

GST/HST Info Sheet

Harbour Authorities

October 2004

This publication provides information on the Goods and Services Tax/Harmonized Sales Tax (GST/HST) for harbour authorities.

A harbour authority is typically a volunteer-based, non-profit organization created to manage harbour property and facilities formerly managed by the Department of Fisheries and Oceans (DFO). This information sheet is based on the premise that harbour authorities are non-profit organizations for GST/HST purposes.

The title to the harbour property generally continues to be owned by the federal government, and the harbour authority leases the harbour property and facilities for a specified period of time. DFO is required to charge GST/HST on a payment (usually a nominal amount) received from a harbour authority in respect of a lease of harbour property and facilities.

GST/HST registration requirements

A non-profit harbour authority must register for the GST/HST if its total revenues from taxable property or services in its last four calendar quarters or in a single calendar quarter are more than \$50,000. If a harbour authority has taxable revenues that are less than \$50,000, it may still register voluntarily. A harbour authority that is a GST/HST registrant is entitled to claim input tax credits to recover tax paid on purchases or expenses used in its commercial activities (used to provide taxable services or

property). More details on input tax credits are provided later in the document.

If the total revenues of a harbour authority are below the \$50,000 threshold and the harbour authority chooses not to register, it does not charge GST/HST on its taxable services or property and it is not entitled to claim input tax credits to recover the tax paid on its purchases or expenses. However, it may be entitled to claim a 50% public service body rebate (see further for more information on this rebate).

GST/HST status of services and property provided by a harbour authority

A **lease of real property**, where the continuous possession or use provided under the lease is one month or more, is exempt from the GST/HST. Therefore, a harbour authority, whether or not registered for the GST/HST, does not charge the GST/HST on this type of lease.

A harbour authority has granted a lease to the operator of a fish plant for exclusive possession of a building at the harbour facilities for a period of two years. The lease provided by the harbour authority is exempt from the GST/HST.

A **lease of real property of less than one month, a licence to use real property or a right of entry** provided by a harbour authority is taxable. A licence provides a person the right to use the harbour property and facilities, but does not provide the person with the same degree of control and exclusive

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possession as a lease. An example of a licence would be a person's right to dock a boat at a certain wharf where the harbour authority retains control and access to all of the premises.

A harbour authority, registered for GST/HST purposes, is required to charge and collect the GST/HST on payments received from the following activities:

- a berthage fee charged to a local tour boat firm to allow the boat to dock at harbour facilities for four hours every Friday afternoon for a period of six months;
- a permit fee charged to allow a local service club to hold a special event using harbour property and facilities over a number of days (less than one month);
- a permit fee charged to a fish buyer for the right to operate on the wharf every day for a period of six months; and
- a permit fee charged to a gas and fuel company to allow it to deliver fuel from wharf property year-round and to store miscellaneous equipment on harbour property.

Annual, monthly or daily **parking** provided by a harbour authority is taxable and a harbour authority that is a GST/HST registrant must charge the GST/HST on its parking fees.

A harbour authority would be required to collect and remit tax on a fee charged for **utilities and services** such as electricity, water, or garbage collection unless it was simply recouping its costs when resupplying the services, in which case, the direct cost exemption applies. For more information on the direct cost exemption, refer to the GST/HST Info Sheet, *The "Direct Cost" Exemption*, which will be published shortly. If a harbour authority charges an amount for an exempt lease that covers the cost of utilities and services, the utilities and services would generally be viewed as being incidental to the exempt lease and the GST/HST would not apply.

A **membership** provided by a non-profit harbour authority is exempt except where the membership entitles the members to direct benefits. All possible benefits accruing to members must be taken into consideration in determining the tax status of a membership. Memberships which provide no direct benefits or only certain "allowable" benefits are exempt. Examples of allowable benefits are the right to vote and the right to participate at meetings. In the case where membership only provides allowable

benefits, the harbour authority may complete an election form ([GST 23](#)) to have its memberships made taxable. It is not necessary to file the election form with the CRA; rather, it is only necessary to complete the form and retain it with financial records.

An example of a benefit that is beyond what is allowable is a membership that confers the right to receive a particular property or service for a price that is less than the fair market value of the property or service. Memberships that provide a right to receive certain publications of significant value (not those provided to members on the activities of the harbour authority or its financial status) also provide a benefit beyond what is allowable and are therefore taxable.

Also, a membership provided by a harbour authority, is exempt if a harbour authority provides all or substantially all of its memberships for no fee. In fact, this would be the case for any service or property provided all, or substantially all, free of charge.

Input tax credits and rebate entitlements

A harbour authority that is registered for the GST/HST and that is using a regular method for calculating net tax (i.e., not one of the quick methods) is entitled to claim input tax credits for the GST/HST paid on purchases or expenses used in its commercial activities. Exempt sales are not included in commercial activities.

If a purchase or expense relates exclusively (90% or more) to the harbour authority's commercial activities, it may claim an input tax credit for the full amount of tax it has to pay. For example, if 90% of a snow removal service relates to the harbour authority's commercial activities, it may claim an input tax credit for the entire amount of GST/HST it has to pay.

The harbour authority may also claim, as an input tax credit, a portion of GST/HST paid on a particular purchase or expense toward its use in commercial activities if that use is less than 90%, provided it is used more than 10% in the harbour authority's commercial activities. For example, if 70% of a utilities bill relates to commercial activities and 30%

relates to exempt memberships, the harbour authority may claim an input tax credit for 70% of the GST/HST it has to pay on the utilities bill.

The general rule for capital property is that if the property is for use primarily (more than 50%) in the commercial activities of a registered harbour authority, an input tax credit may be claimed for the full amount of the GST/HST paid on the purchase of that property. An input tax credit may not be claimed for the GST/HST the harbour authority paid on the purchase of capital property if that property is used 50% or less in its commercial activities.

The method used to determine the extent of use in commercial activities must be reasonable for the harbour authority's specific circumstances and used consistently throughout the harbour authority's fiscal year. This is the regular method of claiming input tax credits and accounting for tax. For information on a simplified method for claiming input tax credits, refer to GST/HST guide RC4022, *General Information for GST/HST Registrants*. For information on simplified methods of accounting for tax, refer to GST/HST pamphlet RC4058, *The Quick Method of Accounting* or RC4247, *The Special Quick Method of Accounting for Public Service Bodies*.

A non-profit harbour authority that receives at least 40% of its total revenue for the year or for its previous two years in the form of government funding is entitled to claim (using form GST 66) a rebate of 50% of the GST/HST paid in the course of its activities for which it cannot claim an input tax credit. A harbour authority is not required to be registered for GST/HST purposes to claim the rebate.

In general, *government funding* refers to payments by a grantor (which includes federal, provincial and municipal governments, Indian Bands and other bodies established by governments to fund charitable or non-profit activities) to an organization:

- for the purpose of supporting the organization's objectives, or
- as payment for a good or service provided on an exempt basis by the organization to a third party.

For additional information on government funding refer to guide RC4081, *GST/HST Information for Non-Profit Organizations*, which includes form GST523-1, *Non-profit organizations – Government Funding*, and instructions on calculating the government funding percentage.

Funding agreements

A harbour authority may receive funds through contracts and contribution agreements from DFO and other funding organizations (public or private). If a harbour authority receives funds from a funding organization but does not provide any service or property to the organization (or to a specified third party) in return for the funds, the funds are not subject to GST/HST.

In certain cases, however, the harbour authority may be providing a service or property (other than simply an accountability report) in return for the payment and, as a result, it is necessary to determine if the funds are regarded as payment for the service or property. An accountability report is only to ensure that the payment was spent in the way intended.

If there is a direct link between funds received by a harbour authority and a property made available or service rendered by a harbour authority, either to the funding organization or to a specified third party, the funds are payment for the service or property.

A harbour authority registered for the GST/HST enters into a lease agreement with DFO to operate and manage a harbour formerly administered by DFO. The existing harbour facilities and any improvements to them remain the property of DFO. The harbour authority later receives a payment under a funding agreement with DFO to dismantle one dock. The payment made by DFO is for a (taxable) service provided by the harbour authority to DFO, and, consequently, the harbour authority is required to collect GST/HST on the payment.

There are some situations where both the funding organization and the harbour authority benefit as a result of the payment, and in these cases there may be a direct link between the property made available or service rendered by the harbour authority and the portion of the payment that relates to that property or service. If a direct link exists, that portion of the payment is payment for the service or property.

A harbour authority registered for the GST/HST enters into a lease agreement with DFO to operate and manage a harbour formerly administered by DFO. The existing property remains vested with DFO; however, the harbour authority holds title to any improvements made or placed on the leased area during the term of the lease. DFO has the responsibility to keep the harbour in good repair (other than the harbour authority's improvements). The harbour authority subsequently receives funds under a funding agreement with DFO to repair the three existing docks, build one new dock and to dredge the harbour. To the extent that the funds are for improvements to property owned by the harbour authority, the funds are not payment for a property or service and, consequently, not taxable. To the extent that the funds are for the rest of the leased area, the funds are regarded as payment for property/services and they are taxable since the property is owned by DFO and, under the lease, DFO has the responsibility to maintain it.

If the funds received from a funding organization are payment for a particular property or service provided by the harbour authority, the harbour authority must determine the tax status of the property or service that it provides. If it is a taxable property or service, the harbour authority, as a GST/HST registrant, must collect the GST/HST on the payment and is entitled to claim input tax credits on related purchases or

expenses. However, as mentioned earlier, if the harbour authority is not a GST/HST registrant, it may not collect the GST/HST on a payment for a taxable property or service that it provides and it is not entitled to claim input tax credits for the GST/HST paid on related purchases or expenses.

If the funds are not payment for a particular property or service, the harbour authority does not collect the GST/HST. The receipt of the funding would not affect entitlement to claim input tax credits. The harbour authority, if a GST/HST registrant, would still be entitled to an input tax credit for purchases or expenses to the extent that they are used in their commercial activities (used to provide taxable services or property).

If a harbour authority is not entitled to claim an input tax credit for tax paid on purchases used in its activities, it may be entitled to the 50% public service body (PSB) rebate discussed previously.

This information 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 more 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 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 the Ministère du Revenu du Québec (MRQ) by calling the toll-free number 1-800-567-4692.

All GST/HST publications are available on the CRA's Web site at <http://www.cra-arc.gc.ca/tax/technical/gsthst-e.html>.

Reference in CRA publications is made to property and services taxable at 7% (the GST rate) or 15% (the HST rate). The 15% HST applies to property and services provided in Nova Scotia, New Brunswick, and Newfoundland and Labrador (the "participating provinces").