

GST/HST News #49

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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. ISSN 1183-689X

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Excise Act, 2001 -- Overview

The *Excise Act, 2001* will be implemented on July 1, 2003. The *Excise Act, 2001* (the new Act) 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. Beer continues to be governed by the existing *Excise Act*. The following is a brief summary of the major elements of the new Act.

Licensing and Registration

Under the new Act, producers of spirits, wine and tobacco products, users of industrial alcohol, and persons warehousing non-duty-paid spirits and wine are subject to more comprehensive licensing requirements than under the former excise regime. In particular, all commercial vintners are required to be licensed. New registration requirements apply to persons who are not taxpayers under the new Act, but who carry on activities, such as transportation, in relation to spirits, wine or specially denatured alcohol.

Spirits and Wine

The new Act retains the production levy on spirits, but replaces the excise tax that was levied under the *Excise Tax Act* on sales of wine with a production levy at an equivalent rate. The excise tax exemption will be maintained for wine produced by vintners whose yearly sales do not exceed \$50,000.

Prior to packaging, excise duty is not payable on bulk alcohol. As a result, there are tight controls over possession and disposition of bulk alcohol. Duty becomes payable when spirits or wine are packaged for consumption, or when packaged spirits or wine are imported. However, the introduction of excise warehouses allows for the deferral of the payment of excise duty on domestic and imported packaged spirits and wine until the time the spirits or wine are removed from the warehouse for sale to a retailer.

The new legislation exempts individuals producing wine at a residence or a registered ferment-on-premises facility for their personal use from the requirements to be licensed and to pay excise duty.

Alcohol for Non-beverage Use

Two categories of authorized users continue to be permitted to acquire and use spirits on a non-duty paid basis. Licensed users can use non-duty-paid spirits in approved non-beverage uses, and registered users can use non-duty-paid spirits for medicinal or scientific purposes, provided they are qualifying health, educational or research establishments. Licensed users can also use wine in approved non-beverage uses.

Licensed users no longer have to meet the former requirement of holding separate licences for different classes of products, nor are they required to hold separate inventories for each product category. The nominal rates of duty that applied to spirits for non-beverage use have been eliminated. However, imported spirits acquired by a licensed user will continue to be subject to the special duty of \$0.12 per litre.

As under the former excise regime, there are no restrictions on the distribution or use of denatured alcohol. However, there are tight controls over the possession and use of specially denatured alcohol. Only specially denatured alcohol registrants may use specially denatured alcohol.

Tobacco Products

The excise duty and excise tax on tobacco products other than cigars are rolled into a single production levy on tobacco products payable at the time of packaging. In the case of cigars, a production levy is payable at the time of packaging and an additional duty identical to the former excise tax is payable at the time of delivery to a purchaser by the tobacco licensee who manufactured the cigars. In the case of imported tobacco products, the duty is payable at the time of importation. To ensure equitable treatment with Canadian raw leaf tobacco, duty is payable on raw leaf tobacco imported by a person other than a tobacco licensee.

The new Act imposes a special duty on imported manufactured tobacco sold in duty free shops, manufactured tobacco imported by returning residents under the terms of the traveller's allowance, and exported domestic manufactured tobacco. The rates of the special duties are equivalent to the rates of the former levies imposed under the *Excise Tax Act* and the *Customs Tariff* that were applicable to these categories of manufactured tobacco.

The stamping and marking requirements for tobacco products continue to apply and play a key role in the enforcement of the new Act. Controls continue to apply to the possession and disposition of raw leaf tobacco and partially manufactured tobacco.

Administration and Enforcement

Consistent with the CCRA's integrated accounting initiative, the new duty remittance and return structure has been harmonized with other taxes and with commercial accounting periods. There are also new assessment and appeal provisions similar to those under the GST/HST legislation.

The new Act encompasses a range of modern enforcement mechanisms such as: certificates of default, garnishment, seizure, the sale of goods and chattels and directors' liability. While the posting of guarantee bonds has been generally eliminated, spirits licensees and tobacco licensees are required to provide security to complement the proposed collection tools.

With respect to other enforcement measures, the new Act incorporates the offence provisions relating to the illegal production, possession or sale of contraband tobacco from the former *Excise Act*. New comprehensive controls on the possession, use and disposition of non-duty-paid spirits and wine will significantly improve the alcohol offence structure and the fines for alcohol-related offences have been substantially increased. As well, proceeds of crime provisions under the new Act cover serious alcohol offences.

In addition to strengthened offence provisions, the new Act provides for a range of administrative penalties that may be imposed on licensees, registrants and other persons dealing with excisable goods who fail to comply with particular requirements of the law.

Transitional Provisions and Implementation

The new Act contains transitional provisions that apply to spirits, wine and tobacco products, manufactured or imported prior to its coming into force, but in respect of which the duty or excise tax under the former regime is not payable when the new Act takes effect. In certain circumstances, refunds may be provided in respect of duty or excise tax-paid products that become subject to the provisions of the new Act.

The CCRA has published and distributed an initial package of bulletins and memoranda for persons who have to be licensed or registered under the new Act. A further confirmation package is being mailed to new licensees and registrants along with detailed transitional information to assist them in complying with the new Act.

Technical publications which discuss the *Excise Act, 2001* are available on the Excise duty Web site:
<http://www.ccra-adrc.gc.ca/tax/technical/act2001-e.html>

Printing and Graphic Design

In the case of a supply of printing, a client generally contracts with an organization to acquire property in the form of business cards, letterheads, envelopes, brochures, etc. Upon printing of the items, the property is transferred to the client. The primary purpose of the transaction is the transfer of the property. The CCRA considers, in cases such as these, that the supply of printing is generally a taxable supply of tangible personal property for GST/HST purposes.

However, under certain circumstances, the supply of printing may not be a supply of property. If the recipient of the supply were to provide the necessary inputs (e.g. blank business cards, t-shirts, paper, etc.), the supply of printing would be the supply of a service.

The supply of graphic design generally involves a graphic designer using specialized technology and computer software to produce designs and layouts. The supply of graphic design, in and of itself, is considered to be the supply of a service. As a result, when a public institution, such as a university, makes a supply of graphic design it is considered an exempt supply.

There are many situations when an organization that provides supplies of printing also provides graphic design. For example, a client requires business cards but in order to have the cards printed, graphic design is required. In such situations, both activities will constitute a single supply of tangible personal property.

Exported Goods and Services

Exported Goods

Goods (other than excisable goods such as beer and tobacco) that you supply in Canada and that are ordinarily taxable at 7% GST or 15% HST may be zero-rated if they are exported from Canada in certain circumstances. This includes where the purchaser exports the goods or you have them sent outside Canada.

When the purchaser intends to export the goods, you do not charge GST/HST if all of the following conditions are met:

- (a) the purchaser is not a consumer (a consumer is usually an individual who is buying the goods for his or her *personal* use, consumption or enjoyment);
- (b) the purchaser exports the goods as soon as is reasonable in the circumstances after you deliver them, having regard to the facts of each situation including the type of property and, where applicable, the normal business practice of the recipient;
- (c) the purchaser does not buy the goods to consume, use, or supply them in Canada before exporting them;
- (d) after the goods are supplied and before they are exported, they are not further processed, transformed, or altered in Canada, unless it is reasonably necessary or incidental to transport them;
- (e) you maintain satisfactory evidence, for audit purposes, that the purchaser has exported the goods; and
- (f) if the property being exported is electricity, crude oil, natural gas, or any good that can be transported by means of wire, pipeline or other conduit, the purchaser is not registered for GST/HST purposes.

If the goods that are exported by the purchaser do not meet the above conditions, you have to collect the GST/HST on the taxable supply of the goods and the purchaser has to pay it. However, a non-resident purchaser may be eligible for a rebate of the tax paid on the goods (other than excisable goods and gasoline).

To qualify for the GST/HST rebate, the non-resident purchaser has to export the goods from Canada within 60 days of delivery, as well as meet other conditions. For more information on the eligibility requirements with respect to exported commercial goods, see the guide RC4033, *General Application for GST/HST Rebates*. (<http://www.ccr-aadrc.gc.ca/E/pub/gp/rc4033/README.html>).

The supply of goods made in Canada may also qualify for zero-rating as an export where you ship the goods outside Canada as specified in a contract of carriage, you give possession of the goods to a common carrier you retain on behalf of the purchaser to ship them outside Canada, or you send the goods by mail or courier outside Canada. More information on exported goods is available in GST/HST Memorandum 4.5.2, *Exports - Tangible Personal Property* (<http://www.ccr-aadrc.gc.ca/E/pub/gm/4-5-2/README.html>)

Exported services

You do not have to collect the GST/HST on services you perform totally outside Canada as these services are generally supplied outside Canada. However, certain services supplied in Canada may qualify for zero-rating as exports.

Services you perform in respect of temporarily imported goods are zero-rated (except transportation services). The goods must be brought into Canada for the sole purpose of having the service performed and must be subsequently exported as soon as possible. Any parts supplied in conjunction with these services are also zero-rated.

The following services provided to a non-resident person may be zero-rated in certain circumstances:

- advisory, professional, or consulting services;
- advertising services;
- advisory, consulting, or research services to help a non-resident person establish a residence or a business in Canada;
- services or goods acquired by an unregistered non-resident person to fulfill a warranty obligation;
- custodial or nominee services for the non-resident person's securities or precious metals;
- a supply made by a person to an unregistered non-resident person, other than an individual, of a service of instructing non-resident individuals in, or administering examinations in respect of,

courses leading to certificates, diplomas, licences, or similar documents, or classes or ratings in respect of licences, that attest to the competence of those individuals to practise or perform a trade or vocation;

- services to an unregistered non-resident person of destroying or discarding goods, or the services of dismantling goods for the purpose of exporting them;
- services to an unregistered non-resident person of testing or inspecting goods acquired or brought into Canada for this service and the goods are to be destroyed or discarded in the course of providing the service, or on its completion; and
- services of an agent acting for a non-resident person or services of arranging for, procuring, or soliciting orders for supplies by or to the person when the service relates to a zero-rated exported property or service, or if the supply to or by the non-resident person is made outside Canada.

More information on exports of services is available in GST/HST Memorandum 4.5.3, *Exports - Services and Intellectual Property* (<http://www.cca-adrc.gc.ca/E/pub/gm/4-5-3/README.html>)

Remember that you can generally claim input tax credits to recover the GST/HST you paid or owe on purchases and expenses related to your supplies of zero-rated goods and services. For more information, see the guide called RC4022, *General Information for GST/HST Registrants*.

(<http://www.cca-adrc.gc.ca/E/pub/gp/rc4022/README.html>).

Rebate for printed books

Specified persons may claim a rebate of 100% of the GST or the federal portion of the HST that becomes payable after October 23, 1996, 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.

"Specified persons" are municipalities, universities, public colleges and school authorities, as well as charities, public institutions, and qualifying non-profit organizations that operate a public lending library. Other charities and qualifying non-profit organizations, the primary purpose of which is the promotion of literacy, also qualify as specified persons once they have been prescribed.

If you are eligible, you can claim the rebate of the GST or the federal component of the HST by completing form GST66, *Application for GST/HST Public Service Bodies' Rebate and GST Self-government Refund*. (link <http://www.ccra-adrc.gc.ca/E/pbg/gf/gst66/README.html>) The rebate should be claimed on line 307.

You can also find more information about rebates for printed books in GST/HST Memorandum 13.4, *Rebates for Printed Books, Audio Recordings of Printed Books, and Printed Versions of Religious Scriptures*. (<http://www.ccra-adrc.gc.ca/E/pub/gm/13-4/README.html>)

GST/HST Fraud

The issue of GST/HST fraud has been in the public eye recently. As a result, you might think that fraudulent schemes relating to GST/HST are widespread. In actual fact, the vast majority of Canadians are honest and comply with tax laws, and only a very small number of people try to abuse the system.

Because there are some 2.6 million persons registered for the GST/HST in this country, and because the GST/HST system was built on a self-assessment basis, there will always be a potential for fraud.

The CCRA has been very active in combating GST/HST fraud and since the introduction of GST/HST, a great deal has been accomplished. A number of steps have been taken to better identify those who try to defraud the Canadian tax system without undermining the ease and user-friendliness of the GST/HST registration system.

The CCRA believes that addressing criminal behaviour should not mean that the GST/HST registration process be made tedious and difficult. New businesses do not need complicated registrations and greater administrative burdens that would have only limited advantages for the CCRA.

Although the CCRA has made it convenient to apply for a GST/HST account, persons who apply for GST/HST registration are aware that mandatory information is required and validated with a number of sources. An enhanced registration review process has also been put in place. This process includes increased checks shortly after the registration has been issued and allows the CCRA to verify that the business is legitimate.

The important steps in detecting fraud are our pre-payment screening and audit programs. When refunds are being claimed, the screening program pulls suspicious payments out of the system for a more detailed audit. The CCRA also has some 5,000 auditors who verify that the right amount of GST/HST is being paid.

The CCRA is committed to ensuring that everyone pays their fair share of taxes. Those who try to cheat will face the full force of the law. Please visit the CCRA Media Room Web site for information on prosecutions and seizures. <http://www.ccra-adrc.gc.ca/newsroom/menu-e.html>

File your GST/HST return electronically

The CCRA now offers three methods to electronically file your GST/HST return: GST/HST TELEFILE, GST/HST-EDI, and our newest filing option, GST/HST NETFILE.

If you are filing a return with a nil balance or a refund of \$10,000 or less, you can do so quickly, easily and securely over the Internet with GST/HST NETFILE, or by using a touch-tone phone with GST/HST TELEFILE.

To determine if you are invited to use GST/HST NETFILE or GST/HST TELEFILE, simply look to see if an access code is printed on your personalized GST/HST return. If so, with the completed working copy of your return at hand, access our GST/HST NETFILE Web site (www.ccra.gc.ca/gsthst-netfile), or call 1-800-959-2038 for GST/HST TELEFILE. At the end of your filing session, you will receive a confirmation number as proof that we've received your return.

GST/HST NETFILE and GST/HST TELEFILE are available Monday to Friday from 8:30 a.m. to 8:00 p.m., and Saturday from 8:30 a.m. to 5:00 p.m., local time. These services are not available on Sunday or on statutory holidays.

Our third electronic filing option, GST/HST-EDI, allows you to electronically file both your return and payment (if applicable) through a participating financial institution. To find out if your financial institution offers this service, contact your local branch or visit our GST/HST-EDI Web site at <http://www.ccra.gc.ca/eservices/gsthst-edi/products-e.html>.

For more information about filing your return using GST/HST NETFILE, GST/HST TELEFILE or GST/HST-EDI, visit our Web site at <http://www.ccra.gc.ca/tax/business/file-gst-hst-e.html>.

Reminder: *Get it in Writing!* Consumer Awareness Campaign

The *Get it in Writing!* Campaign was launched February 25, 2003.

Both the government and industry want to reduce the level of underground activity in the residential construction sector. To this end, the Canadian Home Builders' Association (CHBA) in partnership with the CCRA, have developed the *Get it in Writing!* consumer awareness campaign, a two year, multi-faceted initiative.

The *Get it in Writing!* consumer campaign will focus on one key objective: to ensure that consumers are aware of the serious risks they face if they choose to hire a contractor without having a proper contract. The *Get it in Writing!* message is prudent consumer advice. It reinforces the value of hiring a professional contractor – someone who works with a contract and protects customers from unnecessary risks.

Underground operators also undermine the value of being a professional new homebuilder, renovator or trades contractor. The *Get it in Writing!* campaign will provide direct business benefits to CHBA members, will assist in leveling the playing field, and will help promote the fairness and integrity of the tax system.

Look for campaign information pamphlets in places such as a home show in your community, at major building materials retailers, federal agencies such as the Canadian Mortgage and Housing Corporation and the CCRA, certain provincial government agencies, and municipal building permit offices. As well, a wide array of information and advice for consumers, including links to other relevant government and industry Web sites is available at the official Web site: www.HiringAContractor.com

New Prescribed Rates of Interest

The Notice of Ways and Means Motion tabled in conjunction with the federal budget of February 18, 2003 included proposed amendments to harmonize the interest and penalty provisions of the *Excise Act, 2001*, the non-GST/HST parts of the *Excise Tax Act*, and the *Income Tax Act*, effective July 1, 2003.

As a result, the prescribed annual interest rate in effect from July 1, 2003 to September 30, 2003, on amounts of income tax, excise tax and excise duty (except beer), payable to the Minister (arrears and instalment) is established at 8%. The prescribed interest rate on amounts owed by the Minister (refunds) is established at 6%. These rates compound daily.

The prescribed annual rate of interest respecting excise duty on beer accounts is set at 6% commencing July 1, 2003. Penalty compounds monthly and interest compounds daily.

The prescribed annual rate of interest with respect to the GST/HST and the Air Travellers Security Charge (ATSC), is set at 3.5707% commencing July 1, 2003. Interest and penalty compound daily.

Prescribed interest rates are adjusted every calendar quarter. These rates of interest are available on the CCRA Web site at: <http://www.ccra-adrc.gc.ca/E/pub/gi/prier---eq/>

The rates for the first three quarters of 2003 are summarized in the following tables.

Table 1 - Prescribed Interest Rates Commencing July 1, 2003

	GST/HST ATSC		Excise Duty (beer)		Income Tax, Excise Tax Excise Duty (wine, spirits, tobacco)	
	Interest	Penalty	Interest	Penalty	Re n Interest	Arrears and Instalment Interest
2003						
July 1 - September 30	3.5707 %	6.0 %	6.0 %	6.0 %	6.0 %	8.0 %

Table 2 - Prescribed Interest Rates Prior to July 1, 2003

	GST/HST Excise Tax ATSC		Excise Duty (spirits, tobacco, beer)		Income Tax	
	Interest	Penalty	Interest	Penalty	Refund Interest	Arrears and Instalment Interest
2003						
April 1 - June 30	2.4066 %	6.0 %	5.0 %	6.0 %	5.0 %	7.0 %
January 1 - March 31	2.4333 %	6.0 %	5.0 %	6.0 %	5.0 %	7.0 %

What's New in Publications

GST/HST Technical Information Bulletins (<http://www.ccr-aadrc.gc.ca/menu/EmenuKDA.html>)

B-091 Timing of the Application of the GST/HST to Prepaid Funeral Arrangements

GST/HST Guides (<http://www.ccr-aadrc.gc.ca/menu/EmenuHDC.html>)

RC4022 General Information for GST/HST Registrants

RC4031 Tax Refund for Visitors to Canada

RC4058 Quick Method of Accounting for GST/HST

Forms (<http://www.ccr-aadrc.gc.ca/menu/EmenuHDE.html>)

GST74 Election and Revocation of an Election to Use the Quick Method of Accounting

GST176 Application for Visitor Tax Refund

GST21 Election or Revocation of an Election to Have the Joint Venture Operator Account for GST/HST

GST355 Streamlined Election or Revocation of an Election to Have the Joint Venture Operator Account for GST/HST

Excise Act, 2001 Bulletins (<http://www.ccr-aadrc.gc.ca/menu/EmenuKXC.html>)

Highlights for Spirits Producers and Packagers - A-1

Highlights for Wine Producers and Packagers - A-2

Highlights for Ferment-on-Premises Facilities - A-3

Highlights for Chemical Stills Dealers, Licensees, and Registrants - A-4

Highlights for Tobacco Growers - B-1

Highlights for Tobacco Packers and Cigar and Tobacco Manufacturers - B-2

Highlights for Duty Free Shops - B-3

Highlights for Institutions (Educational, Medicinal, Scientific and Research) C-1

Highlights for Bonded Manufacturers and Pharmacists - C-2

Highlights for Users of Specially Denatured Alcohol - C-3

Highlights for Transporters of Non-Duty-Paid Alcohol and Tobacco - D-1

Highlights for Excise Warehouses - D-2

Excise Duty Memoranda Series (<http://www.ccr-aadrc.gc.ca/menu/EmenuKXD.html>)

EDM 2.1.1. Licence Types

EDM 2.2.1 Obtaining and Renewing a Licence

EDM 2.2.2 Security Requirements for Licensees

EDM 2.2.3 Surety Bonds

EDM 2.2.4 Approved Financial Institutions and Acceptable Bonding Companies

EDM 2.3.1 Registration Types

EDM 2.4.1 Obtaining a Registration

Current publications can be found on the CCRA Web site at the following address: www.ccr-aadrc.gc.ca/tax/business/gsthst/menu-e.html .

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