

GST/HST News

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Contents

<i>GST/HST News Electronic Mailing List</i>	1
<i>Tax Myth – Individual GST/HST Exemptions</i>	1
<i>Services Supplied by Agents – Reminder</i>	2
<i>50% Limitation for Food, Beverages, and Entertainment</i>	2
<i>Memberships Acquired by Indians</i>	2
<i>Annual Filers – Reminder</i>	3
<i>First Nations Tax (FNT)</i>	3
<i>Allowances Paid to Employees, Partners, or Volunteers for the Use of a Motor Vehicle</i>	3
<i>Third-Party Penalty Guidelines</i>	3
<i>Get Your GST/HST Refund faster</i>	3
Fall 2001 Edition No. 42	4
<i>Designated Hospital Authorities and Long-Term Care Facilities</i>	4
<i>Other Articles Published in the Fall 2001 Newsletter</i>	4
Summer 2001 Edition No. 41	5
<i>Crediting of Accommodation Rebate to Non-Residents</i>	5
<i>Other Articles Published in the Summer 2001 Newsletter</i>	6
Spring 2001 Edition No. 40	6
<i>Designated Charities</i>	6
<i>Other Articles Published in the Spring 2001 Newsletter</i>	6
<i>What’s New in Publications</i>	7
<i>Prescribed Rates of Interest</i>	8
<i>Business Registration on the Internet</i>	8
<i>GST/HST and Electronic Commerce</i>	8
<i>GST/HST Enquiries</i>	8

GST/HST News Electronic Mailing List

We are introducing a new electronic service for registrants. Starting January 2002, you will be able to subscribe to an online mailing list for this newsletter.

Although *GST/HST News* has been available on the Internet, we will now be able to notify you every quarter when the newsletter is published and provide you with a link to the most current edition.

We will be augmenting the mailing list options during the year, and once this electronic subscription service is established, we will be asking you if you wish to receive other GST/HST publications as they become available.

To join the mailing list, you must provide your email address, and you will be asked to read the Canada Customs and Revenue Agency (CCRA) privacy statement before you confirm your request.

To find out more about CCRA mailing lists and to subscribe to the *GST/HST News*, please go to this CCRA Internet address: www.ccra.gc.ca/gsthstnews

Tax Myth – Individual GST/HST Exemptions

Myth

Individuals have a right or a moral obligation not to pay GST/HST, and some carry a card to “prove” their claim.

The Facts

The legislation does **not** provide tax exemption to **any** individuals except for Indians, as defined in the *Indian Act*, who acquire goods or services on a reserve.

GST/HST registrants are reminded that they must account for the GST/HST collectible on all taxable transactions. The tax must be accounted for and any positive amount of net tax must be remitted even if the tax was not collected from a purchaser who falsely claimed an exemption.

If you have questions about Canada’s tax laws, please call 1-800-959-5525, or for more information on tax myths, visit our program site at www.ccra.gc.ca/myths

Services Supplied by Agents – Reminder

Generally, since April 1996, if you are a registrant who acts as an agent in making supplies of goods (otherwise than by auction) on behalf of a principal, you are required to collect and account for the tax on your taxable (other than zero rated) supplies of services made to the principal. You must collect and account for the tax on your services regardless of the tax status of the goods that you supply on the principal’s behalf and whether you have made a joint election (Form GST506) with the principal to account for and remit the tax collectible by the principal on the goods.

If the principal is not required to collect tax in respect of the goods (other than zero-rated or exempt goods), which is generally where the principal is not a registrant, the goods that you supply on the principal’s behalf are considered to have been supplied by you, rather than the principal. As such, you are required to collect and account for the tax payable on those goods. You are not, however, considered to have supplied services to the principal in relation to those goods and are consequently not required to collect and account for the tax on those services.

For a more detailed explanation, including the rules for auctioneers, see GST/HST Memorandum 3.1, *Liability for Tax*, under the subtitle *Agents and Auctioneers* at www.ccra.gc.ca/E/pub/gm/3-1em/3-1-e.htm

50% Limitation for Food, Beverages, and Entertainment

For income tax purposes, an amount payable for the rental of a fishing lodge cannot be deducted in computing a taxpayer’s income where the main activity is the entertainment or recreation of clients, shareholders, or employees. For GST/HST purposes, a registrant may be entitled to claim an input tax credit (ITC) for such an expense. However, ITCs

for food, beverages and entertainment expenses are effectively limited to 50% where the expenses are subject to the 50% limitation for income tax purposes.

In the case of the rental of the fishing lodge, the amount payable is deemed to be 50% of the amount actually payable for income tax purposes. However, the amount may not be deducted in computing the taxpayer's income. Although an ITC may be claimed for the rental of the fishing lodge provided that all the conditions for claiming an ITC are met, the ITC is still subject to the 50% limitation for food, beverages, and entertainment expenses.

This position applies equally to other food, beverages, and entertainment expenses where a deduction is denied for income tax purposes and the provision is not mirrored for GST/HST purposes to deny an ITC. For example, where an income tax deduction is not available for a third convention held within a year, ITCs may be claimed for expenses relating to that convention, but they are subject to the 50% limitation where an income tax deduction is not possible.

Memberships Acquired by Indians

Property may be acquired on a reserve or delivered to a reserve by an Indian, an Indian Band, or a band-empowered entity without payment of the GST/HST provided that certain conditions are met.

A membership comprises various rights to property or services, and therefore, is considered intangible personal property. Since it is intangible personal property and not a physical object that can be delivered to a reserve, the place where the membership is able to be used matters. For tax relief to apply, the rights provided by the membership must be exercisable exclusively on a reserve to be considered "situated" on a reserve.

For example, where the rights to property or services in respect of a recreation centre membership can only be used or exercised exclusively on a reserve, that membership will be situated on a reserve. An Indian, an Indian Band, or a band-empowered entity may acquire an otherwise taxable membership on a tax-relieved basis where the membership rights can only be used exclusively on a reserve and all other conditions set out under TIB-039R, *Administrative Policy Application of GST to Indians*, are met.

For more information regarding the tax status of memberships please see TIB-039R at www.ccra.gc.ca/E/pub/gm/b-039rem/b-039r-e.html

Annual Filers – Reminder

Clients with an annual extended GST/HST filing period are reminded that they must use Form GST58, *Goods and Services Tax/Harmonized Sales Tax (GST/HST) Remittance*, (personalized) when remitting any net GST/HST owing for the preceding year. Form GST58 and the accompanying remittance are due by April 30th of each calendar year.

Annual extended filers are also reminded that they must use the Form GST34, *Goods and Services Tax/Harmonized Sales Tax (GST/HST) Return for Registrants*, (personalized) when filing their GST/HST tax return. This return is due by June 15th of each calendar year.

First Nations Tax (FNT)

The Councils of the Tzeachten and Adams Lake First Nations have passed a by-law that imposes a 7% tax on the supply of tobacco products, fuel, and alcoholic beverages sold on the Tzeachten and Adams Lake First Nation reserves in British Columbia.

The Council of the Tzeachten First Nation approved this tax as the Tzeachten Sales Tax, effective July 1, 2001. The Council of the Adams Lake First Nation approved this tax as the Adams Lake Community Improvement Fee, effective May 1, 2001.

These First Nation Taxes are similar to Westbank, Kamloops, Sliammon, Chemainus, and Buffalo Point FNTs that are currently in place. The CCRA is administering the FNT on behalf of these First Nations.

Please refer to the publication RC4072, *First Nations Tax (FNT)*, at www.ccra.gc.ca/E/pub/cp/rc4072eq/rc4072eq.html which provides more details.

Allowances Paid to Employees, Partners, or Volunteers for the Use of a Motor Vehicle

Starting January 1, 2001, where an allowance paid by an employer is a combination of a flat-rate and a reasonable per-kilometre rate that covers the same use for the vehicle, the total combined allowance must be included in the employee's income for income tax purposes. In these cases, the allowance is deemed not to be reasonable. For more information, employers may refer to the *Employers' Guide – Taxable Benefits 2001-2002* (T4130), at www.ccra.gc.ca/E/pub/tg/t4130eq/t4130eq.html

For GST/HST purposes, a person cannot claim an input tax credit (ITC) or rebate in respect of a motor vehicle allowance where the allowance is not reasonable for income tax purposes. Therefore, as a result of the above change, a person cannot claim an ITC or a rebate for such combined allowances paid to their employees, paid to partners where the person is a partnership, or paid to volunteers where the person is a charity or public institution as of January 1, 2001. In these cases, an employee or partner may be able to deduct certain motor vehicle expenses for income tax purposes and therefore, may be entitled to claim the rebate by using Form GST370, *Employee and Partner GST/HST Rebate Application*, at www.ccra.gc.ca/E/pbg/gf/gst370eqREADME.html

Third-Party Penalty Guidelines

Information Circular 01-1, *Third-Party Civil Penalties*, is now on the CCRA Internet site. The circular governs how the CCRA can take action against persons who counsel others to file income tax and GST/HST returns based on false or misleading information, or who turn a blind eye to false information provided by their clients for tax purposes.

More detailed information concerning third-party penalty guidelines can be found on the CCRA Internet site at www.ccra.gc.ca/newsroom/releases/2001/oct/thirdparty-e.html

Get Your GST/HST Refund Faster

You can get your GST/HST refunds faster by taking advantage of the GST/HST TELEFILE service and using direct deposit. The service is available six days a week from Monday to Saturday. You can request your refund to be deposited directly to your account by using Form GST469, *Direct Deposit Request*. To obtain more information on GST/HST TELEFILE and direct deposit, see the CCRA Internet site, visit a tax services office, or call the Business Enquiries line.

Fall 2001 Edition No. 42

Designated Hospital Authorities and Long-Term Care Facilities

Only an organization designated as a hospital authority is entitled to claim a rebate of 83% of the GST/HST paid on property and services acquired by it for use in the operation of a public hospital facility.

An organization may be designated as a hospital authority if it operates a public hospital. A facility is a public hospital for GST/HST purposes where:

- it is recognized as a public hospital by the government of the province in which it is located;
- it is established and operated otherwise than for profit;
- it is operated for the medical or surgical treatment of the sick or injured; and
- it provides and maintains in-patient beds and services.

When a facility no longer meets all four of the requisite criteria to be considered a public hospital, the facility is no longer considered to be a public hospital at that time. The hospital authority would therefore no longer be entitled to claim a GST/HST rebate at the 83% rate for this facility from the day the facility no longer qualified as a public hospital.

The hospital authority designation may not permit an organization to claim an 83% GST/HST rebate for the tax it incurred for all of its activities. For example, if a designated hospital authority also operates a long-term care facility

such as a nursing home, the authority cannot claim the GST/HST rebate at the rate of 83% for purchases acquired for use in the operation of the long-term care facility as this facility does not satisfy all four criteria noted above. However, in these circumstances, the hospital authority may be entitled to a rebate at the rate of 50%.

Long-term care facilities such as nursing homes and residential care facilities, operated by either a hospital authority, a charity, or a non-profit organization without certification as a public hospital, may qualify for a rebate as a non-profit organization or charity at the rate of 50%. For example, if a hospital authority operates a hospital **and** a nursing home, the hospital authority may claim a rebate at the rate of 50% for any goods or services purchased to operate the nursing home.

To claim a rebate at the rate of 50%, a long-term care facility must be registered as a charity for income tax purposes, be a non-profit organization receiving at least 40% government funding, or be a non-profit organization operating a health care facility to provide intermediate care service or residential care service to individuals with limited physical or mental capacity for self-supervision and self-care.

For more information, please refer to GST/HST Memorandum 25.2, *Designation of Hospital Authorities*, at www.cra.gc.ca/menu/EmenuKSZ.html, or for information regarding rebates and public service bodies, please see GST/HST Guide RC4034, *GST/HST Public Service Bodies' Rebate*, at www.cra.gc.ca/E/pub/gp/rc4034eq/rc4034eq.html

Other Articles Published in the Fall 2001 Newsletter

These articles were also published in the Fall 2001 edition of the newsletter (No. 42) and can be found at www.cra.gc.ca/E/pub/g/news42eq/news42-e.html

Bills C-13 and C-26 Receive Royal Assent

Bills C-13 and C-26 received Royal Assent on June 14, 2001, and are now law. Bill C-13 enacts measures relating mainly to the GST/HST. Included are measures relating to the Export Distribution Centre Program, the New Residential Rental Property Rebate, vocational training, electronic filing of GST/HST returns, non-residents and cross-border transactions. Bill C-26 enacts tobacco tax measures announced in the February 2000 federal budget and the Department of Finance press release of April 5, 2001.

New Residential Rental Property Rebate

This article discusses how to claim the New Residential Rental Property Rebate directly on your GST/HST return.

Reminder for Builders Filing GST/HST New Housing Rebates

This article discusses how qualified builders may pay or credit new housing rebates to eligible purchasers when they receive a signed Form GST190, *GST/HST New Housing Rebate Application*, from their purchasers/clients. A penalty of \$100 per application may be levied in the absence of the form.

Self-Supply Rules for Residential Complex Builders

This article discusses where self-supply rules apply to builders who rent or occupy a residential property, which they have constructed, and that these builders must generally pay the GST/HST on the fair market value of the residential property.

Multi-Employer Pension Plan Trust Rebate

This article discusses a rebate to a trust governed by a multi-employer pension plan. The rebate for property and services that are acquired, imported, or brought into an HST-participating province for consumption, use, or supply in relation to the plan.

Specially Equipped Motor Vehicle Rebate

This article discusses how a purchaser of a specially equipped motor vehicle may be entitled to a rebate that allows a GST/HST registrant supplier to pay or credit the purchaser the amount of the rebate directly to the purchaser, eliminating the requirement for the purchaser to pay the GST/HST attributable to the vehicle's special features or adaptations at the point of sale.

Excise Duty Corner

This article discusses the *Excise Act* Review. On the basis of consultations with industry associations and members, provincial liquor boards, federal and provincial enforcement agencies, and other stakeholders, proposed legislation to implement a new *Excise Act* is currently being finalized for tabling in Parliament.

Tangible Personal Property Delivered Outside Canada

This article discusses how a supply of tangible personal property made by a supplier to a recipient is zero-rated if the supplier delivers the property to a common carrier under certain conditions or mails the property for export and delivery to a place outside Canada. Possession of the vehicle must pass from the dealer to the carrier for direct shipment outside Canada. The dealer must maintain sufficient evidence (bill of lading, customs documentation for the country of destination, etc.) that the property has been sent outside of Canada.

Summer 2001 Edition No. 41

Crediting of Accommodation Rebate to Non-Residents

In light of the upcoming high season in tourism, registrants who supply eligible accommodation (included in a tour package or not) consisting of short-term accommodation, such as at hotels, or camping accommodation, such as at campgrounds, may wish to review the following general conditions for paying or crediting the non-resident accommodation rebate to their non-resident customers.

Where a registrant pays or credits the rebate to a non-resident in accordance with certain conditions, the registrant may claim a corresponding deduction in determining the net tax for the reporting period that includes the later of the last day on which any tax to which the rebate relates became payable, and the day on which the rebate is paid or credited or, for any reporting period for which a return is filed within one year after the later of those days.

A registrant who makes a supply of eligible accommodation may voluntarily pay or credit the rebate to an eligible recipient who is either:

- a non-resident individual or a non-resident person who is acquiring the accommodation for **use** in the course of its business, such as a company acquiring accommodation for its employees travelling on business; or
- a non-resident person who is acquiring the accommodation for **supply** in the ordinary course of its business of making such supplies, such as a tour operator.

In the case of a rebate to a non-resident who is not in the business of resupplying accommodation, the rebate can *only* be credited in the following two circumstances:

1) the payment for the supply of the eligible accommodation is made at a place outside Canada where the supplier or its agent is conducting business; or

2) where the eligible accommodation is supplied as part of a tour package that includes other goods or services (other than meals or room-related charges):

- the recipient pays to the supplier a deposit of at least 20% of the total consideration for the tour package at least 14 days before the first day any eligible accommodation in the package is made available under the agreement, and
- the payment is made by means of a credit card or charge card issued by, or a cheque, draft or other bill of exchange drawn on an account outside Canada with, a non-resident institution that is a bank, cooperative credit society, trust company or similar institution. If the deposit is paid by means of a credit card or charge card, it is not considered to be paid until the supplier's account is actually credited for the amount of the deposit.

For more information about this topic, including rebate eligibility criteria, please refer to the CCRA guide RC4036, *GST/HST Information for the Travel and Convention Industry*. Page 20 of this guide explains in detail how registrants may pay or credit the rebate to non-residents. It can be found at www.ccra.gc.ca/E/pub/tg/rc4036eq/README.html

Other Articles Published in the Summer 2001 Newsletter

These articles were published in the Summer 2001 edition of the newsletter (No. 41) and can be found at www.cra.gc.ca/E/pub/gr/news41eq/news41-e.html

Press Release – April 12, 2001

On April 12, 2001, the Minister of Finance announced proposed refinements to the GST/HST.

These amendments would allow the sale and importation of plasma expander and industrial hemp to be zero-rated.

GST/HST TELEFILE

This article announced the GST/HST TELEFILE service where businesses can file GST/HST returns using a touch-tone telephone and a toll-free number.

Retaining Electronic Records

This article discusses the CCRA policy regarding electronic records.

Visitor Rebate Program – Proof of Export

This article discusses the proof of export validation for visitor rebates, which is now implemented at land borders.

Spring 2001 – Edition No. 40

Designated Charities

The *Excise Tax Act* provides that certain charities may apply for designated charity status. In order to be eligible, one of the charity's main purposes must be to provide employment, training for employment, or employment placement services for individuals with disabilities, or to provide instructional services to assist such individuals in securing employment. The charity must supply, on a regular basis, services that are performed, in whole or in part, by individuals with disabilities.

Once designated, all of the otherwise exempt services the charity provides to registrants will be taxable, thereby enabling the charity to claim input tax credits. In addition, a designated charity can use the "Special Quick Method for Public Service Bodies" for calculating its net tax remittances (instead of the "Net Tax Calculation Method for Charities").

There is an exception in the case of the above-noted services involving individuals with disabilities. If the supply of the service is made to a public sector body or to a board, commission, or other body established by a government or municipality, supplies provided to these entities will remain exempt. Educational or health care services supplied by the charity are not affected by the designation and remain exempt.

Charities may request to be designated by writing to the Director, Public Services Bodies and Governments Division, Excise and GST/HST Rulings Directorate, 14th floor, Tower A, Place de Ville, Ottawa ON K1A 0L5. For further details concerning your application, please contact the Business Enquiries line at 1-800-959-5525.

Other Articles Published in the Spring 2001 Newsletter

These articles were also published in the Spring 2001 edition of the newsletter (No. 40) and can be found at www.cra.gc.ca/E/pub/gr/news40eq/news40-e.html

Section 167 Election Concerning the Supply of a Business or Part of a Business

This article discusses who is eligible to make the section 167 election when supplying a business or part of a business.

Nisga'a government entities

The *Nisga'a Final Agreement Act* came into effect on May 11, 2000. As a result of this legislation, Nisga'a governments will pay the GST/HST when acquiring taxable goods and services.

Automobile Expense Deduction Limits

This article announces the new automobile expense deduction limits for the year 2001 and the prescribed rates for determining the taxable benefit on automobile operating expenses for businesses.

Sushi Platters

This article confirms the CCRA policy that a tray or platter of sushi is considered to be an arrangement of prepared food and as such is subject to GST at 7% or HST at 15%.

Recipient of a Taxable Supply and Entitlement to Input Tax Credits

An article on this topic was published in the Winter 2000-2001 *GST/HST News* (Edition No. 39). This article serves to clarify the "Exception" paragraph at the end of the article.

Proposed Amendment to Vocational Training Exemption

This article discusses the Bill C-13 proposed amendments to the *Excise Tax Act* with regards to vocational training.

Excise Tax Corner

This article discusses the objection and appeal process available to any person who has been assessed in respect of excise taxes, either by Notice of Determination in the case of refunds, or Notice of Assessment in the case of assessments.

What's New in Publications

GST/HST Memoranda Series

Memorandum 17.1.1	<i>Products and Services of Investment Dealers</i>
Memorandum 17.14	<i>Election for Exempt Supplies</i>
Memorandum 17.16	<i>GST/HST Treatment of Insurance Claims</i>
Memorandum 19.5	<i>Land and Associated Real Property</i>

GST/HST Guides

RC4028	<i>GST/HST New Housing Rebate</i>
RC4031	<i>Tax Refund for Visitors to Canada</i>
RC4036	<i>GST/HST Information for the Travel and Convention Industry</i>
RC4072	<i>First Nations Tax (FNT)</i>
RC4081	<i>GST/HST Information for Non-Profit Organizations</i>
RC4117	<i>Tax Refund for Business Travel to Canada</i>
RC4231	<i>GST/HST New Residential Rental Property Rebate</i>

Technical Information Bulletins

B-087	<i>GST/HST New Residential Rental Property Rebate</i>
B-088	<i>Export Distribution Centre Program</i>

Current publications can be found at www.cra.gc.ca/tax/business/gsthst/menu-e.html for guides, pamphlets, forms, and the *GST/HST News*, or at www.cra.gc.ca/menu/EmenuKZW.html for GST/HST Memoranda, Technical Information Bulletins, Policy Papers, and Notices.

Prescribed Rates of Interest

GST/HST interest and penalty compound daily. Income tax interest also compounds daily. For excise duty, penalty compounds monthly, and interest compounds daily. For excise tax, penalties and interest are calculated monthly for each month or part-month in which a balance remains. The total amount payable is based on the total tax, penalties, and interest outstanding. Prescribed interest rates are adjusted every calendar quarter.

These rates of interest are also available at www.ccra.gc.ca/E/pub/gi/prireq/prier-e.html

	GST/HST, Excise Tax (annualized rates)		Excise Duty (annual rates)		Income Tax (annual rates)	
	Interest*	Penalty	Interest	Penalty	Refund Interest	Arrears and Instalment Interest
2002	%	%	%	%	%	%
January 1 – March 31	2.4333	6.0	5.0	6.0	5.0	7.0
2001						
October 1 – December 31	4.7609	6.0	7.0	6.0	7.0	9.0
July 1 – September 30	4.7609	6.0	8.0	6.0	7.0	9.0
April 1 – June 30	4.8132	6.0	8.0	6.0	8.0	10.0
January 1 – March 31	6.0833	6.0	8.0	6.0	8.0	10.0

* To calculate interest for GST/HST purposes only, divide the adjusted annual interest rate by 365 and apply it daily.

Business Registration on the Internet

Businesses can now register themselves for the CCRA, Nova Scotia, and Ontario business programs on the Internet. This easy-to-use, one-stop service guides Internet users through the registration process. A series of questions helps users determine the government programs they need. To find out more information or to register, visit www.businessregistration.gc.ca

GST/HST and Electronic Commerce

The Excise and GST/HST Rulings Directorate has released a discussion paper which contains the results of a review of the administration of the current GST/HST legislation in an electronic commerce environment and we invite you to comment on it.

The paper is available on the CCRA Internet site under the Technical Information – GST/HST menu at www.ccra.gc.ca/menu/EmenuKZW.html

GST/HST Enquiries

To make enquiries regarding your
GST/HST account, call
Business Enquiries at
1-800-959-5525

To make enquiries regarding the
status of specific GST/HST
domestic rebate claims, call
1-800-565-9353

To make enquiries regarding the
status of visitor rebate claims, call
1-800-668-4748

To obtain copies of
forms and publications call,
1-800-959-2221

The *GST/HST News* is published quarterly and highlights recent developments in the administration of the goods and services tax (GST) and harmonized sales tax (HST), as well as excise taxes and duties. This publication is provided for information purposes only and does not replace law, either enacted or proposed. For further information on any of the articles contained in this newsletter, contact your nearest Canada Customs and Revenue Agency (CCRA) tax services office or call Business Enquiries at 1-800-959-5525.

Comments or suggestions about the newsletter should be sent to the Editor, *GST/HST News*, Policy and Legislation Branch, CCRA, Ottawa, Ontario K1A 0L5.

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