

GST/HST News #46

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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 the 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.
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Excise Act, 2001

Bill C-47 received Royal Assent on June 13, 2002 and is now law. Bill C-47 enacts the *Excise Act, 2001*.

The *Excise Act, 2001* (<http://www.fin.gc.ca/news01/01-113e.html>) provides a modern framework for the taxation of spirits, wine and tobacco, modernizes the legislative provisions governing these products and introduces an updated administrative and enforcement framework that reflects current industry practices.

This legislation also implements changes to ships' stores provisions and implements tobacco tax increases. Beer will continue to be subject to the provisions of the existing *Excise Act*.

The *Excise Act, 2001* is expected to be implemented in July 2003.

Agreement with the Retail Council of Canada

The CCRA has reached an agreement with the Retail Council of Canada (RCC) to publish a small flyer the size of a bank note to reinforce the fact that everyone purchasing goods and services in Canada, except Status Indians, has to pay the GST/HST.

The RCC will distribute them to their members to place in cash registers across Canada. When a client argues that they do not want to pay GST/HST, the cashier does not have to argue, but can hand out one of these flyers and suggest they call the 1-800 number on the flyer for more information.

Extra copies of the flyer are available on the CCRA Internet site at this address: *(link to flyer)*

Adobe Acrobat link to this document:

Paying GST/HST

GST/HST legislation requires **all** individuals to **pay tax**.

Other than a Certificate of Indian Status (for goods or services received on a reserve), there are **NO** cards that allow tax-free purchases.

For more information, call the Canada Customs and Revenue Agency's GST/HST automated consumer information line at

1-800-247-3577



GST/HST and Dietary Supplements

The CCRA has issued a policy statement which discusses whether products commonly described as “dietary supplements” are taxable at 7% GST (or 15% HST as applicable) or at 0% (zero-rated). The policy statement considers whether such products are zero-rated as food or beverages for human consumption, or as an ingredient to be mixed with or used in the preparation of such food or beverages. If not considered to be a food, beverage or ingredient, the product is not zero-rated.

Food, beverage or ingredient

A product is considered a food, beverage or ingredient if an average consumer would recognize and purchase the product in the ordinary course of buying basic groceries, or if it would be consumed by an average consumer when food or beverages are typically consumed, such as at mealtimes or for a snack.

In order to be regarded as an ingredient to a food or beverage, an item must be an integral part of a final product which would be considered to be a food or beverage by the average consumer.

In general, food and beverages or ingredients are consumed to sustain or maintain life, to allay hunger or thirst, or for enjoyment, rather than for therapeutic or preventative effects (e.g., to correct actual or perceived health problems) or to achieve specific beneficial effects related to performance or physique.

If a product is not considered to be a food, beverage, or ingredient, it is not zero-rated.

Dietary supplements

A product that is marketed for its beneficial effects, and that is added to a food or beverage simply as a means of consuming it, would not be considered by an average consumer as an ingredient simply because it is ingested in this manner.

Products commonly described as “dietary supplements” are generally made from synthetic or natural ingredients that are ingestible and that may be nutritive. These products are available in a variety of formats: solid including powders or capsules/pills, gels, liquids including oil, and tinctures. They may also contain vitamins, minerals, fibre, protein, amino acids, fatty acids, enzymes, or compounds derived from plant or animal products.

Criteria

Meal replacement and nutritional supplement products that meet the criteria set out in the *Food and Drugs Act* are not covered by this policy and such products would generally be zero-rated.

The following criteria related to labelling, packaging and marketing help to determine whether or not a product is considered to be a food, beverage or ingredient:

- Identification as a “dietary supplement” or “supplement”;
- Claims or product names or pictorial representations advising that the product:
 - a) has a therapeutic or preventive effect,
 - b) enhances mental or physical performance, or
 - c) enhances physique or weight loss;
- Emphasis on particular nutrient(s) not commonly regarded by a consumer as an ingredient (e.g. whey protein isolate) or statements as to the purity or superior source of the nutrient. The nutrient is emphasized if the name of the nutrient is prominently displayed on the label. However, this does not include general nutrition information or information that a product is fortified with particular vitamins and minerals, or that it is a source of protein;
- Restrictions related to specific frequencies or quantities of dosage and certain warnings as to who should not consume the product or should only consume it in restricted amounts, or that the product is to be “taken” or “taken as directed by a physician”;

- A Drug Identification Number (DIN). Although not determinative in itself, the presence of a DIN may be an indication that the product is promoted and consumed for its beneficial effects. However, the absence of a DIN does not necessarily mean that a product is considered to be a “food” or a “beverage”;
- A listing of active or medicinal ingredients;
- Comparison to other products that are not considered to be a food, beverage or ingredients; and
- Focus on the benefits of the product, rather than the format. For example, a manufacturer may offer a product in both pill and liquid formats. Although a person may prefer a particular format for ease of consumption, the primary focus continues to be on the expected health benefits of ingesting the product.

For more detailed information on this subject, please refer to the Policy Statement P-240, *Application of GST/HST to products Commonly Described as 'Dietary Supplements'*, <http://www.ccra-adrc.gc.ca/E/pub/gl/p-240/README.html> on the CCRA Internet site.

GST/HST and Electric Scooters

Three- and four-wheeled electrical mobility vehicles or scooters are zero-rated (taxable at zero per cent) if they are specially designed for use by an individual with a disability.

In order to be zero-rated, these vehicles must have been originally designed to be used by individuals with a disability and they must continue to exhibit design features, qualities and capabilities that are specifically intended to address the needs of these individuals.

Parts, accessories or attachments specially designed for a zero-rated electrical mobility vehicle will also be zero-rated.

Please contact your local tax services office if you have any questions concerning your supplies or acquisitions of these vehicles.

GST/HST and Electronic Commerce

Technical Information Bulletin (TIB) B-090, *GST/HST and Electronic Commerce* has been published and is available on the CCRA Internet site. It discusses in detail the CCRA's interpretation of key provisions of the *Excise Tax Act* which are relevant to electronic commerce (i.e., supplies made over the Internet), and outlines how the CCRA's administrative policies pertain to transactions made by electronic means.

Electronic commerce has fundamentally changed the way business is conducted and raises several interpretative issues concerning the administration of the GST/HST. The following issues are dealt with in this TIB B-090:

- characterization of supplies i.e., determining whether a supply is one of property or service;
- place of supply;
- supplies to non-residents; and
- non-resident registration.

Please see TIB B-090 at this address:

<http://www.ccra-adrc.gc.ca/E/pub/gm/b-090eq/README.html>

Programs for Exporters

CCRA's export oriented trade incentives programs offer companies doing business in Canada many of the same duty and tax incentives as those found in free trade zones around the world.

The **Duty Deferral Program**, introduced in 1996, aims to improve the competitiveness of Canadian businesses by offering relief from the payment of most duties and taxes on imported goods that are ultimately exported, whether or not further manufactured in Canada. Customs duties are relieved in all cases regardless of activity and the GST/HST is relieved in certain circumstances but not where goods are further manufactured.

There are three main components to the Duty Deferral Program:

1. upfront duties relief for those goods imported into Canada for future exporting,
2. deferred duties and taxes in those instances where goods are stored in Customs bonded warehouses before exporting, and
3. refund of duties on imported goods that are exported.

To complement the Duty Deferral Program, clients may wish to apply for authorization to use GST/HST export oriented trade incentive relief programs such as the Exporters of Processing Services (EOPS) Program or the new Export Distribution Centre Program (EDCP).

The **Exporter of Processing Services (EOPS)** program allows the tax-free importation of goods by a Canadian processor for the purpose of processing the goods in Canada and subsequent export if, throughout the time the goods remain in Canada, they are not the property of the processor or a non-resident person to whom the processor is closely related.

The **Export Distribution Centre Program (EDCP)**, introduced in January 2001, assists clients in creating export distribution centre operations. When authorized to use the EDCP, export-oriented, non-manufacturing businesses may use a certificate to acquire within Canada, or import more inventory and parts, or import a customer's goods for processing, without payment of the GST/HST. Only GST/HST registrants whose export revenue is reasonably expected to account 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 EDCP. Clients who want to access the EDCP may apply at their tax services office.

By combining the elements of the Duty Deferral Program and GST/HST export related relief programs, as well as incentives from other levels of government and the private sector, companies may receive many of the benefits of geographically based free trade zones.

Unlike free trade zones in other countries, the CCRA programs do not restrict business operations to specific zones. Business and local communities, not the federal government, determine where their export operations will be located.

For more information on these programs please see the CCRA Internet site at this address: http://www.cca-adrc.gc.ca/customs/business/importing/duty_deferral/tab-e.html or contact your tax services office.

Reducing Red Tape with Our Partners

Service New Brunswick (SNB) is working with the CCRA to make business registrations simpler and easier. Sole proprietors resident in New Brunswick can now register for a New Brunswick Business Name and the four major CCRA business programs by visiting www.businessregistration.gc.ca.

New Brunswick has also adopted the Business Number (BN) as an account identifier. Therefore, sole proprietors resident in New Brunswick registering their business name, and provincially incorporated New Brunswick businesses, can get a BN via the SNB site (www.snb.ca) or via the usual paper-based application. Registrations obtained through New Brunswick staff will also be assigned a BN from the CCRA.

These service enhancements build on the success of other BN partnerships. During a single session at www.businessregistration.gc.ca, businesses can now register for selected CCRA, New Brunswick, Nova Scotia and Ontario business programs.

What's new in publications

GST/HST Memoranda Series

13.4 *Rebates for Printed Books, Audio Recordings of Printed Books, and Printed Versions of Religious Scriptures*

GST/HST Technical Information Bulletins

B-090 *GST/HST and Electronic Commerce*

GST/HST Guides

RC4125 *Basic GST/HST Information for Taxi and Limousine Operators*

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

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 excise tax, 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: <http://www.ccra-adrc.gc.ca/E/pub/gi/prier---eq/>

	GST/HST, Excise Tax (annualized rates)		Excise Duty (annual rates)		Income Tax (annual rates)		Arrears and Instalment Interest %
	Interest % *	Penalty %	Interest %	Penalty %	Refund Interest %		
2002							
October 1 – December 31	2.3804	6.0	5.0	6.0	5.0		7.0
July 1 – September 30	2.3804	6.0	5.0	6.0	5.0		7.0
April 1 - June 30	2.4066	6.0	4.0	6.0	4.0		6.0
January 1 - March 31	2.4333	6.0	5.0	6.0	5.0		7.0

* To calculate interest for GST/HST purposes only, divide the adjusted annual interest rate by 365 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 domestic rebate claims call
1-800-565-9353

To make enquiries regarding the status of visitor rebate claims call
1-800-668-4748

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