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### Bill C-28

Bill C-28, the *Budget Implementation Act, 2003*, received Royal Assent on June 19, 2003.

The Bill enacts the *First Nations Goods and Services Tax Act* and implements a number of measures under the *Excise Tax Act* and the *Excise Act, 2001* that were announced in the budget such as:

- provisions to reduce the air travellers security charge for domestic flights;
- provisions to ensure that the supply by a school authority of the service of transporting elementary or secondary school students to or from a school operated by a school authority continues to be treated as an exempt supply;
- provisions to clarify that purchases by municipalities or governments of contracted municipal services (where the recipient of the supply is the municipality or government, rather than the municipal residents), continue to be taxable;
- provisions to clarify fuel tax refund claims;
- provisions to harmonize interest, penalty and related administrative provisions of the non-GST/HST part of the *Excise Tax Act*, the *Excise Act, 2001* and the *Income Tax Act* as part of the CCRA Standardized Accounting initiative;
- tobacco tax and duty increases; and
- removal of tax on bio-diesel and ethanol-diesel fuel.

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**Pour vous servir encore mieux!**



## Meal Replacements and Nutritional Supplements

Meal replacements and nutritional supplements are zero-rated as outlined in paragraph 20 of GST/HST Memorandum 4.3, *Basic Groceries* and in Policy Statement P-240, *Application of GST/HST to Products Commonly Described as "Dietary Supplements"*.

With respect to requests for rulings on such products, if a product is represented as being a meal replacement or nutritional supplement as evidenced by the label, the CCRA will accept this information as fact in determining its tax status.

However, after a ruling has been issued, if it is determined that a product is in fact not a meal replacement or a nutritional supplement, the ruling will not be valid in accordance with paragraph 16 of [GST/HST Memorandum 1.4, Goods and Services Tax Rulings](#).

## GST/HST New Housing Rebates

A GST/HST new housing rebate is available to an individual who purchases a new or substantially renovated single-unit residential complex or residential condominium unit from a builder.

To qualify for the rebate, the complex or unit must be used as the primary place of residence of the individual or, a relation of the individual, including a former spouse or common-law partner of the individual, and the total GST-excluded purchase price of the complex or unit must be less than \$450,000.

The rebate is also available, under certain conditions, to an individual who purchases a single-unit residential complex or a residential condominium unit from a builder on leased land, where the fair market value of the complex or unit is less than \$481,500.

In addition to the primary residence and the purchase price requirements set out above, tax in respect of the sale must be paid by the individual and ownership of the complex or unit must transfer to the individual after construction or substantial renovation is substantially completed. No one can occupy the premises as a place of residence or lodging between the time construction or substantial renovation is substantially completed and the time possession is transferred to the individual. The individual or relation must also be the first person to occupy the unit as a place of residence after construction or substantial renovation is substantially completed. Finally, the rebate application must be filed in the proper form and within the required timeframes.

### Claiming the Rebate:

Where an individual is purchasing a new or substantially renovated single-unit residential complex or residential condominium unit from a builder, the individual has the option of claiming the rebate directly with the CCRA or, where the builder has paid or credited the rebate to the individual, have the builder file the rebate application form.

If the individual claims the rebate, the individual has to file the application form for the rebate ([GST190, GST/HST New Housing Rebate Application](#)) with the CCRA within two years after the day ownership of the complex or unit is transferred to the individual (for purchases of a complex or unit), or within two years after the day possession of the complex or unit is transferred to the individual (for purchases of a complex or unit on leased land).

If the individual is paid or credited the amount of the rebate by the builder, which reduces the amount owing by the purchaser to the builder on the acquisition of the complex, the individual must submit a completed [GST/HST New Housing Rebate Application](#) form to the builder within two years after the day ownership of the complex or unit is transferred to the individual (for purchases of a complex or unit), or within two years after the day possession of the complex or unit is transferred to the individual (for purchases of a complex or unit on leased land). The builder is required to submit the application to CCRA along with the GST/HST return for the reporting period in which the rebate was paid or credited to the individual. The builder is also required, in section D of the rebate form, to indicate the reporting period covered by the GST/HST return.

Filing the Return:

The amount of the rebate is to be claimed by the builder as an input tax credit (ITC) adjustment on Line 107 of the GST/HST return in the period in which the rebate was paid or credited to the individual. As pointed out above, the [GST/HST New Housing Rebate Application](#) form **must** accompany the particular GST/HST return on which the ITC adjustment is being made.

If more than one ITC adjustment is being made on Line 107 of the GST/HST return as a result of more than one new housing rebate being filed by the builder in a particular reporting period, each [GST/HST New Housing Rebate Application](#) form for which an ITC adjustment is being made **must** accompany the GST/HST return for that period.

Failure to Comply:

Builders please note that failure to file the [GST/HST New Housing Rebate Application](#) form(s) with the accompanying GST/HST return may result in a penalty of \$100 for each failure to file. As well, the deduction taken at line 107 may be disallowed and penalty and interest applied on the difference between the net tax owing before taking the rebate amount(s) into account and the amount actually remitted.

For further information concerning this rebate, please see our guide [RC 4028, GST/HST New Housing Rebate](#). For telephone enquiries please contact Business Enquiries at 1-800-959-5525.

## **Supplies by Auctioneers**

The *Excise Tax Act* provides rules regarding the application of the GST/HST to supplies of tangible personal property (TPP) by auctioneers. These rules apply in situations where a registrant (i.e., the auctioneer), acting as auctioneer and agent for another person (i.e., the principal) in the course of a commercial activity of the auctioneer, makes a supply by auction of TPP on behalf of the principal.

Under these circumstances, the auctioneer is deemed not to have made a supply to the principal of services relating to the supply of the TPP to the recipient. (Please note that this rule does not apply where the TPP supplied by the auctioneer is received from a non-registered non-resident person.)

In determining whether a service provided to the principal is relating to the supply of the TPP to the recipient, the CCRA will consider the following:

- The object of the service must be with respect to the supply of the TPP to the recipient, and not merely with respect to the TPP itself.
  - For example, restoration or repair services would be considered to be relating to the TPP and not to the supply of the TPP to the recipient (i.e., the auction). However, minimal services required to prepare the TPP for auction, such as pre-sale cleaning, would be considered as related to the supply of the TPP to the recipient.

AND

- The relationship between the supply of the service and the supply of the TPP to the recipient must be direct. This relationship is a question of fact and is determined on a case by case basis. However, the fact that the service is typically provided or offered at auctions of that type of property or at auctions in general, may indicate that the supply of the service is directly related to the supply of the TPP to the recipient.
  - For example, an auctioneer conducts a sale of bred cows and provides a service of pregnancy testing in connection with that sale. Generally, pregnancy testing services are not provided or offered at general cattle sales; however, such tests are typical of services provided or offered at bred cow sales. The supply of the pregnancy testing service is considered to be directly related to the supply of the TPP to the recipient and not subject to the GST.

The following services supplied by an auctioneer are typically considered as services provided to the principal relating to the supply of the TPP to the recipient, and are generally not subject to the GST/HST:

- advertising services;
- appraisals;
- auctioneer's services (e.g., calling the auction, providing a facility);
- illustration of items to be auctioned for advertising or display purposes (catalogue, on a screen, etc.); and
- short-term storage services.

Services rendered to the recipient (e.g., services for which a buyer's premium is collected) and repair and restoration work are not considered services provided to the principal relating to the supply of the TPP to the recipient and are generally subject to the GST/HST.

For further information on supplies by auctioneers please refer to the [GST/HST Memorandum 3.1, Liability for Tax](#), under the subtitle Agents and Auctioneers.

## **Designation Process for Barter Exchange Networks**

The *Excise Tax Act* (the Act) provides for the designation of barter exchange networks and the GST/HST treatment of transactions involving the provision of barter units.

A barter exchange network is a group of persons who have agreed, in writing, to accept credits (referred to as barter units) on accounts of the group members, in exchange for property or services traded among the members. The administrator of a barter exchange network is the person who is responsible for administering, maintaining, or operating a system of members' accounts under which barter units may be credited as full or partial consideration for supplies of property or services between members of a group.

Subsection 181.3(5) of the Act relieves members of designated barter exchange networks from paying GST/HST on barter units accepted in exchange for their supplies of property or services. The members, if registrants, must charge tax on their taxable supplies of property or services provided for barter units. The tax on such property or services is calculated on the exchange value of the barter units accepted as consideration.

For example, Mr. Brown and Mr. Smith are registrants and members of a designated barter exchange network. Mr. Brown provides professional legal services to Mr. Smith in exchange for barter units having a value of \$100. Mr. Brown charges tax on the supply of legal services, calculated on \$100, whereas Mr. Smith does not charge tax on the provision of the barter units.

If the barter exchange network is not designated, tax would generally be payable on the supply of the barter units themselves, when supplied by a registrant.

#### Applying for Designation

The administrator of a barter exchange network must apply to the CCRA to have the network designated for the purposes of the Act to relieve members' transactions involving barter units from the GST/HST.

An application could be approved with an effective date retroactive to October 20, 2000 (the date of Royal Assent of the barter exchange network provisions of the Act), if requested, provided that the barter exchange network has been operating since that date.

If the effective date of designation of the barter exchange network was on or after October 20, 2000, section 181.3 would apply to a supply of a barter unit, by a member of the network or the administrator, from that date forward. Section 181.3 would also apply to a supply of a barter unit at any earlier time, provided that no amount as or on account of tax was actually collected on that supply of the barter unit.

#### Procedure for Designation

A letter applying for designation is required, signed by the administrator (or an authorized individual), containing the following information:

- (a) the name of the barter exchange network;
- (b) the name, address, telephone number, trading name and CCRA Business Number of the administrator of the barter exchange network;
- (c) the effective date requested (cannot be earlier than the later of the date of establishment of the barter exchange network and October 20, 2000);
- (d) a copy of the standard membership agreement of the barter exchange network describing the responsibilities of the members and the administrator;
- (e) a statement from the applicant stating that it meets the definition of "administrator" of a barter exchange network in subsection 181.3(1); and
- (f) a statement from the applicant that certifies that the information given in the application, and any document attached, is true, correct and complete, signed by the administrator or an individual authorized to sign on behalf of the administrator.

Administrators located outside the Province of Quebec should submit their requests for designation to:

Director, Public Service Bodies and Governments, Excise and GST/HST Rulings Directorate  
Policy and Legislation Branch, Canada Customs and Revenue Agency  
14<sup>th</sup> Floor, Place de Ville, Tower A, 320 Queen Street  
Ottawa, Ontario K1A 0L5

Administrators located in the Province of Quebec should submit their requests for designation to the Ministère du revenu du Québec (MRQ), since the MRQ administers the GST/HST in the Province of Quebec on behalf of the federal government. Requests should be submitted to:

Directeur, Direction des lois sur les taxes, le recouvrement et l'administration  
Ministère du revenu du Québec, 3800, rue de Marly  
Sainte-Foy (Québec) G1X 4A5

## **Excise Act, 2001**

The administrative infrastructure for the *Excise Act, 2001* was successfully implemented on July 1, 2003.

Throughout the legislative, regulatory and implementation processes, consultations have been held with industry associations and members, provincial liquor boards, federal and provincial agencies, and other stakeholders. The new Act provides a modern framework for the taxation of spirits, wine and tobacco and includes new administrative provisions for payment, assessment and appeals, updated enforcement provisions and more comprehensive licensing requirements. The new excise framework provides the tools needed to protect government revenues and deal more effectively with smuggling and other non-compliant activities.

Training courses, memoranda, registration forms, returns, information bulletins, delegations and policy, as well as procedures for activities such as licensing, were developed to support implementation activity. Policy development will of course continue for the ongoing delivery of the Excise Duty program. As well, Finance Canada released draft legislation in June 2003 to implement a number of [technical amendments](#) to the *Excise Act, 2001* and other related legislation. The draft legislation contains mainly minor refinements to existing provisions to more accurately reflect certain administrative and compliance practices that existed under the previous excise framework, as well as certain consequential amendments to other legislation.

Technical publications are available on the Excise Duty web site: <http://www.ccradrc.gc.ca/tax/technical/act2001-e.html>

## **GST/HST Online Registration through the Ministère du Revenu du Québec Web site:**

Until now, clients with a business mailing address in Québec who tried to use the [Business Registration Online](#) (BRO) system to register for GST/HST, were asked to contact the Ministère du Revenu du Québec to proceed with the registration. In the fall of 2003, BRO will provide its clients the option to be forwarded to an MRQ Web site where they can proceed with GST/HST registration.

The Ministère du Revenu du Québec offers its clients, via its Internet site, the option of registering for GST/HST as well as various Ministère du Revenu du Québec programs.

BRO is a one-stop on-line service which lets you register to obtain a Business Number, open various business accounts for CCRA programs such as GST/HST, import/export and payroll deductions, and register or apply for certain programs offered by the Government of Nova Scotia, the Workers' Compensation Board of Nova Scotia, the Government of Ontario and the Government of New Brunswick.

For more information on [Business Registration Online](#), please go to the Web site at: [www.businessregistration.gc.ca](http://www.businessregistration.gc.ca)

## **What's New in Publications**

### **Excise Duty Memoranda Series**

EDM3.1.3	Registered Users
EDM4.1.1	Producers and Packagers of Wine
EDM 7.1.1	Manufacturers of Tobacco Products
EDM 7.1.2	Tobacco Dealers
EDM 7.1.4	Duty Free Shop Operators
EDM 8.1.1	Excise Warehouses
EDM 10.1.1	Returns and Payments
EDM 10.1.2	Completing an Excise Duty Return – Duty Free Shop
EDM 10.1.3	Completing an Excise Duty Return – Excise Warehouse Licensee
EDM 10.1.4	Completing an Excise Duty Return – Licensed User
EDM 10.1.5	Completing an Excise Duty Return – Special Excise Warehouse Licensee
EDM 10.1.6	Completing an Excise Duty Return – Wine Licensee
EDM 10.1.7	Completing an Excise Duty Return – Spirits Licensee
EDM 10.1.8	Completing an Excise Duty Return – Tobacco Licensee
EDM 10.1.9	Completing an Excise Duty Return – Tobacco Dealer

Current [GST/HST](#) and [Excise Duty](#) publications can be found on the CCRA Web site.

**New Prescribed Rates of Interest**

The prescribed annual interest rate in effect from October 1, 2003 to December 31, 2003, on amounts of income tax, excise tax and excise duty (except on beer), payable to the Minister (arrears and instalment) is established at 7%. The prescribed interest rate on amounts owed by the Minister (refunds) is established at 5%. These rates compound daily.

The prescribed annual rate of interest respecting excise duty on beer accounts is set at 5% commencing October 1, 2003. Penalty compounds monthly and interest compounds daily.

The prescribed annual rate of interest with respect to the GST/HST and the Air Travellers Security Charge (ATSC), is set at 2.3804% commencing October 1, 2003. Interest and penalty compound daily.

Prescribed interest rates are adjusted every calendar quarter. The [rates of interest](#) for previous periods are available on the CCRA Web site.

	GST/HST ATSC		Excise Duty (beer)		Income Tax, Excise Tax Excise Duty (wine, spirits, tobacco)	
	Interest	Penalty	Interest	Penalty	Refund Interest	Arrears and Instalment Interest
<b>2003</b>						
July 1 - September 30	3.5707 %	6.0 %	6.0 %	6.0 %	6.0 %	8.0 %
October 1 – December 31	2.3804 %	6.0 %	5.0 %	6.0 %	5.0 %	7.0 %

**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

If you are in the Province of Québec, please call the following toll-free number:

1-800-567-4692 (Ministère du Revenu du Québec)

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 the 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. ISSN 1183-689X