

**GST/HST News #44**

**Spring 2002**

**Standard Disclaimer**

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.  
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## **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 law does **not** provide relief from the GST/HST 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-adrc.gc.ca/myths](http://www.ccra-adrc.gc.ca/myths)

## **Press Release - Returnable Beverage Containers**

On February 8, 2002, a Notice of Ways and Means Motion to amend the *Excise Tax Act* was tabled in the House of Commons. The proposed amendments relate to the treatment of beverage container deposits under the GST/HST.

Currently, special GST/HST rules apply to deposits paid on returnable beverage containers such as soft drink cans and beer bottles. These rules provide for the reimbursement of the GST/HST paid on the refundable deposit where the container is returned to a retailer or an authorized depot. They were designed to simplify the application of the tax to refundable containers, particularly for retailers. However, they have proven complex to apply in practice, particularly given the different provincial regimes governing deposits on returnable containers.

Following consultations with the industry, the amendments were developed to simplify compliance. Under the proposed amendments, deposits that are refundable to the consumer will be excluded from the GST/HST base. However, all non-refundable levies or handling charges would continue to be subject to tax on the same basis as the beverage, as is the case under the current rules.

In most provinces, provincially established deposits are currently treated as including the GST/HST. Therefore, in most cases, this change will affect neither the total amount charged as a deposit nor the total amount refunded to the consumer.

These amendments are proposed to apply to sales of new, filled and sealed returnable beverage containers made on or after May 1, 2002. Transitional rules are provided for the period between May 1 and July 15 to take into account that there will be containers in circulation on May 1 that would have been sold under the existing rules, treating the entire deposit as taxable.

Another related amendment is proposed to clarify that the existing special rules for retail sales of beverages in returnable containers do not apply to sales of beverages for on-premises consumption, as is typically the case in bars and restaurants. This amendment is proposed to apply to sales made after February 8, 2002, as well as to any sales prior to this date where sellers did not apply the special rules in respect of their sales of beverages for on-premises consumption.

Please see the Department of Finance Web site (<http://www.fin.gc.ca/news02/02-014e.html>) for details of this Way and Means Motion. The CCRA will be publishing a Technical Information Bulletin (TIB) to explain these rules in detail.

## **Press Release – Student Transportation Services**

The Minister of Finance announced a proposed amendment to the *Excise Tax Act* on December 21, 2001.

The proposed GST/HST amendment relates to the treatment of school authorities and their provision of student transportation services. The proposed amendment ensures that the service of transporting elementary or secondary school students to or from a school operated by a school authority is treated as an exempt service where it is supplied by a school authority to a person other than another school authority.

The proposed amendment does not affect users of school bus services. It is intended to ensure that the provision of these services by school authorities continues to be treated as an exempt activity under the GST/HST.

To ensure consistent exempt treatment regardless of how these services may have been funded, the amendment is proposed to be effective from the date of introduction of the GST (1991). However, the proposed amendment will not affect any case that has already been decided by the Federal Court.

For more detailed information please see the Department of Finance Internet site at this address: <http://www.fin.gc.ca/news01/01-126e.html>

## **Press Release – Nova Scotia New Housing Rebate and Speech Therapists' Services**

The Minister of Finance released draft amendments to the *Excise Tax Act* on December 28, 2001.

The draft amendments modify the existing new housing rebate for the provincial portion of the HST in Nova Scotia. As announced by the government of Nova Scotia in its 2001 budget, this rebate will be targeted to first-time homebuyers and capped at a new maximum (\$1,500) starting on January 1, 2002.

To qualify as a first time home buyer, the individual and their spouse or common-law partner must not have owned and occupied a home in Canada within the preceding five years. For builder-built homes, the five-year period will be determined from the date of ownership or possession, whichever is earlier, of the new home. For owner-built homes, the five-year period will be determined from the date of substantial completion of the new home.

The rules to determine whether the existing Nova Scotia New Housing HST Rebate or the Nova Scotia First Time Home Buyers HST Rebate apply are as follows:

- For builder-built homes, the existing rebate rules will apply if:
  - a) a sale and purchase agreement in respect of the home was entered into on or before December 31, 2001; and
  - (b) occupation of the home as a primary place of residence by the owner or by a relation of the owner and either ownership or possession of the home under the agreement for sale and purchase takes place on or before June 30, 2002, except for condominium units - in which case, the Government of Nova Scotia has announced that the deadline is December 31, 2002.
- For owner-built homes, the existing rebate rules will apply if:
  - (a) a building permit in respect of the home is issued on or before December 31, 2001; and
  - (b) the home is occupied as a primary place of residence by the owner or by a relation of the owner on or before June 30, 2002.

The second proposed measure extends, to the end of 2002, the GST/HST exemption for speech therapists' services. This will allow additional time for the completion of a regulatory process now underway that will result in these services meeting the criteria for exemption under the GST/HST on a permanent basis.

More detailed information about these draft amendments is available on the Department of Finance Internet site at this address: <http://www.fin.gc.ca/news01/01-127e.html>

## **Air Travellers Security Charge**

As announced in the Federal Budget of December 10, 2001, the federal government will introduce an Air Travellers Security Charge to fund the new air security expenditures. Bill C-49 received first reading in the House of Commons on February 5, 2002.

The Bill proposes that the charge will apply to air travel occurring after March 31, 2002, for which payment is made after that date, in the case of tickets purchased in Canada, and to air travel occurring after May 31, 2002, for which payment is made after March 31, 2002, in the case of tickets purchased outside Canada. Air carriers or their agents will collect it at the time the airline tickets are purchased.

Generally, for travel within the continental zone (i.e., Canada, the United States excluding Hawaii, and the Islands of St-Pierre and Miquelon), and where GST/HST applies at the rate of 7% or 15% to the air passenger transportation service, the charge will be \$11.22 for each chargeable emplanement in Canada to a maximum of \$22.43. Where the air passenger transportation service is zero-rated or where GST/HST does not apply, the charge will be \$12.00 for each chargeable emplanement in Canada to a maximum of \$24.00.

For travel to a destination outside the continental zone, the charge will be \$24.00 where there is a chargeable emplanement in Canada.

For GST/HST purposes, the amount of the security charge is included in the consideration for the supply of the air transportation service. As such, where the supply of the service, other than a zero-rated supply, is made in a participating province, the total consideration for the supply, which includes the security charge, is subject to HST at 15%. Where the supply is made in a non-participating province, the total consideration for the supply, including the security charge is subject to GST at 7% providing the supply is not zero-rated.

For general enquiries regarding the ATSC in Canada and USA call 1-877-432-5472 or for other countries call 1-902-432-5472.

## **Reminder – Time Limits for Indians and Indian Bands making GST/HST General Rebate Claims**

GST/HST does not apply to on-reserve purchases of goods by Indians and Indian bands, or to off-reserve purchases by Indians and Indian bands of goods delivered to the reserve by vendors or their agents. In addition, the GST/HST does not apply to services where the services are performed totally on reserve.

However, there are some instances where GST/HST may have been paid, either correctly or incorrectly, and the Indian person or Indian band is entitled to have the GST/HST refunded under the general rebate program.

Generally, Indian bands and Indians can apply for a GST/HST rebate if the tax was paid for a product and it was acquired on a reserve or delivered to a reserve by the vendor. For band-management activities, GST/HST paid on off-reserve purchases of services, transportation, accommodation, meals, and entertainment is eligible for a rebate.

### **GST/HST rebate claims made by Indians and Indian bands must be filed with the CCRA within two years of when the tax was paid.**

For more details on the CCRA's policy, including exceptions and special circumstances, please see GST/HST Technical Information Bulletin B-039R, *GST Administrative Policy, Application of GST to Indians. to Indians*, at: <http://www.cca-adrc.gc.ca/E/pub/gm/b-039rem/b-039r-e.html>

The guide RC4033, *General Application for GSTR/HST Rebates*, is available at this address: <http://www.cca-adrc.gc.ca/E/pub/gp/rc4033eq/README.html>

## **Shuswap First Nation Tax (Kinbasket First Nation Taxation)**

Following recent legislation, the Council of the Shuswap First Nation has passed a by-law that imposes a 7% tax on the supply of tobacco products, fuel, and alcoholic beverages sold on the Shuswap First Nation reserve in British Columbia. The Council of the Shuswap First Nation has approved this tax as the Kinbasket First Nation Taxation. The effective date of the tax is February 1, 2002. The CCRA is administering this tax on behalf of the Shuswap First Nation.

The Shuswap First Nation Tax (FNT) is similar to Tzeachten FNT, Westbank FNT, Kamloops FNT, Sliammon FNT, Chemainus FNT, Buffalo Point FNT and Adams Lake FNT that are currently in place.

The GST/HST guide RC4072 Rev. 01, *First Nations Tax (FNT)* <http://www.ccra-adrc.gc.ca/E/pub/gl/rc4072eq/README.html> provides more details about these First Nations taxes, including the definition of the products subject to FNT.

## ***Excise Act, 2001***

Bill C-47, the legislation to implement the *Excise Act, 2001*, was introduced in the House of Commons on December 6, 2001.

The *Excise Act, 2001* ( <http://www.fin.gc.ca/news01/01-113e.html> ) provides a modern framework for the taxation of spirits, wine and tobacco. The *Excise Act, 2001* (<http://www.fin.gc.ca/news01/01-113e.html> ) modernizes the legislative provisions governing the taxation of spirits, wine and tobacco products and introduces an updated administrative and enforcement framework that reflects current industry practices.

This Bill also implements changes to ships' stores provisions which were announced on September 27, 2001 and implements the tobacco tax increases announced on November 1, 2001. Beer will continue to be subject to the provisions of the existing *Excise Act*.

## **Application of GST/HST to Yukon First Nations and Yukon Indians**

CCRA administrative policy has changed as a result of recent jurisprudence involving the Carcross Tagish Yukon First Nation. The application of the GST/HST to Yukon First Nations and Indians who are members of such First Nations now depends on whether or not a final land claim agreement is in place.

### **No Tax Relief**

Where a Yukon First Nation has signed a final agreement, its Indian members are not able to acquire goods or services relieved of tax unless they reside outside the Yukon.

The following Yukon First Nations (band number) have a final agreement in place:

- Champagne and Aishihik First Nations (507)
- First Nation of Nacho Nyak Dun (495)
- Little Salmon/Carmacks First Nation (492)
- Selkirk First Nation (498)
- Teslin Tlingit Council (499)

- Tr'ondëk Hwëch'in First Nation (494)
- Vuntut Gwitchin First Nation (496)
- Ta'an Kwach'an First Nation (508) \*Proposed effective date of final agreement is April 1, 2002

Suppliers who are registrants must collect and remit GST/HST on all taxable goods and services acquired by Yukon First Nations with a final agreement in place or Yukon resident Indians who are members of such Yukon First Nations.

**Tax Relief Applies**

Tax relief is still available to a Yukon band that has no final agreement in place, its band empowered entities and Indians who are members of that band, provided the conditions set out in TIB-039R are met. Tax relief also applies to Indian Bands from outside the Yukon and their Indian members who acquire goods and services in the Yukon as set out in TIB-039R.

Generally, the CCRA accepts as evidence a "Certificate of Status Indian" card issued by the Department of Indian Affairs and Northern Development. The Indian band name or alternatively the first three digits of the registry number appearing on the card may be used to determine the Indian band to which the individual belongs.

Where tax relief is available, the vendor should remember to keep adequate evidence to show where the purchaser was resident, as well as the other documentation required under the TIB 039R, *Administrative Policy Application of GST to Indians*. (link: <http://www.cca-adrc.gc.ca/E/pub/gm/b-039rem/b-039r-e.html> )

Please refer to this CCRA Internet site for more detailed information: <http://www.cca-adrc.gc.ca/E/pub/gi/notice143--eq/README.html>

## **What's new in publications**

### GST/HST Memoranda Series

Memorandum 7.5      *Electronic Filing and Remitting*

### GST/HST Guides

RC4031      *Tax Refund for Visitors to Canada*

RC4033      *General Application for GST/HST Rebates*

RC4100      *Harmonized Sales Tax and the Provincial Motor Vehicle Tax*

### GST/HST Forms

GST22      *Real Property - Election to Make Certain Sales Taxable*

GST176      *Application for Visitor Tax Refund*

GST189      *General Application for Rebate of GST/HST*

GST498      *GST/HST Rebate Application for Foreign Representatives, Diplomatic Missions,  
Consular Posts, International Organizations, or Visiting Forces Units*

GST528      *Authorization to Use an Export Distribution Centre Certificate*

Current publications can be found on the CCRA Internet site at the following address: [www.cca-adrc.gc.ca/tax/business/gsthst/menu-e.html](http://www.cca-adrc.gc.ca/tax/business/gsthst/menu-e.html) for guides, pamphlets, forms, and the *GST/HST News*, or at [www.cca-adrc.gc.ca/menu/EmenuKZW.html](http://www.cca-adrc.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 on the CCRA Internet site at: <http://www.ccra-adrc.gc.ca/E/pub/gi/prier--eq/README.html>

	GST/HST, Excise Tax (annualized rates)		Excise Duty (annual rates)		Income Tax (annual rates)		Arrears and Instalment Interest %
	Interest % *	Penalty %	Interest %	Penalty %	Refund Interest %	Interest %	
2002							
April 1 - June 30	2.4066	6.0	4.0	6.0	4.0		6.0
January 1 - March 31	2.4333	6.0	5.0	6.0	5.0		7.0

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

## 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