

GST/HST News #39

Winter 2000 - 2001

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 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.

ISSN 1183-689X

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Individuals claiming a GST/HST exemption

Vendors should be aware that a number of individuals are claiming exemptions, and in some cases presenting cards, such as *Corporation Sole* and *International Humanity House* cards, in an attempt to avoid paying the GST/HST on their purchases.

Although some provinces issue exemptions from provincial sales tax to farmers, municipalities and other businesses, these exemptions **do not apply** to the GST/HST.

Please note that registrant vendors who **do not** collect the GST/HST from an individual falsely claiming to be exempt from the GST/HST must still remit the tax that should have been collected.

The only individuals who can purchase goods and services without paying the GST/HST are Indians, under the conditions outlined below.

Certificate of Indian Status

Indian individuals may qualify for tax relief under certain conditions. When these conditions are met, the CCRA accepts the *Certificate of Indian Status* card issued by the Department of Indian Affairs and Northern Development (DIAND) as proof of Indian status.

The *Certificate of Indian Status* card displays the Canadian maple leaf logo immediately followed by “Indian and Northern Affairs Canada”. The certificate card also shows:

- the person’s photo;
- the person’s name; and
- a 9- or 10-digit registry number.

Therefore, if you are a registrant for GST/HST purposes and you supply goods or services taxable at 7% GST or 15% HST to an Indian individual, that Indian individual may be eligible for tax relief if he or she provides the *Certificate of Indian Status* card and:

- the goods are sold on a reserve, or the goods are delivered (by you or your agent) to a reserve; or
- the services (e.g., haircuts, small appliance repairs) are performed totally on a reserve.

You must clearly indicate on sales documents (i.e., invoices) the registry number, or the band name and family number (commonly referred to as the “band number” or “treaty number”), and you must also retain proof of delivery if the goods are delivered to the reserve (i.e., way bills, postal receipts, freight bills, mileage logs, or dispatch records).

Exception

The tax relief described above does not apply in the Yukon. Effective February 15, 1998, all supplies of goods and services to Indians and Indian bands in the Yukon became subject to the GST/HST. In addition, goods purchased by a Yukon Indian Person resident in the Yukon or a Yukon First Nation are subject to the GST/HST even if the goods are delivered to a reserve outside the Yukon.

For more information on this subject please consult GST Technical Information Bulletin B-039R, *GST Administrative Policy: Application of GST to Indians*. This publication is available on the CCRA Internet site under Forms and Publications, Technical Publications - Tax, GST/HST, GST/HST Technical Information Bulletins B-001 to B-050, by using this address: <http://www.ccra-adrc.gc.ca/menu/EmenuKDA.html>

Bill C-24 Receives Royal Assent

Bill C-24 received Royal Assent on October 20, 2000. It amends the *Excise Tax Act* and incorporates the Notice of Ways and Means Motion of December 2, 1999, which introduced measures tabled in the House of Commons on June 4, 1999 (Bill C-88), along with new measures announced on August 12 and October 8, 1999.

The legislation includes some refinements and additions to previously announced measures, such as multi-employer pension plans, sales of accounts receivable, charities, and penalties for false statements or omissions. Legislative changes relevant to the Visitor Rebate Program include rebates for non-residents of Canada for GST/HST paid on campsite and hook-up fees, as well as a rebate of 50% of GST/HST paid on food and beverages for foreign conventions.

Press Release - October 4, 2000

On October 4, 2000, the Minister of Finance tabled a Notice of Ways and Means Motion containing draft GST/HST legislation to implement the Export Distribution Centre (EDC) measures and the New Residential Rental Property Rebate announced in the February 28, 2000 budget. In addition, the Motion contained some newly proposed GST/HST amendments.

The proposed GST/HST amendments concern returns of real property to the original vendor, vocational training, sales of real property by an individual or personal trust, supplies by charities, public institutions and public service bodies, speech therapy services, and electronic filing of GST/HST returns.

The Minister also announced amendments to the *Federal Book Rebate (GST/HST) Regulations*, the *Artists' Representatives (GST/HST) Regulations*, and the *Closely Related Corporations (GST) Regulations*, to update lists of prescribed persons under each of the respective Regulations.

Export Distribution Centre Program

Under the EDC Program, proposed to begin on January 1, 2001, authorized export-oriented, non-manufacturing businesses will be able to use a certificate to acquire or import most inventory and parts, or import a customer's goods for processing, without payment of the GST/HST.

Only GST/HST registrants whose export revenue accounts for at least 90% of their total revenue generated from activities in Canada, and that add only limited value to goods, will be eligible for the EDC Program. Eligible registrants who want to use the EDC Program must apply to the CCRA for authorization. Authorizations will remain in effect for three years, unless revoked earlier, and can be subsequently renewed.

To complement the EDC Program, the federal budget also proposed the following changes to existing measures:

- GST/HST relief is extended to goods imported for warranty repair, where replacement goods are exported in place of the original defective goods; and
- storage services are eligible for relief under the drop-shipment rules, and expansion of the Exporters of Processing Services Program to provide for storage and distribution activities.

More information on these topics can be found in the GST/HST guide RC4027, *Doing Business in Canada - GST/HST Information for Non-Residents* which can be found on the CCRA Internet address: <http://www.cra-adrc.gc.ca/E/pub/gp/rc4027eq/rc4027eq.html>

Some Export Trading House Program rules aligned with those of the new EDC Program were also announced. Information concerning export trading houses can be found in GST/HST Memorandum 4.5.2, *Exports - Tangible Personal Property* at this CCRA Internet address: <http://www.cra-adrc.gc.ca/E/pub/gm/4-5-2em/README.html>

New Residential Rental Property Rebate

The federal budget also proposed a New Residential Rental Property Rebate, generally equal to a maximum of 2.5 percentage points of tax, for newly-constructed, substantially renovated, or converted residential rental accommodation. In the participating provinces this rebate will apply only to the federal portion of the HST. The rebate will be available in respect of rental accommodation, including single unit and multiple unit rental housing, additions to multiple unit rental housing, and land leased for residential purposes, provided the rental accommodation or land is used or intended to be used as an individual's primary place of residence on a long-term basis. The rebate is available for residential units with a fair market value up to \$450,000.

The rebate will be payable to the person who paid the tax. For example, in the case of rental accommodation, it will be payable to the landlord and, in the case of leased land, to the lessor. The rebate will apply to rental accommodation where the construction, substantial renovation or conversion commences after February 27, 2000. In the case of leased land, the rebate will apply where lease agreements are entered into after February 27, 2000.

The CCRA will be publishing Technical Information Bulletins with detailed information concerning these new programs in the near future. Check the CCRA Internet site for these publications.

The Press Release can be found on the Department of Finance Internet site under the heading "News Releases and Speeches" or by using this address: <http://www.fin.gc.ca/newse00/00-078e.html>

Recipient of a supply and entitlement to input tax credits

Who is entitled to claim an input tax credit (ITC) when an invoice is issued in the name of one person, but another person actually pays the invoice amount?

One of the conditions that must be met in order for a registrant to claim an ITC in respect of the tax paid or payable on supplies is that the claimant must be the "recipient" of the supply in question. Generally, the "recipient" of a supply is the person liable to pay the consideration for the supply under the agreement for the supply.

For example: Registrant A, which is engaged exclusively in commercial activities, places an order for equipment with a supplier and is liable to pay the consideration for the equipment under the agreement for the supply. Registrant B takes delivery of the goods and actually uses them exclusively in its commercial activity.

The invoice issued by the supplier identifies A as the customer and lists the shipping address of B for delivery purposes. When B receives the goods, B pays the supplier and subsequently claims the ITC. As supporting documentation, B uses the invoice made out in the name of A. However, as B is not the "recipient" of the supply, it is not eligible to claim an ITC, since it is not the person liable to pay the consideration for the equipment.

In this scenario, the "recipient" of the initial supply of the equipment is registrant A, and as such, A is entitled to claim the ITC. If the parties would like registrant B to be able to claim an ITC in respect of equipment, A should then "re-supply" the equipment to B and issue an invoice to B identifying that registrant as the recipient of the supply. B would then be in a position to claim an ITC for the tax paid or payable on that supply, provided B has appropriate documentation and has satisfied the other conditions for claiming an ITC.

Exception - Where a duly authorized agent or representative acquires goods or services on behalf of a principal in an agent-principal relationship between registrants, the principal would be entitled to claim the ITC, rather than the duly authorized agent or representative.

For more information on ITCs refer to the 400 series of *GST Memoranda* which discuss input tax credits in detail. They are available on the CCRA Internet site at this address:

<http://www.ccra-adrc.gc.ca/menu/EmenuKEE.html>

Reminder to annual filers: your personalized return and remittance forms have arrived early

Included with this annual edition of the *GST/HST News*, we have enclosed your personalized return and remittance form much earlier than you require it. Also included is a flyer reminding you about return and payment due dates.

Please retain all personalized returns and remittance forms enclosed with this copy of the *GST/HST News* until filing and remitting is required. If you would like further information as to your rights and entitlements as a GST/HST annual filer, please contact our Business Enquiries line at 1-800-959-5525, or visit the CCRA Internet site at www.ccra-adrc.gc.ca.

First Nations Tax

Currently, five Indian bands are charging the First Nations Tax (FNT), a 7% value-added tax equivalent to the GST, on sales of fuel, alcoholic beverages and tobacco products which are sold on their reserves. The CCRA is administering these taxes on behalf of the Westbank First Nation and the Kamloops First Nation (on tobacco products, fuel and alcoholic beverages), and the Sliammon First Nation (on tobacco products and fuel only).

As of September 1, 2000, the Chemainus First Nation is charging the FNT on sales of fuel, tobacco products, and alcoholic beverages sold on its reserves. And as of October 1, 2000, the Buffalo Point First Nation is charging the FNT on sales of fuel, tobacco products, and alcoholic beverages sold on its reserves.

For more information refer to the CCRA publication RC4072, *First Nations Tax (FNT)*, which provides more details about these taxes, including the definition of products subject to the FNT. It is available from any tax services office and on the CCRA Internet site at the following address:

<http://www.ccradrc.gc.ca/menu/EmenuHDC.html>. You may also consult FNT Questions and Answers by searching the CCRA Internet site for “First Nation Tax”.

Land claim and self-government agreements with the Nisga’a Nation

As a result of the provisions of land claim and self-government agreements with the Nisga’a Nation, British Columbia, four Indian bands ceased to be Indian bands as defined in the *Indian Act*.

Effective May 11, 2000, these entities are required to pay the GST/HST when acquiring taxable goods and services. The *Nisga’a Final Agreement Act* is the enacting legislation.

Also effective May 11, 2000, certain Nisga’a Nation reserve lands ceased to be reserve lands. However, a remission order has been passed that provides for a remission of tax to Indian individuals for property situated on these former reserve lands and an interest of an Indian individual in these former reserve lands. For GST/HST purposes, the *Nisga’a Final Agreement Indian Remission Order* applies until May 31, 2008.

Notice for suppliers to Prince Edward Island government departments and agencies

The Government of Prince Edward Island (PEI) and the Government of Canada have entered into a new reciprocal tax agreement which will change the GST/HST purchasing procedures for PEI government departments and agencies.

Effective October 1, 2000, all PEI government departments and agencies pay GST/HST on all of their taxable purchases.

Suppliers should no longer rely on or accept a Crown funds exemption certificate requesting GST/HST relief at point of purchase from PEI government departments and agencies. Suppliers must therefore ensure that they charge and collect the applicable GST/HST on all taxable supplies made to PEI government departments and agencies.

Reminder: changes to the *GST/HST News*

We have changed the way we publish the *GST/HST News*. Starting with the Summer 2000 issue (#37), we are publishing an electronic only version for three quarters of the year (Spring, Summer, and Fall). This Winter 2000-2001 edition is the **annual** paper version of the newsletter which will be published at the end of each calendar year from now on.

The annual edition of the *GST/HST News* covers the same technical issues discussed in the quarterly electronic issues of the year and will be delivered in December to all registrants. For the remaining three quarters, we are publishing the newsletter electronically and making it available on the CCRA Internet site under the sub-headings Tax, Business, GST/HST, or by going directly to the following address: <http://www.ccr-a-adrc.gc.ca/menu/EmenuKOA.html>

This change is a result of cost-saving initiatives by the CCRA and also responds to registrants' concerns with the paper burden of a quarterly publication.

Look for the next issue of the *GST/HST News* on the CCRA Internet site around mid-March.

For those who do not have Internet access or who have not previously seen the Summer (#37) and Fall (#38) 2000 editions, the following is a summary of the articles contained in the Internet version of the *GST/HST News*.

Summer 2000 #37

The following articles appeared in the Summer 2000 Internet edition of the *GST/HST News*.

Closely related corporations vs. associated corporations for purposes of the election for nil consideration

This article briefly outlines the difference between “closely related corporations” and “associated corporations” and their eligibility to make an election for nil consideration under the *Excise Tax Act* (ETA).

Generally, section 156 of the ETA permits specified members of a closely related group of corporations to elect to treat qualifying supplies between them as if they were made for no consideration, when all the requirements of section 156 are met. This is done in order to simplify tax accounting. One of the requirements of the legislation is that corporations must be closely related rather than merely associated in order to make the election.

The concept of closely related corporations under the ETA pertains to, amongst other things, the substantial common ownership of shares with full voting rights between corporations (i.e., common ownership of at least 90% of the value and number of issued and outstanding shares with full voting rights).

The concept of associated corporations deals with the common control amongst corporations. Generally, the ETA provides that two corporations are associated with each other if they are associated corporations under subsections 256(1) to (6) of the *Income Tax Act*. Circumstances of

corporate control determine whether two corporations are associated. It is important to note that associated corporations are not necessarily closely related.

Refer to section 128 of the ETA and GST Memorandum 17.14 for information on determining whether corporations are closely related, and section 127 of the ETA, subsections 256(1) to (6) of the *Income Tax Act* and Interpretation Bulletin IT64R3, for information on determining whether corporations are associated.

Non-resident registrants

If you are a non-resident registrant (e.g., a U.S. resident) without a permanent establishment in Canada, the CCRA has designated a tax services office for you according to the geographical area of your place of business abroad.

Should you wish to register or otherwise deal with a specific tax services office for a particular reason (e.g., the place where your tax consultant is situated or where most of your supplies will be made), you may do so, but you must select one of the seven designated tax services offices which administer non-resident registration, and you must fulfill the GST/HST security requirements applicable to non-residents who do not have a permanent establishment in Canada.

A list of the states and countries and the corresponding tax services offices is provided in the GST/HST Guide RC4027, *Doing Business in Canada - Information for Non-Residents* which can be found on the CCRA Internet site under Tax, Business, GST/HST, GST/HST Guides, or by using this address: <http://www.ccra-adrc.gc.ca/E/pub/gp/rc4027eq/rc4027eq.html>

The articles below were also published in the Summer 2000 edition of the newsletter and can be found at this address:

<http://www.cca-adrc.gc.ca/E/pub/gr/news37em/README.html>

Automobile deduction limits

This article discusses the new automobile expense deduction limits for the year 2000 and the prescribed rates for determining the taxable benefit on automobile operating expenses for businesses.

Reminder for farmers and agri-business

This article discusses the tax status of supplies of agricultural products for GST/HST purposes.

Excise Tax Corner -

This article discusses diversion. When excisable goods are purchased excise tax-paid, but are used under tax-exempt conditions, or when excisable goods are purchased tax-exempt, but are used or sold under taxable conditions, “diversion” occurs. Excisable goods normally associated with diversion include fuels, motor vehicles and tobacco products.

Fall 2000 #38

The following articles appeared in the Fall 2000 Internet edition of the *GST/HST News*.

Supply of photocopies

Generally, the supply of photocopies is considered to be a supply of tangible property rather than a service for purposes of the GST/HST.

However, under certain circumstances, the supply of photocopies may be considered to be the supply of a service where the recipient of the supply provides the necessary inputs. For example, if a customer were to bring the original document and the paper on which to make copies to a photocopy shop, then the supply of the photocopies could be considered to be a supply of a service.

An example illustrating the supply of photocopies as tangible property follows:

A university, which is a public institution and a registrant, has a number of stand-alone photocopiers in its library which accept coins. The photocopiers are operated by individuals, generally university students, who copy material needed for their courses. The consideration is based on a cost per photocopy. The consideration paid by the customer for the supply of photocopies exceeds the direct cost to the public institution, that is, the university makes a profit. In the course of supplying photocopies, the university acquires property and services on which it pays GST/HST.

In this case, the supply of photocopies is a supply of tangible property and GST/HST will be payable on the supply. Input tax credits may be claimed for GST/HST paid by the university on property or services acquired for the purpose of making supplies of photocopies.

This policy is effective July 1, 2000. For more information consult GST/HST Policy Statement P-236, *Supply of Photocopies*. This policy statement can be found on the CCRA Internet site at this address: <http://www.ccr-aadrc.gc.ca/menu/EmenuKPA.html>

Municipal organizations and hospital authorities

Municipal organizations, hospitals and health authorities and boards which have been created by amalgamation, merger, etc. as a result of the restructuring of municipalities and the delivery of health services, need to confirm their status with the CCRA to ensure the continued payment of their public service body rebates.

Call the Business Enquiries line at 1-800-959-5525 for more information, or contact your tax services office. A list of addresses for tax services offices can be found on the CCRA Internet site at the following address: <http://www.ccr-aadrc.gc.ca/E/pub/en/new20ine/new20ine.html>

Indian Settlements Remission Order

On July 27, 2000, the *Indian Settlements Remission Order (2000)* came into force. The purpose of this Order is to provide relief from income tax and GST/HST to specified Indian settlements by treating them as though these settlement lands were reserve lands.

As a result, for purposes of the GST/HST administrative guidelines that apply to Indians and Indian bands, the following Indian settlements in Alberta will be considered to be reserves: Alexander, Fox Creek, Fort Assiniboine, Loon River and Loon Prairie.

Technical Information Bulletin B-039R, *GST Administrative Policy - Application of GST to Indians*, provides more information concerning the application of tax to Indians and Indian bands. This Technical Information Bulletin can be found on the CCRA Internet site at the following address: <http://www.cca-adrc.gc.ca/E/pub/gm/b-039rem/README.html>

Elimination of Quebec Sales Tax Rebate

Currently, under the Quebec sales tax system (QST), non-residents of Canada may claim a rebate equal to the QST paid on eligible purchases. Such purchases include goods acquired to be taken or shipped outside of Quebec, short-term accommodation, and certain supplies relating to a foreign convention.

The Government of Quebec has announced that portions of this program relating to eligible goods and short-term accommodation will be eliminated.

Since October 1, 2000, non-residents of Canada are no longer entitled to a QST rebate respecting eligible goods acquired to be taken or shipped outside Quebec if the total consideration for the goods became due after September 30, 2000, and has not been paid by that date.

Similarly, as of November 1, 2001, short-term accommodation for occupation by individuals who are non-residents of Canada will no longer be eligible for a QST rebate. This will apply both to individuals who acquire accommodation for their own purposes, and to non-registrant foreign suppliers who acquire the accommodation directly or as part of tour packages for supply outside

Canada to non-residents, if the total consideration becomes due after October 31, 2001, and is not paid by that date.

The measure also applies to supplies of short-term accommodation or to tour packages that include such accommodation, for which all or part of the consideration became due or has been paid before November 1, 2001, if all the short-term accommodation made available in the course of such supplies is to be occupied after October 31, 2001.

Rebates granted in the context of foreign conventions are maintained. For example, short-term accommodation acquired by the promoter of a foreign convention exclusively for supply within the framework of the convention may be subject to a rebate.

These two articles were also published in the Fall 2000 edition of the newsletter and can be found at this CCRA Internet address:

<http://www.ccr-aadrc.gc.ca/E/pub/gr/news38em/news38-e.html>

Rebate for printed books

This article discusses how specified persons may claim a rebate of 100% of the GST or the federal portion of the HST on their purchases of printed books, audio recordings of printed books, or printed versions of the scripture of any religion which are not for resale.

Excise Tax Corner - Refunds

This article discusses how licensees and non-licensees under the *Excise Tax Act* may, where provided by law, apply for a refund of an amount equal to excise tax paid in numerous situations.

New address for your Tax Centre

The address of the CCRA Tax Centre to which you mail your GST/HST returns and remittances may have changed. This address is printed on each personalized return and remittance that we send you. You can help us in our efforts to provide you with more efficient service by ensuring that your returns and remittances are sent to the appropriate Tax Centre.

What's new in publications

GST/HST Memoranda Series

Memorandum 3.3 *Place of Supply*
Memorandum 3.4 *Residence*
Memorandum 4.1 *Drugs and Biologicals*
Memorandum 17.2 *Products and Services of a Deposit-Taking Financial Institution*

GST/HST Guides

RC4022 *General Information for GST/HST Registrants*
RC4027 *Doing Business in Canada - GST/HST Information for Non-Residents*
RC4031 *revised - Tax Refund for Visitors to Canada*
RC4034 *revised - GST/HST Public Service Bodies' Rebate*
RC4049 *GST/HST Information for Municipalities*
RC4058 *Quick Method of Accounting for GST/HST*
RC4072 *First Nations Tax (FNT)*
RC4091 *GST/HST Rebate for Partners*
RC4160 *Tax Refund for Non-Resident Tour Operators, Incentive Travel Organizers, Meeting Planners, and Convention Organizers*

Current publications can be found on the CCRA Internet site at www.ccra-adrc.gc.ca at the following address: www.ccra-adrc.gc.ca/menu/EmenuHDA.html for guides, pamphlets, forms, and the *GST/HST News*, or at www.ccra-adrc.gc.ca/menu/EmenuKZW.html for GST/HST Memoranda, Technical Information Bulletins, Policy Papers, Notices and Questions and Answers.

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 all other taxes noted below, 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 this address:
<http://www.ccr-aadrc.gc.ca/E/pub/gi/prierem/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 %	
2000						
October 1 -						
December 31	5.9674	6.0	8.0	6.0	8.0	10.0

* To calculate interest for GST/HST purposes only, divide the adjusted annual interest rate by 366 (for the year 2000 leap year) 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 rebate claims call
 1-800-565-9353

To obtain copies of
 forms and publications call
 1-800-959-2221