

January 16, 2002

Notice of Change

GST/HST Memorandum 19.2.2 *Residential Real Property — Rentals*

The electronic version of GST/HST Memorandum 19.2.2 *Residential Real Property — Rentals* is being changed to reflect legislative amendments.

Paragraph 12 of this Memorandum is being revised to reflect the amendment to section 6.1 of Part I of Schedule V. Prior to the amendment, section 6.1 exempted certain leases of real property to a person who holds the property for the purpose of re-supplying it in circumstances in which the re-supply is exempt under section 6, 6.1, or 7 of Part I (generally, exempt residential uses). In particular, section 6.1 refers to the person making, or holding the property for the purpose of making, an exempt supply of the “property”. However, paragraph 7(c) of Part I exempts not only a supply of the real property itself, but also any supply by way of assignment of a lease, licence, or similar arrangement in respect of the property.

Amended section 6.1 clarifies that, in addition to a re-supply of the property itself, a supply by assignment of a lease, licence or similar arrangement in respect of the property can give rise to the exemption provided under that section.

This amendment is consistent with administrative practice and is therefore effective January 1, 1991.

Accordingly, paragraph 12 in the electronic version of GST/HST Memorandum 19.2.2 *Residential Real Property—Rentals* is being revised to read as follows:

12. If one person (Person A) supplies:

- land,
- a building,
- that part of a building that forms part of a residential complex,
- a building that consists solely of residential units, or
- a residential complex,

to another person (Person B) for a lease interval during which Person B in turn supplies the property, or one or more parts of the property, by way of lease, licence or similar arrangement and all or substantially all of these supplies are on an exempt basis, then the first lease is also exempt throughout the same lease interval. Moreover, if Person B transfers his or her rights to the property by way of assignment of the lease, licence or similar arrangement and the property is being supplied on an exempt basis, the first lease is also exempt throughout the same lease interval.

In addition, paragraph 19 of this Memorandum is being revised to reflect an amendment to section 8.1 of Part I of Schedule V. Prior to the amendment, section 8.1 of Part I of Schedule V exempted the supply of a parking space by way of lease, licence or similar arrangement when made to an occupant, owner or lessee of a residential condominium unit if the parking space is part of the condominium complex in which the unit is located. Since “condominium complex” is defined in subsection 123(1) as a residential complex that contains more than one residential condominium unit, section 8.1, as it read prior to being amended, did not exempt the supply of a parking space to the occupant, owner, or lessee of a detached, single unit condominium.

Amended section 8.1 exempts a supply by way of lease, licence or similar arrangement of a parking space when made to the occupant, owner, or lessee of a residential condominium unit provided the unit and the parking space are described by the same condominium or strata lot plan. It, therefore, covers the situation of a single unit condominium.

This amendment applies to supplies made after December 10, 1998.

Accordingly, paragraph 19 of the electronic version of GST/HST Memorandum 19.2.2, *Residential Real Property — Rentals* is being changed to read as follows:

19. Supplies of parking spaces supplied with a residential condominium unit are exempt when the supply is by way of lease, licence or similar arrangement throughout a period of at least one month if the parking space forms part of the condominium complex.

Moreover, supplies of parking spaces made after December 10, 1998, are exempt when the supply is by way of lease, licence or similar arrangement throughout a period of at least one month to the owner, lessee or person in occupation or possession of a residential condominium unit described by a condominium or strata lot plan or description, or similar plan or description, registered under the laws of a province, if the space is situated within the boundaries of that plan or description.

Similarly, paragraph 21 of this Memorandum is being changed to reflect the amendment to section 13 of Part I of Schedule V. Prior to the amendment, section 13 of Part I of Schedule V exempted condominium fees charged to residential condominium owners or lessees. This was accomplished by exempting the supply by a condominium corporation of property or a service relating to the occupancy or use of a condominium unit in the complex managed by the corporation when the supply is made to the owner or lessee of the unit. Since “condominium complex” is defined in subsection 123(1) as a residential complex that contains more than one residential condominium unit, section 13 did not exempt condominium fees charged to the owner or lessee of a detached, single unit condominium.

Amended section 13 covers the situation of a single unit condominium. It exempts a supply of property or a service by a corporation (or “syndicate” in the case of transactions governed by the Civil Code) established upon the registration of a condominium or strata lot plan. The supply is exempt when made to the owner or lessee of a residential condominium unit described by that plan. The property or service supplied must be related to the occupancy or use of the unit.

This amendment applies to supplies for which consideration becomes due after December 10, 1998 or is paid after that day without having become due.

Accordingly, paragraph 21 is being revised to read as follows:

21. Condominium fees charged to owners or lessees of residential condominium units are generally exempt, if the fees relate to the occupancy or use of a residential unit in the complex. Likewise, supplies of property or services are exempt if they are made after December 10, 1998, by a corporation (or syndicate in the case of transactions under the Civil Code) established upon the registration, under the laws of a province, of a condominium or strata lot plan or description or similar plan or description, to the owner or lessee of a residential condominium unit described by that plan or description, if the property or service relates to the occupancy or use of the unit. Similarly, co-operative housing corporation fees that relate to the use and occupancy of a residential unit by a shareholder or lessee of a shareholder of the corporation are exempt, if the fees relate to the occupancy or use of a residential unit in the complex. As a result, residential condominium corporations and cooperative housing corporations are treated much the same as residential landlords: they are generally unable to claim ITCs for GST/HST paid or payable on purchases related to property or services provided to condominium owners.