



# GST Memoranda Series

## 5.3 Legal Aid Services

Overview	This section explains what legal aid services are and provides detailed information on legal aid services that are exempt from the Goods and Services Tax (GST) under the <i>Excise Tax Act</i> .
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Disclaimer	The information in this memorandum does not replace the law found in the <i>Excise Tax Act</i> 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 a Canada Revenue Agency (CRA) GST/HST Rulings Centre for more information. These centres are listed in GST/HST Memorandum 1.2, <i>Canada Revenue Agency GST/HST Rulings Centres</i> . If you wish to make a technical enquiry on the GST/HST by telephone, please call the toll-free number 1-800-959-8287.
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If you are located in the Province of Quebec, please contact Revenu Québec by calling the toll-free number 1-800-567-4692 for additional information.

Note	This section of Chapter 5 supersedes GST Memorandum 300-4-5, <i>Legal Aid Services</i> . Side-barring indicates significant changes.
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### Legal aid services

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| Exempt legal aid services<br>Schedule V, Part V<br>Definition of legal aid plan<br>ss 258(1) | <ol style="list-style-type: none"> <li>1. Legal aid services supplied by the administrator of a provincial legal aid plan to legal aid clients are exempt.</li> <li>2. Each province and territory has its own legal aid organization whose mandate is to provide legal services to persons who could not otherwise afford the services of a lawyer. A "legal aid plan" is defined as a legal aid plan administered under the authority of the government of a province. The term "province" is interpreted to include a territory.</li> </ol> |
| Provision of legal aid services  | <ol style="list-style-type: none"> <li>3. Legal aid services are made available to legal aid clients in two ways: <ul style="list-style-type: none"> <li>• in some provinces, legal aid services are provided both by lawyers who are in private practice and by lawyers who are employees of the legal aid organization; and</li> <li>• in other provinces, legal aid services are supplied mainly by private practitioners whose fees are paid under the legal aid plan.</li> </ul> </li> </ol>  |

### 5.3 Legal Aid Services (continued)

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Recovering portion of costs from legal aid client

4. Irrespective of whether the lawyer is in private practice or an employee of the legal aid organization, the legal aid organization may be able to recover a portion of its cost from the legal aid client. Any cost for legal aid services that is recovered from the client is not taxable as these services are exempt. The assumption is that the legal aid client in certain situations may be required to pay a small portion of the legal cost associated with the legal aid services. For example, in one province, the legal aid organization may recover an amount ranging from \$25 to \$50 from the client based on the financial status of the client.

Private practitioner's fees

5. A private practitioner's fee for legal aid services paid by the legal aid organization may be taxable. No tax will be charged on legal aid services provided by a private practitioner in the situation where the government administers its legal aid plan directly. The tax will, however, be charged on legal aid services provided by a private practitioner in the situation where the government has set up a separate organization to administer its legal aid plan. Where the legal aid organization is required to pay tax on these services, it is entitled to claim a rebate equal to the amount of tax payable.

Legal aid rebates 258

6. In this regard, where an administrator of a legal aid plan pays the tax on a taxable supply of legal services provided under a legal aid plan, the following rules apply:

- the Minister shall pay to the person a rebate that is equal to the amount of tax payable by the person in respect of the supply; and
- the person shall not be entitled to any other rebate in respect of the tax on that supply.

7. More information on the rebate available for legal aid is found in Section 13.2, *Rebates: Legal Aid*, of Chapter 13, *Rebates*.