

Canada Revenue Agency Notice
Notice 190
May 6, 2004

FOR DISCUSSION PURPOSES ONLY

Draft Technical Information Bulletin: *Application of GST/HST to Cemetery Property and Services*

This Technical Information Bulletin (TIB) is being disseminated by the Canada Revenue Agency in draft form for comments. The effective date of the TIB will be established after consultation with affected stakeholders, taking into consideration such factors as system requirements or the need to change contracts or educate staff.

Comments or suggestions should be sent by July 31, 2004 to:

Director
General Operations and Border Issues Division
Excise and GST/HST Rulings Directorate
16th Floor, Place de Ville, Tower A
Canada Revenue Agency
320 Queen Street
Ottawa ON K1A 0L5

Telephone: (613) 954-7959
Fax: (613) 990-1233

E-mail: john.sitka@ccra-adrc.gc.ca

GST/HST Technical Information Bulletin

B-092

DRAFT

May 2004

APPLICATION OF THE GST/HST TO CEMETERY PROPERTY AND SERVICES

This Bulletin 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) tax services office for additional information. If you are located in the Province of Quebec, please contact the Ministère du Revenu du Québec (MRQ) for additional information.

Reference in this publication is made to supplies taxable at 7% or 15% (the rate of the Harmonized Sales Tax/HST). The HST applies to supplies made in Nova Scotia, New Brunswick, and Newfoundland and Labrador (the “participating provinces”). If you are uncertain as to whether a supply is made in a participating province, you may refer to Technical Information Bulletin B-078, *Place of Supply Rules Under the HST*, available from any CRA tax services office.

Table of contents

Introduction	2
Interment rights.....	3
Care and maintenance trust	3
Cemetery services plans.....	4
Supplies made by charities, public institutions and other public service bodies	10

Introduction

This bulletin clarifies the timing of the application of the Goods and Services Tax/Harmonized Sales Tax (GST/HST) to the supply of interment rights, care and maintenance plans, and cemetery services.

Note that this bulletin does not pertain to persons who are small suppliers for purposes of the GST/HST, although the tax must be collected by a small supplier on the consideration for a taxable sale of real



More Ways to Serve You!
Pour vous servir encore mieux !



Canada Revenue
Agency

Agence du revenu
du Canada

La version française de ce bulletin est intitulée
*Application de la TPS/TVH aux biens et aux
services de cimetièrre.*

Canada

property (e.g., cemetery plot, lot, crypt or niche). Refer to GST/HST Memorandum 2.2, *Small Suppliers*, for information on determining whether a person is a small supplier.

Interment rights

The supply of a cemetery plot, lot, crypt or niche to an individual can be made by way of sale or by lease, licence or similar arrangement. For ease of reference, in this bulletin these supplies are described as supplies of “interment rights.”

While interment rights may be supplied in conjunction with a cemetery services plan (sometimes referred to as a “pre-need cemetery services plan” or “pre-need assurance fund”), they are transferred immediately upon payment for the rights. As a result, a cemetery operator will be required to account for the GST/HST, if applicable, on the consideration for interment rights when the consideration is paid or becomes due, whichever is earlier.

The tax status of a supply of interment rights by certain public service bodies may differ depending on how they are supplied. Refer to page 9 for further information on determining the nature of a supply of interment rights provided by public service bodies.

Example

An individual purchases interment rights in Manitoba. The total cost of the interment is \$3,000 plus GST. Under the contract, the individual will be invoiced \$1,000 on the first of each month for three months. The GST ($\$1,000 \times 7\% = \70) is payable on the first day of each of the three months.

Care and maintenance trust

When a cemetery operator enters into a contract for the supply of interment rights, the operator must deduct or set aside a portion of the money paid under the contract for the care and maintenance (i.e., perpetual care) of the cemetery. All provincial legislation relating to cemeteries requires that cemetery operators hold the funds for perpetual care in trust.

The purpose of a care and maintenance fund is to generate income to pay for the care and maintenance of a cemetery as a whole, rather than a particular plot, lot, crypt, niche or other space.

Consideration paid for interment rights and the care and maintenance fund is consideration paid for a single supply. Therefore, even if the amount to be placed in a care and maintenance fund is identified separately on an invoice, the cemetery operator is required to account for the GST/HST, if applicable, on the total consideration for interment rights when the amount is paid or becomes due, whichever is earlier. No tax is payable when amounts are withdrawn from the trust.

In Ontario, any money a cemetery operator receives that is required to be paid into a care and maintenance fund, but that is not placed immediately into that fund, must be deposited by the operator into a trust account. The money must be held in the trust account until it is transferred to the care and

maintenance fund or paid out in accordance with provincial regulations. This does not change the time at which the GST must be charged: the cemetery operator must account for GST when the consideration for the interment rights, including any amount placed in trust and later transferred to a care and maintenance fund, is paid or becomes due, whichever is earlier.

As well, if interment rights in Ontario are sold with respect to a cemetery lot in a part of a cemetery or in a mausoleum, columbarium or other facility in the cemetery that, at the time of the sale, has not been built, developed or otherwise made ready for interment purposes, the cemetery operator is not required to pay any money from the sale of the interment rights into the cemetery's care and maintenance fund. However, the cemetery operator must ensure that the money for the care and maintenance fund and any money received from the sale of any cemetery property and services related to the sale of interment rights is held in trust in accordance with provincial regulations.

In these circumstances, the cemetery operator is not required to account for GST on the contributions at the time they are made. Instead, the GST applies to such a trust in the same manner as for a trust under a cemetery services plan. That is, the cemetery operator is required to account for any applicable GST when any amount is withdrawn from the trust.

Cemetery services plans

The property or services included in a cemetery services plan are those that relate to the disposal of human remains after a funeral by means of interment or cremation. Amounts are held in trust in respect of a cemetery services plan to finance specific cemetery property and services that will be required in the future upon the death of an individual. Note that the arrangements described in this bulletin do not necessarily constitute an eligible funeral arrangement for purposes of the *Income Tax Act*.

Specifically, a cemetery services plan is an arrangement whereby a supplier, generally a cemetery operator, agrees with a person to supply specific services in respect of one or more named individuals upon the death of the individual(s). The person typically finances the arrangement with a cemetery operator by placing funds in a trust, or by purchasing an insurance policy. The total contributions and any interest that accumulates in the trust, or the insurance proceeds, generally approximate the value of the consideration and GST/HST that will eventually be payable to the cemetery operator under the agreement. When the cemetery property and services are provided, the amounts held in trust or the insurance proceeds are applied against the consideration and tax payable for the services.

This bulletin deals with the use of insurance policies as a funding vehicle for a written cemetery services plan (refer to page 7), as well as cemetery services plans (i.e., contracts) to fund cemetery property and services where:

- contributions are made by the purchaser in advance of the provision of the cemetery property and services;
- some or all of the contributions, and, where applicable, some or all of the compounding interest, are required by the applicable provincial legislation or by the terms of the contract to be held in trust by the cemetery operator for the purchaser; and

- the cemetery operator is prohibited from withdrawing any of the funds held in trust (unless otherwise permitted under provincial legislation) until the earlier of the day the amounts become payable to the cemetery operator for the cemetery property and services, or the day the contract is cancelled.

“Cemetery services” are services rendered in respect of a cemetery plot or lot, a crypt in a mausoleum, or a niche in a columbarium, including:

- opening and closing a grave, crypt or niche;
- providing temporary storage in a vault;
- providing a tent or canopy for an interment service;
- providing carrying, lowering, or elevating devices;
- placement and removal of artificial grass dressing and coco-matting at the grave site;
- levelling, tamping, re-grading and sodding the grave site; and
- preparing flower beds and planting flowers and shrubs.

Cemetery services also include cemetery property, such as burial vaults, urns, gravestones, grave liners, grave markers, monuments, or bases for use in a cemetery. For ease of reference, in this bulletin references to “cemetery services” include cemetery property.

Generally, for GST/HST purposes, where an agreement to provide property or services specifies that the purchaser is required to pay an amount before the property or services are actually provided, the tax in respect of the prepayment is payable at the time it becomes due or is made, whichever is earlier. However, amounts held in trust in respect of a cemetery services plan are not considered to be prepayments, and the cemetery operator is not required to account for the GST/HST on the contributions at the time they are made. Any applicable GST/HST will become payable to the cemetery operator when consideration for the cemetery services provided under the contract becomes due.

Amounts held in trust

If a cemetery operator places contributions made under a cemetery services plan in trust in accordance with provincial legislation or the contract itself, the contributions are not considered to be prepayments, and the cemetery operator is not required to account for the GST/HST on them even if they are held for a short period of time before being placed in trust.

The GST/HST will apply on the value of the consideration to be paid to the cemetery operator for the services provided under the cemetery services plan at the time consideration becomes due for the services. Interest accumulates in the trust over the duration of the arrangement. Any amount (e.g., interest earned by the trust) distributed from the trust to the cemetery operator is part of the consideration for services provided by the cemetery operator, and tax on the amount becomes payable when it is withdrawn from the trust and is paid to the cemetery operator or becomes due, whichever is earlier.

The cemetery operator is required to include GST/HST in respect of any amount distributed from the trust in determining its net tax for the reporting period in which the amount is paid or becomes due, whichever is earlier. If the amount paid or due to the cemetery operator represents the total of the consideration and tax (i.e., the amount is considered to include the tax), the GST/HST portion of the amount must be included in determining the cemetery operator's net tax for the reporting period in which the amount is paid to the cemetery operator or becomes due, whichever is earlier.

Any additional amounts payable by the purchaser or the individual's estate at the time the cemetery services are provided will also be subject to the GST/HST at that time.

Amounts not held in trust

The legislation governing prepaid arrangements for cemetery services varies from province to province with respect to the amount required to be held in trust. For example, in Alberta, the maximum administration fee that a cemetery operator can deduct from contributions is 15% of the amount received under a contract, with the remainder of the funds to be placed in a trust. In British Columbia, a cemetery operator can deduct no more than 20% from contributions to cover administration fees, with the remaining funds to be placed in a trust.

Any amount not held in trust, whether pursuant to applicable provincial legislation or the terms of a cemetery services plan, is part of the consideration payable for cemetery services. As such, the cemetery operator is required to include GST/HST in respect of the amount in determining its net tax for the reporting period in which the amount is paid or becomes due, whichever is earlier.

Where the cemetery operator charges a purchaser a tax-included amount, it is required to include the GST/HST portion of that amount in determining its net tax for the reporting period in which the amount is paid or becomes due, whichever is earlier.

Example

ABC Cemeteries ("ABC") enters into a cemetery services plan with Ms. S, who makes a lump sum contribution of \$3,450 upon signing the contract. The cemetery services will be provided in Nova Scotia (a participating province).

The calculation of the total amount of the contribution includes an estimate of the consideration (\$3,000) and HST (\$450) that, together with the interest that accumulates in the trust, will be payable at the time the services are provided.

Under the terms of the contract, 90% of the contribution and the compounding interest are required to be held in trust by ABC for Ms. S. The remaining 10% (\$345) is not placed in trust. Of that amount, \$300 is consideration and \$45 is HST paid for the cemetery services to be provided by ABC.

ABC is required to include the HST collectible (\$45) in determining its net tax for the reporting period that includes the day the contract with Ms. S is entered into. ABC will be required to include HST collectible on the balance of the consideration payable for the cemetery services in determining its net tax for the reporting period in which consideration for the cemetery services is paid or becomes due, whichever is earlier.

Interest generated by funds held in trust

Subject to certain restrictions, provincial legislation in Quebec provides that at least some of the annual income generated by any funds held in trust (e.g., interest) is to be paid directly to a cemetery operator. Such amounts may be paid according to terms and conditions agreed to between the cemetery operator and the financial institution handling the trust. In Ontario, if, at the time the cemetery services are provided, the money placed in trust for the provision of the services is less than their current price as set out in the cemetery operator's price list, any income earned in the trust may be applied to cover the additional cost.

Any amount disbursed from a trust to the cemetery operator (including interest) is part of the consideration for the provision of cemetery services, and GST/HST on the amount becomes payable when it is withdrawn from the trust and is paid or becomes due to the cemetery operator. The cemetery operator is required to include GST/HST in respect of the amount in determining its net tax for the reporting period in which the amount is paid or becomes due, whichever is earlier.

If, instead, the amount disbursed from a trust represents the total of the consideration and tax (i.e., the total amount is considered to include the tax), the GST/HST portion of the amount must be included in determining the cemetery operator's net tax for the reporting period in which the amount is paid to the cemetery operator or becomes due, whichever is earlier.

Transfer of funds to another arrangement

Generally, funds held in trust can be transferred to a cemetery services plan for the same purchaser with another cemetery operator without any GST/HST consequences, provided that the transfer is made in trust. For example, one financial institution may transfer funds in trust directly to another financial institution. Alternatively, a financial institution may transfer the funds in trust either to the cemetery operator of the first cemetery services plan or to the cemetery operator of a second arrangement.

Where the funds are transferred to a cemetery operator, there are no GST/HST consequences if the cemetery operator continues to hold them in trust and does not have access to them. Similarly, when a cemetery operator transfers some of the funds in trust there will be no GST/HST consequences with respect to the funds that remain in trust. However, the cemetery operator will have to account for GST/HST with respect to amounts withdrawn from the trust (e.g., in respect of cancellation fees.)

Cancellation

If a purchaser cancels a cemetery services plan before the cemetery services are provided, the cemetery operator is required to account for the GST/HST on a tax-inclusive basis with respect to any amount that is not refunded to the purchaser or transferred in trust to another arrangement. The cemetery operator must account for GST/HST in its net tax for the reporting period in which the amount is paid or forfeited by the purchaser.

The cemetery operator is not required to account for the GST/HST in respect of any funds disbursed from the trust to the purchaser.

Example

EFG Cemeteries ("EFG") enters into a cemetery services plan with Ms. H, who makes a lump sum contribution of \$3,450 upon signing the contract. The cemetery services will be provided in New Brunswick (a participating province).

The contribution amount includes an estimate of the consideration (\$3,000) and HST (\$450), that, together with the interest that accumulates in the trust, will be payable at the time the cemetery services are provided.

Since the contribution and the compounding interest are required by the terms of the contract to be held in trust by EFG for Ms. H, EFG is not required to account for HST on the contribution at the time it is made.

One year later, Ms. H moves to another town in New Brunswick and requests that the contribution made under the contract with EFG be transferred to a cemetery services plan entered into with IJK Cemeteries ("IJK"). IJK is also required to hold the funds in trust. The funds are transferred in trust directly from one financial institution to another, and thus there are no HST consequences.

Three months later, Ms. H decides to cancel the contract with IJK. Pursuant to the terms of the contract, IJK returns the total amount held in trust to Ms. H (i.e., the \$3,450 contribution and accumulated interest), less a cancellation fee of \$200.

IJK is required to account for the HST on a tax-inclusive basis with respect to the \$200 cancellation fee that is not returned to Ms. H. IJK will include HST of \$26.09 ($\$200 \times 15/115$) in its net tax calculation for the reporting period during which the contract was cancelled.

Insurance policy as a funding vehicle

A purchaser may also finance a cemetery services plan by purchasing an insurance policy. Under the terms of the contract, contributions are made by the purchaser to an insurer in respect of an insurance policy, and the insurance proceeds are payable to the cemetery operator for the cemetery services provided upon an individual's death. The cemetery operator accounts for the GST/HST on the value of the consideration for the cemetery services to be paid from the insurance proceeds when they are paid or become due to the cemetery operator, whichever is earlier.

Example

LMN Cemeteries ("LMN") enters into a cemetery services plan with Mr. O for the provision of cemetery services upon his death. The services will be provided in Saskatchewan.

Pursuant to the contract with LMN, Mr. O purchases an insurance policy with an insurer in the amount of \$3,000, based on a forecast of the consideration and GST that will be payable when the cemetery services are provided. Under the insurance policy, the proceeds are payable to LMN for the cemetery services to be provided upon Mr. O's death. No GST is payable in respect of the amounts paid by Mr. O to the insurer.

At the time of Mr. O's death, \$3,000 is payable to LMN under the terms of the insurance policy. LMN charges \$3,500 plus GST (\$245) for the cemetery services. Pursuant to the terms of the cemetery services plan, any additional amounts payable in respect of the cemetery services will be paid by Mr. O's estate. Consequently, Mr. O's estate is required to pay an additional amount of \$745 ($\$3,500 + \245 (GST) - \$3,000).

LMN is required to include GST collectible (\$245) in determining its net tax for the reporting period during which the consideration for the cemetery services is paid or becomes due, whichever is earlier.

Excess amounts in trust

In some cases an amount held in trust, including accumulated interest, may exceed the amount payable to the cemetery operator, including the GST/HST payable, at the time the cemetery services are provided. This might occur because of changes to a cemetery services plan resulting in a lower price for cemetery services, or a higher accumulation of interest in the trust, than foreseen at the time of entering into the contract.

The cemetery operator is not required to account for GST/HST in respect of excess funds received from a trust, provided that they are disbursed to the purchaser or the individual's estate.

Example

PQR Cemeteries ("PQR") enters into a cemetery services plan with Mr. D for the provision of cemetery services upon his death. The services will be provided in Ontario.

Under the terms of the contract, Mr. D is required to make initial and monthly contributions totalling \$3,210. The calculation of the total amount of contributions includes an estimate of the consideration (\$3,000) and GST (\$210) that, together with the interest that accumulates in the trust, will be payable at the time the cemetery services are provided.

At the time of Mr. D's death, \$500 interest has accumulated in the trust. PQR charges \$3,300, plus 7% GST, for the cemetery services. Under the contract, any excess funds remaining after the provision of the cemetery services are payable to Mr. D's estate.

PQR is not required to account for GST at the time Mr. D makes the contributions. PQR is required to include the GST collectible of \$231 ($\$3,300 \times 7\%$) in determining its net tax for the reporting period during which the consideration for the cemetery services is paid or becomes due, whichever is earlier.

There are no GST consequences with respect to the excess \$179 [$(\$3,210 + \$500) - (\$3,300 + \$231)$] disbursed from the trust to Mr. D's estate.

Cemetery services plans entered into before implementation of the GST and HST

Pursuant to section 344 of the Act, relief from the GST is provided for certain supplies of cemetery services made under a written cemetery services plan entered into before September 1990. As well, relief from the provincial component of the HST is provided, under section 360 of the Act, for certain supplies of cemetery services made in a participating province, for consumption or use in that province, where the supplies are made under a written cemetery services plan entered into before April 1, 1997.

For purposes of sections 344 and 360, "funeral services" include the provision of a coffin, headstone, or any other property relating to the funeral, burial or cremation of an individual that is provided under an arrangement for the provision of funeral services. Therefore, the definition of funeral services in these sections includes cemetery services.

Pursuant to section 344, where an arrangement to supply funeral services in respect of an individual is entered into in writing before September 1990, no GST is payable in respect of any supply under the arrangement. Under section 360, where an arrangement to supply funeral services in a participating province in respect of an individual is entered into in writing before April 1, 1997, the provincial component of the HST (i.e., 8%) is not payable in respect of the supply of funeral services under the arrangement for consumption or use in that province.

Sections 344 and 360 apply only where, at the time the arrangement is entered into, it is reasonable to expect that all or part of the funds required to pay for the funeral services will be paid before the individual's death.

Substitutions

Where a new cemetery operator is substituted for an original cemetery operator, and there is a written substitution clause in the existing cemetery services plan to permit this substitution (or the plan is silent with respect to the substitution of a cemetery operator), the tax relief provided under sections 344 and 360 will continue to apply.

However, where a clause in the existing cemetery services plan does not permit the substitution of a cemetery operator, and a substitution occurs, this substitution will create a new plan. Therefore, the tax relief provided under sections 344 and 360 will not apply.

There are certain circumstances in which the substitution of one cemetery operator for another may occur for reasons beyond the control of the purchaser of the cemetery services plan. For example, if a cemetery, columbarium or mausoleum changes ownership, a cemetery operator's cemetery services plans may be assigned to another cemetery operator. In situations where the substitution of one cemetery operator for another is made for reasons beyond the control of the cemetery services plan purchaser, and provided that the new cemetery operator honours the original contract, the tax relief provided under sections 344 and 360 will continue to apply.

If another individual is substituted for the original individual who is the object of a cemetery services plan, the substitution will create a new arrangement. As a result, the tax relief provided under sections 344 and 360 will not apply.

Example

A number of individuals entered into written agreements, before September 1990, with OPQ Cemeteries ("OPQ") for the supply of cemetery services in Alberta. The funds covering the cost of the cemetery services were paid at the time the arrangements were entered into.

OPQ ceased operations and sold the business to RST Cemeteries ("RST"). As part of the agreement for the purchase of the business, RST will honour the cemetery services plans previously entered into by OPQ.

Provided that RST honours the cemetery services plans, the grandfathered status of the contracts will not be affected by the change of cemetery operators and the GST relief afforded under section 344 of the Act will continue to apply.

Supplies made by charities, public institutions and other public service bodies

Charities

For purposes of the GST/HST, a charity means a registered charity as defined under subsection 248(1) of the *Income Tax Act*.

Generally, supplies of real property, services, and intangible personal property made by charities are exempt from the GST/HST under section 1 of Part V.1 of Schedule V to the Act, while supplies of tangible personal property, unless used or donated, are generally taxable.

Where a supply of interment rights by a charity to an individual or personal trust is made by means of a sale, the supply is excluded from exemption under paragraph 1(k) of Part V.1 of Schedule V to the Act and is therefore subject to the GST/HST.

In contrast, where interment rights are supplied by way of lease, licence or similar arrangement, section 1 of Part V.1 of Schedule V to the Act applies to exempt the supply. Refer to page 11 for information on how to determine when a supply of interment rights is made by way of sale, or by lease, licence or similar arrangement.

If a charity sells tangible personal property (e.g., monuments, memorials, markers, plaques) that are new and have not been donated to the charity, such supplies are taxable as they are excluded from exemption under paragraph 1(d) of Part V.1 of Schedule V to the Act. If a supply of a monument includes the service of erecting it, regardless of whether the service forms part of, or is separate from, the supply of the monument, both are excluded from the exemption under paragraph 1(d) of Part V.1 of Schedule V to the Act.

Public institutions

A public institution includes a registered charity that is a local authority determined to be a municipality. Most supplies of services and intangible personal property made by a public institution are exempt from GST/HST pursuant to section 2 of Part VI of Schedule V to the Act.

The supply of monuments, memorials, markers, plaques and the services of erecting such property by a public institution are excluded from exemption under paragraph 2(e) of Part VI of Schedule V to the Act and are subject to GST/HST.

Supplies of real property by a public institution are treated in the same manner as those made by public service bodies. That is, these supplies are generally exempt, subject to certain exceptions, as explained in the following section.

Public service bodies

A public service body includes, amongst other organizations, a non-profit organization and a municipality, but, for purposes of the following discussion, does not include a charity. Many supplies made by public service bodies are taxable.

Generally, the supply of monuments, markers, plaques and the services of erecting such property by a public service body are taxable.

Section 25 of Part VI of Schedule V to the Act provides a general exemption for supplies of real property by a public service body, subject to a number of exceptions listed under that provision.

The supply of interment rights by a public service body to an individual or personal trust made by way of a sale is taxable as it is excluded from exemption under paragraph 25(c) of Part VI of Schedule V to the Act.

Alternatively, where interment rights are supplied by way of a long-term lease, the supply is exempt pursuant to section 25 of Part VI of Schedule V to the Act.

A supply made by way of licence in the course of a business carried on by a public service body is taxable for purposes of GST/HST since it is excluded from the exemption pursuant to subparagraph 25(f)(ii) of Part VI of Schedule V to the Act. More information on how to determine when a supply of interment rights is made by way of sale or by lease, licence or similar arrangement is provided in the section at the beginning of the next page.

Note that the real property exemption under section 25 of Part VI of Schedule V to the Act does not apply to supplies made by a federal or provincial government.

Election under section 211

Charities, public institutions and other public service bodies may make an election under section 211 of the Act in respect of their supplies of real property. The effect of the election is to render sales, leases and other supplies of real property taxable for purposes of the GST/HST. While the election is in place, the property is specifically excluded from the exemptions under section 1 of Part V.1 of Schedule V and section 25 of Part VI of Schedule V to the Act.

However, if a supply is exempt under any other provision of the Act, an election under section 211 will not exclude the supply from the other exemption.

Determining when a supply of interment rights is by way of sale or by lease, licence or similar arrangement

As noted above, the supply of interment rights can be made by way of the sale of an interest in real property and, as such, is considered to be a supply of real property. The supply of interment rights may also be a supply of real property by way of lease, licence or similar arrangement.

It may be difficult to distinguish between a lease and licence. However, given the specific use and purpose of the property and the fact that a purchaser may have little or no control over it, a supply of interment rights (if not made by way of sale) is generally a supply by way of licence.

Supply of interment rights by way of sale

For information on how to determine whether a supply is made by way of sale, refer to paragraphs 12 to 24 of GST/HST Memorandum 19.1, *Real Property and the GST/HST*. A typical example of a supply made by way of sale is a supply of interment rights in perpetuity.

Supply of interment rights by way of lease, licence or similar arrangement

The term “lease, licence, or similar arrangement” is not defined in the Act. Refer to paragraphs 25 to 31 of GST/HST Memorandum 19.1 for information concerning the meaning of this term. A typical example of a supply by lease, licence or similar arrangement is a supply of interment rights for a specified period of time.

Single vs. multiple supplies

Where a combination of cemetery property and services are provided together by a charity, public institution or public service body, refer to Policy Statement P-077R, *Single and Multiple Supplies*, to determine whether a particular transaction is to be regarded as a single or multiple supplies.

If there are multiple supplies with respect to a transaction, it is necessary to determine whether one of these supplies is incidental to another and whether it may therefore be deemed to form part of a single supply pursuant to section 138 of the Act. To be considered incidental, a supply generally plays only a minor or subordinate role in relation to the provision of another supply.

Section 138 deems a supply to form part of another supply provided that the supplies are supplied together for a single consideration. Further, for section 138 to apply, it must be reasonably regarded that the provision of one property or service is incidental to the supply of the other. Refer to Policy Statements P-159R-1, *Meaning of the Phrase “reasonably regarded as incidental”*, and P-160R, *Meaning of the Phrase “where a particular property or service is supplied together with any other property or service”*, with respect to the conditions that must be met for section 138 to apply.