

GST/HST Info Sheet

Direct Sellers' Sales Aids

October 2006

This info sheet explains how the goods and services tax/harmonized sales tax (GST/HST) applies to the sale of sales aids of a direct seller or an independent sales contractor (contractor) of a direct seller. This info sheet applies only when a direct seller has been approved to use the Alternate Collection Method (ACM).

In this publication, “consumer” means an individual or business that buys property that is a product of a direct seller for its own use and not for resale. “Product” means any property that a direct seller acquires, manufactures or produces, and intends that contractors will ultimately sell to consumers. “Property” means any property other than real property. It includes goods as well as rights or interests of any kind. However, it does not include money. “Registrant” means a person who is registered or is required to register for GST/HST purposes. “Taxable” means subject to the GST/HST at 6% or 14%.

Direct sellers sell their products to contractors. Contractors are persons who purchase products from a direct seller, or from a distributor of the direct seller, to sell to other contractors or to consumers, and who make no more than 50% of their sales through a place of business other than their homes.

Some direct sellers sell products to contractors who are distributors. Distributors resell at least some of the products they purchase to other contractors who then sell to consumers.

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Some direct sellers and distributors are approved to use the ACM. In this publication, the term direct seller means those direct sellers or distributors who have been approved to use the ACM.

Under the ACM, a contractor buys products from a direct seller to resell. The contractor pays the direct seller the wholesale price for the products and pays the GST/HST calculated on the suggested retail price of the products. Whether or not they are registrants, the contractors collect tax on the retail price of the products they sell to consumers, but do not account for this tax. For GST/HST purposes, the contractors are considered not to have made any sales to the consumers.

For more information about the ACM or the tax status of sales made by contractors or distributors of direct sellers who are not using the ACM, please call a GST/HST Rulings Centre toll-free at 1-800-959-8287.

If a direct seller or contractor sells property that is not a product, then the direct seller or the contractor will have to determine whether the property is a sales aid. If what is being sold is not a sales aid and the sale is a taxable sale, the direct seller or the selling contractor, if a registrant, will charge the purchasing contractor tax on the property's sale price.

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Sales aids

A sales aid of a direct seller or a contractor must be property that is **not** a product of the direct seller.

Sales aids are customized business forms, samples, demonstration kits, promotional or instructional items, catalogues, or other property acquired, manufactured or produced by the direct seller or the contractor for sale to assist in the promotion, sale or distribution of the direct seller's products.

It is a question of fact whether a particular property is a sales aid. A direct seller or contractor must be able to demonstrate that the property was acquired, manufactured or produced for sale to assist in the promotion, sale or distribution of the direct seller's products.

The contractor does not have to pay the GST/HST on purchases of sales aids from a direct seller or from another contractor.

Sales aids may include:

- sample-sized goods in demonstration kits;
- property that would otherwise be a product of the direct seller, but which is identified as not intended for resale (e.g., property labelled as a "tester", "sample" or "not for resale");
- advertising material such as flyers;
- pamphlets relating to a product of the direct seller;
- books, tapes, videos and CDs on how to be a better salesperson;
- books, tapes, videos and CDs providing information on a product of a direct seller; and
- monogrammed items, including clothing and towels with a direct seller's logo.

In all the examples below, the contractor is purchasing the item in question from its direct seller or from another contractor of the direct seller, and the property had been acquired, manufactured or produced by either the direct seller or the other contractor for sale.

Example 1

Contractor A sells cosmetics. She buys a demonstration kit containing small samples of the cosmetics as well as disposable applicators. From time to time she must replenish her kit by buying more samples. Consumers are able to try the products and learn about their benefits before purchasing them. The demonstration kit, the replacement samples and the applicators are all sales aids. They assist in the promotion and sale of the products.

Example 2

Contractor B buys door tags listing his name, telephone number, address, the name of the direct seller and the type of product he sells. He leaves these tags on the door handles of homes in his area. These door tags are sales aids. They assist Contractor B in promoting and selling his products by giving potential clients information on how to contact him for more details or to place an order.

Example 3

Contractor C sells specialized dog food. Contractor C buys pamphlets that describe the benefits of the food and that provide instructions on how much of it to give to various-sized dogs. These pamphlets are sales aids. They assist in the sale of the product, the specialized dog food, by explaining its benefits.

Example 4

Contractor D sells ornamental items. He purchases several books and CDs that provide information on how to improve his selling technique and how to present himself with confidence. These books and CDs are sales aids. They assist Contractor D in selling the ornamental items.

Example 5

Contractor E sells nutritional supplements. She purchases a book that explains why certain vitamins are important for a person's health. This book is a sales aid. It assists in the sale of the nutritional supplements.

Example 6

Contractor F purchases a polo shirt monogrammed with its direct seller's logo. This shirt is a sales aid.

Shipping or handling of products and sales aids

The service of shipping or handling, or processing an order for, a sales aid or a product is not subject to the GST/HST when it is made to a contractor. These rules do not apply when a contractor charges a consumer for shipping or handling, or order processing.

Example 7

Contractor G sells to other contractors invoice forms customized with the direct seller's name and logo and pre-printed with a list of the direct seller's products. Contractor G charges a flat shipping fee for each order. The invoice forms are sales aids because they assist in the sale of the direct seller's products. The shipping fee for the sales aids is not subject to tax. As well, the sale of the customized invoice forms by Contractor G does not attract tax.

Property that is not a sales aid**Capital property**

If property is capital property of the person purchasing the property, it cannot be a sales aid. Generally, property is capital property if a person cannot deduct its full purchase price for income tax purposes for the year in which the person bought it. Only a part of the total cost can be deducted each year for a number of years.

Example 8

Contractor H sells skin care products. She buys a machine that identifies skin problems. Based on the machine's results, she is able to identify which of the direct seller's products would be most suitable for a customer's skin type. She may deduct only a part of the machine's cost for income tax purposes each year. Contractor H has not purchased a sales aid because the machine is capital property.

General business books, CDs, tapes and videos

The CRA does not consider books, CDs, tapes and videos that deal with general business topics to be sales aids.

Generic Clothing

Clothing or merchandise that does not have the direct seller's logo on the item is not considered to be a sales aid.

Products used as samples or demonstrators

Property that would otherwise be a product of the direct seller but is identified in some way to indicate that it is not intended to be for sale to consumers is not a product. For example, such property may be labelled as a "tester", "sample" or "not for resale". For information on how the GST/HST applies to this property, see the section on sales aids. Property that is not marked as such is considered a product. Sometimes a contractor purchases products from the direct seller or from another contractor for use in the contractor's business but not for sale.

If a contractor buys some of a direct seller's products to use as samples or demonstrators, without the products being identified as samples or demonstrators, the contractor and the direct seller are required to follow the rules respecting the ACM for this purchase. That is, the direct seller charges the contractor the wholesale price for the product and collects tax based on the retail price of the product.

Example 9

Contractor I sells candles. She burns some of the candles during her home parties so that customers can experience the aroma of the candles. The candles she burns during the home parties are products of her direct seller and are not marked as "testers", "samples" or "not for resale". Therefore, the direct seller charges Contractor I the wholesale price for the candles and tax based on the retail price of the candles.

Example 10

Contractor J sells T-shirts with different designs in a choice of six colours that change every year. The T-shirts come in three sizes. At the beginning of a season, he buys six T-shirts to use as samples, one in each colour and each with a different design. He makes sure that he has at least one T-shirt in each size. At the end of the season, he sells these T-shirts at a reduced price. The T-shirts that he uses as samples are products of his direct seller and are not marked as "testers", "samples" or "not for resale". As a result, he pays the direct seller tax on the retail price of these T-shirts even though he only pays the wholesale price for them.

If the contractor sells a product to the consumer at a price that is lower than the suggested retail price, or if the product is not sold at all, then the tax that the contractor paid for the product may be adjusted by the direct seller. Depending on the terms of the contract between the contractor and the direct seller, at a later date the direct seller may pay or credit to the contractor the difference between the GST/HST charged on the suggested retail price and the tax charged on the actual selling price of the product.

If the contractor gives the product away or only charges a nominal amount for it, or if the product is used by the contractor in its business and not sold, then the direct seller may pay or credit the difference between the GST/HST charged on the suggested retail price of the product and the tax payable on the wholesale price of the product.

Bonus payments

A bonus payment received by a contractor because of the volume of purchases or sales of products or sales aids is not subject to tax at 6% or 14%. A bonus payment may include an amount of money, goods, a service or anything else of value.

If a payment is received as a bonus for any other reason, the contractor, if a registrant, must charge and account for the GST/HST on the payment.

Example 11

A direct seller makes payments to contractors based on the volume of sales that the contractors make of merchandise with the direct seller's logo to other contractors. Since the merchandise is a sales aid, the contractors do not charge tax on the volume payments they receive.

This info sheet does not replace the law found in the *Excise Tax Act* (the Act) and its Regulations. It is provided for your reference. As it may not completely address your particular operation, you may wish to refer to the Act or appropriate regulation, or contact any Canada Revenue Agency (CRA) GST/HST Rulings Centre for additional information. These centres are listed in GST/HST Memorandum 1.2, *Canada Revenue Agency GST/HST Rulings Centres*. If you wish to make a technical enquiry on the GST/HST by telephone, please call the toll-free number 1-800-959-8287. A ruling should be requested for certainty in respect of any particular GST/HST matter.

If you are located in the province of Quebec and wish to make a technical enquiry or request a ruling related to the GST/HST, please contact Revenu Québec by calling the toll-free number 1-800-567-4692.

All GST/HST publications are available on the Internet at the CRA site at www.cra-arc.gcca/tax/technical/gsthst-e.html.

Reference in CRA publications is made to the harmonized sales tax (HST) that applies to property and services provided in Nova Scotia, New Brunswick and Newfoundland-and-Labrador (the "participating provinces") at a rate of 14%. The goods and services tax rate is 6%.