSC) under the *Air Travellers Security Charge Act*;
    - the tax on insurance premiums under Part I of the *Excise Tax Act*; and
 First Nations taxes under the *Budget Implementation Act, 2000* and the *First Nations Goods and Services Tax Act*, and other legislation relating to agreements with First Nations.

## Technical publications

4. The CRA publishes a broad range of technical publications to inform registrants, licensees and the general public about taxes and duties on goods and services. These form part of the overall service of providing clients with information to assist them to voluntarily comply with the legislation. The CRA incorporates the policy content of precedent-setting rulings and interpretations into technical publications when they are updated.

Types of publications

5. The main technical publications are as follows:

- Memoranda discuss the application of the legislation in detail. There are three series of memoranda:
  - The **GST/HST Memoranda Series** deals with the GST/HST provisions in Part IX of the *Excise Tax Act* and related Schedules to the Act.
  - **Excise Duty Memoranda** deal with excise duties on spirits, wine and tobacco products under the *Excise Act, 2001*.
  - **Excise Tax and Special Levies Memoranda** deal with excise taxes, the ATSC and the tax on insurance premiums.
- **GST/HST Technical Information Bulletins** (TIBs) are published to announce and discuss in detail changes to the GST/HST legislation or programs or to focus on specific administrative issues.
- **Policy Statements** set out CRA's interpretation of specific legislative provisions or discuss specific issues.
- The **GST/HST News** is published quarterly on the Internet and highlights recent developments in the administration of the GST/HST, as well as excise taxes and duties and special levies. All new excise and GST/HST publications are listed in the GST/HST News.
- **GST/HST Info Sheets** are written in plain language and designed to provide clear and brief explanations of specific issues on the GST/HST.
- **Notices** are brief announcements on various matters, such as changes to CRA policy, publications and administration.
- **Excise Duty Circulars** provide detailed technical information and guidelines on the administration of excise duties on beer under the *Excise Act*.

6. All the above-noted publications are available on the CRA Web site under Technical Information ([www.cra-arc.gc.ca/tax/technical/menu-e.html](http://www.cra-arc.gc.ca/tax/technical/menu-e.html)).

Electronic subscription service

7. Persons wishing to receive technical publications may take advantage of the CRA's electronic subscription service. To obtain details on this service, check the CRA Web site under the heading Electronic mailing lists ([www.cra-arc.gc.ca/eservices/maillist/menu-e.html](http://www.cra-arc.gc.ca/eservices/maillist/menu-e.html)).

## Telephone enquiries

- Enquiry service
8. The CRA provides a service of answering technical enquiries by telephone. While a binding ruling cannot be provided over the telephone, the CRA can provide general interpretations of the legislation or other assistance. The CRA endeavours to respond to all telephone enquiries within one working day after receiving them.
9. In the course of answering a technical enquiry the CRA officer handling the call may request documentation or ask the client to request a written ruling, if the client requires certainty on how the legislation would apply to their operation or transactions.
10. Appendix A to this memorandum contains information on where to call to make a technical enquiry.

## Interpretations

- Meaning of interpretation
11. An interpretation is a written statement the CRA provides to a client that sets out the CRA's view of how the legislation applies to a generic fact situation. An interpretation may also set out the CRA's general understanding of particular provisions of the legislation, whether proposed or enacted. A client requesting an interpretation should provide sufficient information to enable the CRA to understand the issues to be considered.
- Not binding
12. Since they do not pertain to specific fact situations, or are based upon provisions that have not yet become law, interpretations are not binding on the CRA.

## Rulings

- Meaning of ruling
13. A ruling is a written statement the CRA provides to a client that sets out the CRA's position on how the relevant provisions of the legislation apply to a clearly defined fact situation of the client. Usually a ruling relates to ongoing issues or transactions and does not specify time limits. A ruling may also be given in advance of any proposed transaction and may be restricted in its application to specific persons, transactions and/or time periods.
- Facts necessary
14. The CRA will issue a ruling only when the person requesting the ruling has provided all the relevant facts of a transaction or series of transactions. Refer to paragraph 32 of this memorandum for details on what information should be provided with the request for a ruling.
- Hypothetical situation
15. The CRA will not issue a ruling where the request relates to a hypothetical situation or where it is unable to obtain sufficient facts from the client. In such cases, the CRA may provide an interpretation of the relevant provisions of the legislation in order to assist the client in fulfilling their obligations under the law.
- Binding on the CRA
16. The CRA considers itself to be bound by the rulings it issues, subject to the limitations outlined in this memorandum.

- Confidentiality
17. Information provided by clients in the course of a request for a ruling or interpretation is protected under the confidentiality provisions of tax legislation such as the *Excise Tax Act*, and the *Excise Act, 2001*, as well as under the *Access to Information Act* and the *Privacy Act*. The CRA does not release such information to the public. However, all rulings and interpretations issued by CRA Headquarters are made available to the public in severed form. Under this process, all confidential information (meaning information that directly or indirectly reveals the identity of the person to whom it relates) contained in the ruling or interpretation is removed.
18. Appendix A to this memorandum contains information on where to write for a ruling or interpretation.

### Limitations on rulings

- Complete and accurate information
19. A ruling provided by the CRA is limited in its validity and application by the completeness and accuracy of the information upon which it is based.
- Specific to client and situation
20. A ruling applies only to the client who requests it or on whose behalf it is requested, and only to the issues covered by the ruling.
- No rulings on proposed legislation
21. The CRA does not issue rulings on proposed or draft legislation, draft regulations, federal budget proposals, or Notices of Ways and Means motions. The CRA may, however, issue interpretations based on these documents.
- Changes to law, regulations or policy
22. The CRA is not bound by a ruling where a subsequent change to the law, the CRA's interpretation of the law, or administrative policies affects its validity. The CRA ceases to be bound as of the effective date of such a change. The CRA attempts to make the public aware of such changes by issuing CRA Notices, the *Excise and GST/HST News*, or other excise and GST/HST publications on its Web site and providing links to Department of Finance press releases, as well as by liaising with industry associations and, where feasible, contacting individual registrants or licensees. Nevertheless clients should ensure that they keep current with any legislative, interpretative, or administrative change that may affect their obligations under the law.
- Further qualifications
23. A ruling may also specify other qualifications as appropriate, e.g., the time limit within which the ruling will apply.

### When rulings are revoked

- Revoking rulings
24. When the CRA discovers that a ruling is incorrect, it may revoke or amend it.
- CRA's error
25. Where a ruling is incorrect because of an error on the part of the CRA, the revocation or amendment would generally apply as of the date of the revocation letter. However, there may be circumstances where the CRA would consider a request to have the revocation take effect on the date of the original ruling or on another appropriate date.
- Inaccurate information provided by a person
26. Where a ruling is incorrect because the person that requested the ruling has not provided complete or accurate information, the revocation will apply from the date the original ruling was issued.

### Circumstances where a ruling will not be issued

- Reasons for not issuing a ruling
27. The CRA will not issue a ruling when it considers that it would be inappropriate to do so. Circumstances in which the CRA may not issue a ruling include:
- when a transaction on which a ruling has been requested is the same in character as a transaction completed by the requestor in a prior period, and the application of the relevant legislation to the earlier transaction is under discussion with the requestor, in dispute, or under assessment or proposed assessment, but is not before the courts;
  - when the CRA suspects that the request may be in respect of illegal activities;
  - when the request concerns a matter in respect of which a Notice of Objection filed by the requestor is being considered;
  - when the central issue involves a matter that is before the courts or, if a judgement has been issued, when an appeal to a higher court is being considered;
  - when the request contains alternative courses of action on the part of the person requesting the ruling;
  - when the request is for a determination of the fair market value of property;
  - when a request involves a matter dealing with proposed or draft legislation, draft regulations, budget proposals, or Notices of Ways and Means motions;
  - when the request concerns tax or duty related calculations (e.g., the amount of net tax due for GST/HST purposes or the amount of excise duty payable);
  - when a ruling would require an opinion on generally accepted accounting principles or commercial practices;
  - when a request is for a determination of fact, and the circumstances are such that all of the pertinent facts cannot be established (this could include issues involving the carrying on of a business, the existence of a partnership, a trust or an agency relationship, or the reasonableness of a cost allocation method);
  - when the request is for the interpretation of a law not administered by the CRA, e.g., a foreign law.
- Informing the client
28. When the CRA decides not to issue a ruling, it will inform the client in writing of the reasons.

### Processing requests for rulings and interpretations

- Acknowledgement letter
29. Upon receipt of a request for a ruling or interpretation, the CRA will send the client an acknowledgement letter that identifies the ruling or interpretation file case number and the name and telephone number of a CRA contact person.

- Processed as soon as possible
30. The CRA will review a request for a ruling or an interpretation as soon as possible after receiving it. However, a ruling or interpretation may be delayed if it requires a review of an issue upon which the CRA has not yet adopted a position, or if the CRA is currently in the process of reconsidering its existing position. A ruling or interpretation may also be delayed if the CRA finds it necessary to obtain further information from the client because the initial request does not include all relevant information and documentation. If a ruling is required by a certain deadline (e.g., before the closing date of a contract), the request should be submitted with reasonable lead-time.
- Request to meet with officials
31. A client may ask to meet with CRA officials after requesting a ruling or interpretation. The CRA encourages such meetings when the purpose is to provide new information, clarify facts, or correct any misunderstanding of previously provided information.
- Documentary requirements
32. Clients should provide all relevant documentation with their requests for rulings or interpretations. Complete documentation ensures that the CRA can answer the request in a timely manner, and that the ruling addresses the client's specific situation. Requests for rulings should include the following:
- the name and address of the person making the request and, if the person has a Business Number (BN), the person's BN, as well as the person's licence number (e.g., excise duty or excise tax licence number) where applicable, or if the request is being made by a third party, the name and address of the third party's client and, where applicable, the client's BN;
  - where a representative (e.g., an accountant, bookkeeper, or lawyer) is acting on behalf of the person for whom the ruling will be made, the CRA requires a written third party authorization certifying that the representative is authorized to act on behalf of the client, and outlining the purpose, scope, and period of the authorization. This is also a requirement for persons requesting an interpretation where the interpretation applies to a particular named client. Appendix B provides more information on third party authorization;
  - if another CRA office is considering the ruling request, a statement to that effect;
  - a complete description of the facts and of each transaction;
  - a statement as to whether the request involves a matter concerning which the requestor is currently under audit or has filed a Notice of Objection, or which is before the courts;
  - for each transaction covered by the ruling request:
    - a statement of its purpose,
    - the requestor's interpretation of the application of the relevant legislative provisions;
    - the requestor's interpretation of common law or Civil Code of Québec issues relevant to the request (e.g., the existence of a trust or an agency relationship); and
    - a description of the specific interpretative concern on which the ruling request is based;



- a description of significant transactions that took place before, or may take place after, the transactions in respect of which a ruling is being requested, and which may be part of a series of transactions that includes the transactions in respect of which the ruling is requested;
- copies of any relevant supporting agreements or documents, together with references to, and summaries of the specific provisions of these agreements or documents which pertain to the request;
- where the request is for a GST/HST ruling and concerns the application of the general anti-avoidance rule to a transaction, a submission to establish that the transaction will not result directly or indirectly in a misuse of the GST/HST provisions of the *Excise Tax Act* or an abuse of the GST/HST provisions of that Act read as a whole. For information on the general anti-avoidance rule, refer to GST/HST Memorandum 500-6-9, *General Anti-Avoidance Rule*;
- an analysis, where applicable, of authorities (e.g., Canadian case law citations, published commentaries and references to jurisprudence) known to the client or their representative which support the client's position and those that do not, with comments as to why the authorities in support of the client's position should prevail.

Faxes and e-mails accepted

33. The CRA accepts facsimile transmissions and e-mails of ruling or interpretation requests and related documents. Refer to Appendix A to this memorandum for appropriate facsimile numbers.

Client information faxed with authorization

34. The CRA will transmit a ruling or interpretation to a client (or the client's authorized representative) by facsimile when the client authorizes the CRA to do so and provides the CRA with a copy of the signed *Standard Authorization for Facsimile Transmissions* included in Appendix C to this memorandum. It should be noted that while the CRA will exercise due care in transmitting correspondence by facsimile, there is an inherent element of risk of loss of confidentiality in this means of transmission, which must be accepted by the client.

## Rulings and audit

Basis of ruling subject to audit

35. When the CRA undertakes an audit of a person who has received a ruling, the transactions upon which the CRA based its ruling are subject to review. The review will determine whether all material facts were accurately stated in the ruling request, and whether the transaction or series of transactions was carried out as described.

36. In some circumstances the CRA may rule on an issue that is under audit. In such a case, the rulings officer will communicate with the CRA auditor to discuss the request.

## Reconsideration of a ruling or interpretation

Informal process

37. Although there is no formal appeal process for persons who disagree with a ruling or interpretation, the CRA will reconsider a ruling or interpretation if requested to do so. This provides clients with an opportunity to review their ruling or interpretation with CRA officials and have their concerns taken into account.



- Written request 38. A client who does not agree with a ruling or interpretation may submit a written request for reconsideration to the manager of the office that issued the ruling or interpretation. The address of this office will appear in the ruling or interpretation letter. The request should clearly identify the client's name, address, telephone number, BN, licence number (where applicable), ruling or interpretation case number, and the reasons for the concerns. Third party authorization is required if a particular person is acting on the client's behalf.
- Acknowledgement letter 39. Upon receipt of a written request for reconsideration, the CRA will send the client an acknowledgement letter that identifies the ruling or interpretation file case number and the name and telephone number of a CRA contact person, and subsequently contact the client to discuss the nature of the concerns. The CRA will also meet with the client if requested to do so.
40. Where a client's request for reconsideration cannot be resolved with the office which issued the ruling or interpretation, that office will forward the request for review at a more senior level.
- Confirmation in writing 41. The CRA will confirm the outcome of the reconsideration process in writing to the client.

All memoranda on GST/HST, excise duty and excise taxes on special levies, as well as technical information bulletins, policy statements and info sheets are available on the CRA Web site at [www.cra-arc.gc.ca/tax/technical/excisegsthst-e.html](http://www.cra-arc.gc.ca/tax/technical/excisegsthst-e.html).

## Appendix A – Where to write or call for a ruling or interpretation

Listed below are instructions on where to write or call if you wish to request a ruling or interpretation or wish to make a technical enquiry.

### **GST/HST and First Nations Taxes**

For a ruling or interpretation or to make a technical enquiry on the GST/HST or First Nations taxes, write to a GST/HST rulings centre or telephone 1-800-959-8287. These centres are listed below.

#### **Atlantic Region**

##### ***Atlantic GST/HST Rulings Centre***

P.O. Box 638  
1557 Hollis Street  
Halifax, Nova Scotia B3J 2T5

Fax: 902-426-3062

#### **Ontario Region**

##### ***Hamilton Ontario GST/HST Rulings Centre***

P.O. Box 2220  
55 Bay Street North  
Hamilton, Ontario L8N 3E1

Fax: 905-527-0790

##### ***Ottawa Ontario GST/HST Rulings Centre***

333 Laurier Avenue West, 4<sup>th</sup> Floor  
Ottawa, Ontario K1A 0L9

Fax: 613-957-8481

*The Hamilton GST/HST Rulings Centre also delivers its services through the following offices:*

Toronto Centre Tax Services Office  
1 Front Street West, 1<sup>st</sup> Floor West  
Toronto, Ontario M5J 2X6

Fax: 416-952-5031

London Tax Services Office  
451 Talbot Street, 11<sup>th</sup> Floor  
London, Ontario N6A 5E5

Fax: 519-645-5501

#### **Pacific Region**

##### ***Pacific GST/HST Rulings Centre***

1166 West Pender Street, 15<sup>th</sup> Floor  
Vancouver, British Columbia V6E 3H8

Fax: 604-691-4178

**Prairie Region****Winnipeg GST/HST Rulings Centre**

325 Broadway Avenue  
Winnipeg, Manitoba R3C 4T4

Fax: 204-984-7002

*The Winnipeg GST/HST Rulings Centre also delivers its services through the following offices:*

Saskatoon GST/HST Rulings Centre  
340–3<sup>rd</sup> Avenue North  
Saskatoon, Saskatchewan S7K 0A8

Fax: 306-975-4418

Edmonton GST/HST Rulings Centre  
9700 Jasper Avenue  
Edmonton, Alberta T5J 4C8

Fax: 780-495-7527

Calgary GST/HST Rulings Centre  
220–4<sup>th</sup> Avenue South East  
Calgary, Alberta T2G 0L1

Fax: 403-233-6200

**Excise Duties**

For a ruling, interpretation or technical enquiry on excise duties, contact one of the Regional Excise Duty offices listed below.

**Atlantic Region**

Excise Duty Manager  
P.O. Box 638  
Halifax, Nova Scotia B3J 2T5

Phone: 902-426-5748

Fax: 902-426-7177

**Quebec Region (District of Montreal)**

Excise Duty Manager  
305 René-Lévesque Blvd. West, 7<sup>th</sup> Floor  
Montréal, Quebec H2Z 1A6

Phone (toll free): 1-888-609-0073

Fax: 514-283-6154

**Quebec Region (District of Québec)**

Excise Duty Team Leader  
Section 441–8  
165 de la Pointe-aux-Lièvres  
Québec, Quebec G1K 7L3

Phone (toll free): 1-888-609-0073

Fax: 418-648-5484

**Ontario Region (North)**

Excise Duty – General Information  
1050 Notre-Dame Avenue, Level 3  
Sudbury, Ontario P3A 5C1

Phone (toll free): 1-866-712-6661

Fax: 613-991-3236

**Ontario Region (South)**

Assistant Director, Excise Duty  
5800 Hurontario Street  
P.O. Box 6000, Station A  
Mississauga, Ontario L5A 4E9

Phone (toll free): 1-866-667-9851

Fax: 905-615-2814

**Prairie Region**

Excise Duty Manager  
220–4<sup>th</sup> Avenue S.E., Room 420  
Calgary, Alberta T2G 0L1

Phone: 403-231-4124

Fax: 403-231-3033

**Pacific Region**

Excise Duty Manager  
9737 King George Highway, 3<sup>rd</sup> floor  
P.O. Box 9070, Station Main  
Surrey, British Columbia V3T 5W6

Phone: 604-587-2100  
Fax: 604-587-2162

**Excise Taxes and the Tax on Insurance Premiums**

For a ruling or interpretation or to make a technical enquiry on excise taxes or the tax on insurance premiums, contact:

Excise and GST/HST Rulings Directorate  
Excise Duties and Taxes Division  
20<sup>th</sup> Floor, Place de Ville, Tower A  
320 Queen Street  
Ottawa, Ontario K1A 0L5

Telephone: 1-866-330-3304  
Fax: 613-954-2226

**Air Travellers Security Charge**

For a ruling, interpretation or technical enquiry on the air travellers security charge, contact one of the following offices:

***Nova Scotia, New Brunswick, Newfoundland and Labrador, Prince Edward Island and Quebec***

Montreal Tax Services Office  
305 Rene-Levesque Blvd. West, 7<sup>th</sup> Floor  
Montréal, Quebec H2Z 1A6

Telephone: 1-888-609-0073  
Fax: 514-283-6154

***Ontario and Nunavut***

Mississauga Tax Services Office  
5800 Hurontario Street  
P.O. Box 6000, Station A  
Mississauga, Ontario L5A 4E9

Telephone: 905-277-6475 1-866-667-9851  
Fax: 905-615-2814

***Manitoba, Saskatchewan, Alberta, British Columbia, Yukon and Northwest Territories***

Burnaby-Fraser Tax Services Office  
9737 King George Highway, 5<sup>th</sup> Floor  
P.O. Box 9070, Station Main  
Surrey, British Columbia V3T 5W6

Telephone: 604-587-2611  
Fax: 604-587-2162

**Appendix B – Sample third party authorization letter**

[Date]

Dear Sir/Madam:

I hereby authorize officials of the Canada Revenue Agency to provide the following person with confidential information about my operation for purposes of my request for a ruling or interpretation:

[Name of third party, including trading name if applicable  
Address of third party and telephone number]

This authorization applies to operations relating to my [type of] account applies from [specify date including year] to [specify date including year].

[Signature of requestor]

[Full name of requestor  
Address of requestor  
Business Number]

Please note:

- A third party authorization letter is required where a third party is acting for a person to whom a ruling or interpretation will apply. The authorization should be specific to the request for a ruling or interpretation.
- Please provide the name, address, and telephone number of the third party. If the third party is an individual in a firm, provide both the name of the individual and that of the firm.
- This letter should be addressed to the office from which you are requesting a ruling or interpretation.
- Please specify the tax or duty to which the authorization applies, e.g. the GST/HST, excise duty or excise tax.
- If the authorization applies for a specific period of time, e.g. a GST/HST reporting period(s) or fiscal year or a series of excise duty fiscal months, please indicate this. If it applies on an ongoing basis please mention that fact.
- Please inform the CRA if you wish to revoke a third party authorization. The request for revocation should contain all of the information provided with the initial request for authorization.

## Appendix C – Standard authorization for facsimile transmissions

An authorization for facsimile transmissions, as in the example below, **must** be included with all rulings or interpretations requests in respect of which the client wishes the CRA to fax correspondence.

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### EXCISE AND GST/HST RULINGS AND INTERPRETATIONS – STANDARD AUTHORIZATION FOR FACSIMILE TRANSMISSIONS

I hereby authorize the Canada Revenue Agency (CRA) to fax all correspondence concerning the enclosed ruling(s) or interpretation(s) request(s). All correspondence is to be transmitted to fax number:

Fax Number : \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_.

#### Waiver

I am aware that the CRA does not provide assurance with respect to the protection, confidentiality or security of facsimile transmissions. I accept the risks of possible loss of confidentiality involved due to the unsecured nature of facsimile transmissions of information. I agree not to hold the CRA or its employees liable for any damage or loss, however caused, arising out of the facsimile transmission of any correspondence related to my Excise or GST/HST ruling or interpretation request.

#### Identification – Please print

Contact person

Telephone number

Name of client or authorized third party

Telephone number

Business number (BN)

#### Signature

Signature of client or authorized third party

Date