

## **Notice of Ways and Means Motion to amend the Excise Tax Act**

### SUMMARY

This enactment mainly implements measures relating to the Goods and Services Tax and Harmonized Sales Tax (GST/HST), including sales tax initiatives proposed in the February 28, 2000 Budget. These measures are aimed principally at improving the operation and fairness of the GST/HST in the affected areas and ensuring that the legislation accords with the policy intent.

This enactment also implements two amendments to the excise tax provisions of the Act. The first is made for greater certainty to clarify the deferral of the existing excise taxes on air conditioners installed in automobiles, and on new heavy automobiles, at the time of importation by a licensed manufacturer or sale to a licensed manufacturer. The second amendment provides discretionary power to the Minister of National Revenue to waive or cancel interest, or penalties calculated in the same manner as interest, under the excise tax system, consistent with the discretion already provided to the Minister in relation to the sales tax and income tax systems.

The principal GST/HST measures included in this enactment are as follows:

(1) **Export Distribution Centre and Export Trading House Programs:** implements new rules that ensure that the GST/HST does not present an impediment to the establishment of North American distribution centres in Canada by permitting export-oriented non-manufacturing businesses to purchase or import inventory, certain inputs and customers' goods on a tax-free basis, rather than having to pay the tax and later claim a refund; parallels certain administrative aspects of the new export distribution centre rules in the existing Export Trading House program to ensure consistency between these two measures.

(2) **Non-residents and Cross-border Transactions:** ensures that no tax is payable on the importation of defective goods imported solely to be replaced under warranty, at no additional cost, by other goods that are subsequently exported; ensures that businesses in Canada can import, on a tax-free basis, non-resident customers' goods solely for storage or distribution in Canada and subsequent export without incurring cash-flow costs due to the tax; ensures that there is no tax on the service of storing goods for a non-resident business in certain circumstances in which the business is relieved from paying tax on the goods themselves and would otherwise be unable to recover the tax; removes an unnecessary condition on the tax-free treatment of sales of exported railway rolling stock to a non-resident business that would otherwise be

unable to recover the tax.

(3) **Real Property:** implements the New Residential Rental Property Rebate, which is a partial rebate of GST paid in respect of newly constructed or substantially renovated long-term residential rental accommodation; permits a new home used primarily as a place of residence of the owner and also to provide short-term accommodation to the public (e.g., a Bed-and-Breakfast establishment) to qualify for the New Housing Rebate; allows a person who purchased real property and paid tax to recover that tax if the property is returned to the original vendor within one year and pursuant to the original contract; ensures that real property cannot be sold exempt from tax if the seller was previously leasing it to other persons on a taxable basis and was therefore entitled to recover any tax paid on the purchase of the property or improvements to it; clarifies that charities are not required to charge tax on the rental of real property or on any goods rented in conjunction with the real property.

(4) **Health:** continues in force an existing GST/HST exemption for speech therapy services that are billed by individual practitioners and not covered by the applicable provincial health care plan. The amendment extends the exemption to provide time for the profession to complete a process now under way of becoming regulated in a fifth province.

(5) **Education:** ensures that similar vocational training across the country is provided the same exempt treatment regardless of how vocational schools are regulated in each province; exempts from tax vocational training supplied by a government entity or agency; allows suppliers of vocational training to elect to treat that training as taxable where it is provided to registrants that are able to recover the tax by way of input tax credits.

(6) **Electronic Filing:** removes the requirement to apply to the Minister of National Revenue for permission to file GST/HST returns electronically (e.g., over the telephone or the Internet) and therefore allows anyone to do so provided they meet the criteria set out by the Minister.

(7) **Miscellaneous Amendments:** corrects ambiguities in existing provisions consistent with current industry practice, administrative interpretation and the underlying policy intent.

#### EXPLANATORY NOTES

The explanatory notes relating to this enactment issued by the Minister of Finance provide a detailed explanation of these amendments.

**Notice of Ways and Means Motion to amend the Excise Tax Act**

That it is expedient to amend the Excise Tax Act as follows:

SHORT TITLE

Short title

1. This Act may be cited as the *Sales Tax and Excise Tax Amendments Act, 2001*.

R.S., c. E-15

EXCISE TAX ACT

2. (1) Subsection 23(7) of the *Excise Tax Act* is amended by adding the word "or" at the end of paragraph (b) and by adding the following after paragraph (b):

(c) the sale of a new motor vehicle designed for highway use, or a chassis therefor, to a person described in paragraph (h) of the definition "manufacturer or producer" in subsection 2(1) who is a manufacturer licensed for the purposes of this Part.

R.S., c. 15  
(1st Supp.), s.  
12(2)

(2) Paragraphs 23(7)(e) and (f) of the Act are repealed.

(3) Subsection (1) and subsection (2), to the extent that it repeals paragraph 23(7)(f) of the Act, are deemed to have come into force on January 1, 1994 and apply to sales made after 1993.

(4) Subsection (2), to the extent that it repeals paragraph 23(7)(e) of the Act, is deemed to have come into force on January 1, 1994 and applies in respect of motor vehicles, or chassis therefor, imported after 1993 by a person described in paragraph (g) of the definition "manufacturer or producer" in subsection 2(1) of the Act who is a manufacturer licensed for the purposes of Part III of the Act.

3. (1) The Act is amended by adding the following after section 87:

Waiver or  
cancellation of  
interest or  
penalty

**88.** The Minister may waive or cancel any amount otherwise payable to the Receiver General under this Act that is interest or a penalty calculated in the same manner as interest.

**(2)** Subsection (1) applies to amounts that, but for section 88 of the Act, as enacted by subsection (1), would become payable on or after the day on which this Act is assented to.

1993, c. 27, s.  
44(1)

**4. (1)** The portion of subsection 179(2) of the Act after paragraph (c) is replaced by the following:

subsection (1) does not apply to a supply referred to in subparagraph (a)(i) and, except in the case of a supply of a service of shipping the property, any supply made by the registrant and referred to in that subparagraph is deemed to have been made outside Canada.

1993, c. 27, s.  
44(1)

**(2)** The portion of subsection 179(3) of the Act after paragraph (c) is replaced by the following:

subsection (1) does not apply to a supply referred to in paragraph (a) and, except in the case of a supply of a service of shipping the property, any supply made by the registrant and referred to in that paragraph is deemed to have been made outside Canada.

**(3)** Section 179 of the Act is amended by adding the following after subsection (6):

Use of railway  
rolling stock

**(7)** For the purpose of clause (3)(c)(ii)(C), if the only use of railway rolling stock after physical possession of it is transferred as described in that clause and before it is next exported is for the purpose of transporting tangible personal property or passengers in the course of that exportation and that exportation occurs within sixty days after the day on which the transfer takes place, that use of the rolling stock is deemed to take place entirely outside Canada.

**(4)** Subsections (1) and (2) apply to supplies for which all of the consideration becomes due after February 28, 2000 or is paid after that day without having become due.

(5) Subsection (3) applies to railway rolling stock the physical possession of which is transferred by a registrant pursuant to a supply by way of sale by the registrant for which all of the consideration becomes due after February 28, 2000 or is paid after that day without having become due.

1993, c. 27, s.  
78(1)

5. (1) Subsection 213.2(1) of the Act is replaced by the following:

Import  
certificate

**213.2** (1) The Minister may, on the request of a registrant who imports goods, issue to the registrant, subject to such conditions as the Minister may specify, a written authorization (in this section referred to as an "import certificate") for the purpose of applying, on and after the effective date specified in the authorization, section 8.1 of Schedule VII in respect of goods of a particular class imported by the registrant, in which event the Minister shall assign to the registrant a number to be disclosed when the goods are accounted for under section 32 of the *Customs Act*.

(2) Subsection (1) is deemed to have come into force on February 1, 1992.

6. (1) Section 215 of the Act is amended by adding the following after subsection (2):

Value of goods  
re-imported  
after  
processing

(3) The value of goods that are being imported for the first time after having been processed (as defined in subsection 2(1) of the *Value of Imported Goods (GST/HST) Regulations*) outside Canada shall be determined for the purposes of this Division without regard to section 13 of those Regulations if

(a) the value of the goods would, but for this subsection, be determined for the purposes of this Division under that section; and

(b) they are the same goods, in their processed state, as other goods, or incorporate, as a result of their processing, other goods, that were last imported in circumstances in which

no tax was payable under this Division because of section 8.1 or 11 of Schedule VII.

(2) Subsection (1) applies to goods imported after February 1992 except that, with respect to goods imported before January 1, 2001, the reference in subsection 215(3) of the Act, as enacted by subsection (1), to "section 8.1 or 11" shall be read as a reference to "section 8.1".

7. (1) Section 217 of the Act is amended by striking out the word "or" at the end of paragraph (b.3) and by adding the following after paragraph (c):

(d) a supply of property that is a zero-rated supply only because it is included in section 1.1 of Part V of Schedule VI, if the recipient is not acquiring the property for consumption, use or supply exclusively in the course of commercial activities of the recipient and

(i) an authorization of the recipient to use the certificate referred to in that section is not in effect at the time the supply is made, or

(ii) the recipient does not export the property in the circumstances described in paragraphs 1(b) to (d) of that Part; or

(e) a supply of property that is a zero-rated supply only because it is included in section 1.2 of Part V of Schedule VI, if the recipient is not acquiring the property for consumption, use or supply exclusively in the course of commercial activities of the recipient and

(i) an authorization of the recipient to use the certificate referred to in that section is not in effect at the time the supply is made, or

(ii) the recipient is not acquiring the property for use or supply as domestic inventory or as added property (as those expressions are defined in subsection 273.1(1)).

(2) Subsection (1) applies to supplies made after 2000.

8. (1) Subsection 218.1(1) of the Act is amended by striking out the word "and" at the end of paragraph (b), by adding the word "and" at the end of paragraph (c) and by adding the following after paragraph (c):

(d) every person who is the recipient of a supply that is included in paragraph 217(d) or (e) and that is made in a

particular participating province

**(2) Section 218.1 of the Act is amended by adding the following after subsection (1):**

Delivery in a  
province

(1.1) Section 3 of Part II of Schedule IX applies for the purpose of paragraph (1)(c).

**(3) Subsection (1) applies to supplies made after 2000.**

**(4) Subsection (2) applies to supplies made after October 4, 2000.**

**9. (1) Subsection 221(2) of the Act is amended by striking out the word "or" at the end of paragraph (b) and by adding the following after paragraph (b):**

(b.1) the supplier and the recipient have made an election under section 2 of Part I of Schedule V in respect of the supply; or

1993, c. 27, s.  
85(1)

**(2) Subsection 221(3.1) of the Act is repealed.**

**(3) Subsection (1) applies to supplies made after October 4, 2000.**

**(4) Subsection (2) applies to supplies made after 2000.**

1993, c. 27, s.  
86(1)

**10. (1) The portion of subsection 221.1(2) of the Act before paragraph (a) is replaced by the following:**

Export  
certificate

(2) The Minister may, on the application of a person who is registered under Subdivision d, authorize the person to use, beginning on a particular day in a fiscal year of the person and subject to such conditions as the Minister may from time to time specify, a certificate (in this section referred to as an "export certificate") for the purpose of section 1.1 of Part V of Schedule VI, if it can reasonably be expected

1993, c. 27, s.  
86(1)

**(2) Subsection 221.1(4) of the Act is replaced by the following:**

Notice of  
authorization

(4) If the Minister authorizes a registrant to use an export certificate, the Minister shall notify the registrant in writing of the authorization, its effective date and its expiry date and the number assigned by the Minister that identifies the registrant or the authorization and that must be disclosed by the registrant when providing the certificate for the purpose of section 1.1 of Part V of Schedule VI.

**(3) Subsection (1) is deemed to have come into force on January 1, 2001.**

**(4) Subsection (2) applies to any authorization granted to a person after 2000, whether on the first application of the person or on the renewal of an authorization previously granted.**

**11. (1) The Act is amended by adding the following after section 236.1:**

Adjustment if  
invalid use of  
export  
certificate

**236.2 (1)** If a registrant has received a supply of property (other than a supply that is included in any provision of Schedule VI other than section 1.1 of Part V of that Schedule) from a supplier to whom the registrant has provided an export certificate (within the meaning of section 221.1) for the purpose of that supply and an authorization of the registrant to use the certificate was not in effect at the time the supply was made or the registrant does not export the property in the circumstances described in paragraphs 1(b) to (d) of that Part, the registrant shall, in determining the net tax for the reporting period of the registrant that includes the earliest day on which tax in respect of the supply became payable or would have become payable if the supply were not a zero-rated supply, add an amount equal to interest, at the rate prescribed for the purposes of paragraph 280(1)(b) plus 4% per year compounded daily, on the total amount of tax in respect of the supply that was payable or would have been payable if the supply were not a zero-rated supply, computed for the period beginning on that earliest day and ending on the day on



or before which the return under section 238 for that reporting period is required to be filed.

Adjustment if  
deemed  
revocation of  
export  
certificate

(2) If a registrant's authorization to use an export certificate (within the meaning of section 221.1) is deemed to have been revoked under subsection 221.1(6) effective immediately after the last day of a fiscal year of the registrant, the registrant shall, in determining the net tax for the first reporting period of the registrant following that year, add the amount determined by the formula

$$A \times B/12$$

where

A is the total of

(a) the product obtained when the rate set out in subsection 165(1) is multiplied by the total of all amounts each of which is consideration paid or payable by the registrant for a supply made in a non-participating province of an item of inventory acquired by the registrant in the year that is a zero-rated supply only because it is included in section 1.1 of Part V of Schedule VI, other than a supply in respect of which the registrant is required under subsection (1) to add an amount in determining net tax for any reporting period, and

(b) the product obtained when the total of the rates set out in subsections 165(1) and (2) is multiplied by the total of all amounts each of which is consideration paid or payable by the registrant for a supply made in a participating province of an item of inventory acquired by the registrant in the year that is a zero-rated supply only because it is included in section 1.1 of Part V of Schedule VI, other than a supply in respect of which the registrant is required under subsection (1) to add an amount in determining net tax for any reporting period, and

B is the total of 4% and the rate of interest prescribed for the purposes of paragraph 280(1)(b) (expressed as a percentage per year) that is in effect on the last day of that first

reporting period following the year.

Adjustment if  
invalid use of  
export  
distribution  
centre  
certificate

**236.3** (1) If a registrant has received a supply of property (other than a supply that is included in any provision of Schedule VI other than section 1.2 of Part V of that Schedule) from a supplier to whom the registrant has provided an export distribution centre certificate (within the meaning of section 273.1) for the purpose of that supply and an authorization of the registrant to use the certificate was not in effect at the time the supply was made or the property was not acquired by the registrant for use or supply as domestic inventory or as added property (as those expressions are defined in subsection 273.1(1)) in the course of commercial activities of the registrant, the registrant shall, in determining the net tax for the reporting period of the registrant that includes the earliest day on which tax in respect of the supply became payable or would have become payable if the supply were not a zero-rated supply, add an amount equal to interest, at the rate prescribed for the purposes of paragraph 280(1)(b) plus 4% per year compounded daily, on the total amount of tax in respect of the supply that was payable or that would have been payable in respect of the supply if the supply were not a zero-rated supply, computed for the period beginning on that earliest day and ending on the day on or before which the return under section 238 for that reporting period is required to be filed.

Adjustment if  
export  
distribution  
centre  
conditions not  
met

(2) If an authorization granted to a registrant under subsection 273.1(7) is in effect at any time in a fiscal year of the registrant and the export revenue percentage of the registrant (as defined in subsection 273.1(1)) for that year is less than 90% or the circumstances described in paragraph 273.1(11)(a) or (b) exist with respect to the year, the registrant shall, in determining the net tax for the first reporting period of the registrant following the year, add the amount determined by the formula

$A \times B/12$

where

A is the total of

(a) the product obtained when the rate set out in subsection 165(1) is multiplied by the total of all amounts each of which is consideration paid or payable by the registrant for a supply made in a non-participating province of property acquired by the registrant in the year that is a zero-rated supply only because it is included in section 1.2 of Part V of Schedule VI, other than a supply in respect of which the registrant is required under subsection (1) to add an amount in determining net tax for any reporting period,

(b) the product obtained when the total of the rates set out in subsections 165(1) and (2) is multiplied by the total of all amounts each of which is consideration paid or payable by the registrant for a supply made in a participating province of property acquired by the registrant in the year that is a zero-rated supply only because it is included in section 1.2 of Part V of Schedule VI, other than a supply in respect of which the registrant is required under subsection (1) to add an amount in determining net tax for any reporting period, and

(c) the product obtained when the rate set out in subsection 165(1) is multiplied by the total of all amounts each of which is the value that is or would be, but for subsection 215(2), deemed under subsection 215(1) to be the value, for the purposes of Division III, of a good that was imported by the registrant in the year and in respect of which, by reason only of section 11 of Schedule VII, tax under that Division did not apply, and

B is the total of 4% and the rate of interest prescribed for the purposes of paragraph 280(1)(b) (expressed as a percentage per year) that is in effect on the last day of that first reporting period following the year.

**(2) Subsection (1) is deemed to have come into force on January 1, 2001 and applies to supplies made after 2000.**

1990, c. 45, s.  
12(1)

**12. (1) The definition "single unit residential complex" in subsection 254(1) of the Act is replaced by the following:**

"single unit  
residential  
complex"  
« *immeuble  
d'habitation à  
logement unique*  
»

"single unit residential complex" includes

(a) a multiple unit residential complex that does not contain more than two residential units, and

(b) any other multiple unit residential complex if it is described by paragraph (c) of the definition "residential complex" in subsection 123(1) and contains one or more residential units that are for supply as rooms in a hotel, motel, inn, boarding house, lodging house or similar premises and that would be excluded from being part of the residential complex if the complex were a residential complex not described by that paragraph.

**(2) Subsection (1) is deemed to have come into force on June 1, 1997 and applies for the purpose of determining any rebate of a person under section 254 of the Act in respect of a residential complex ownership of which is transferred to the person after May 1997.**

1993, c. 27, s.  
110(1)

**13. (1) The definition "single unit residential complex" in subsection 254.1(1) of the Act is replaced by the following:**

"single unit  
residential  
complex"  
« *immeuble  
d'habitation à  
logement unique*  
»

"single unit residential complex" includes

(a) a multiple unit residential complex that does not contain more than two residential units, and

(b) any other multiple unit residential complex if it is described by paragraph (c) of the definition "residential complex" in subsection 123(1) and contains one or more

residential units that are for supply as rooms in a hotel, motel, inn, boarding house, lodging house or similar premises and that would be excluded from being part of the residential complex if the complex were a residential complex not described by that paragraph.

(2) Subsection (1) is deemed to have come into force on June 1, 1997 and applies for the purpose of determining any rebate of a person under section 254.1 of the Act in respect of a residential complex possession of which is given to the person after May 1997.

1993, c. 27, s.  
112(1)

14. (1) The definition "single unit residential complex" in subsection 256(1) of the Act is replaced by the following:

"single unit  
residential  
complex"  
« *immeuble  
d'habitation à  
logement unique*  
»

"single unit residential complex" includes

(a) a multiple unit residential complex that does not contain more than two residential units, and

(b) any other multiple unit residential complex if it is described by paragraph (c) of the definition "residential complex" in subsection 123(1) and contains one or more residential units that are for supply as rooms in a hotel, motel, inn, boarding house, lodging house or similar premises and that would be excluded from being part of the residential complex if the complex were a residential complex not described by that paragraph.

(2) Subsection (1) is deemed to have come into force on June 1, 1997 and applies for the purpose of determining any rebate of a person under section 256 of the Act in respect of a residential complex that the person has constructed or substantially renovated, or has engaged another person to construct or substantially renovate, if the construction or substantial renovation is not substantially completed until after May 1997.

15. If

(a) a person would be entitled to claim a rebate under section

254, 254.1 or 256 of the Act in respect of a single unit residential complex described in paragraph (b) of the definition of that expression in that section, as enacted by subsection 12(1), 13(1) or 14(1), as the case may be, if there were no limitation on the period for filing an application for the rebate or on the number of applications that the person may make with respect to that matter, and

(b) the day on or before which the person would, but for this section, be required to file an application for the rebate is before March 31, 2003,

despite subsections 254(3), 254.1(3) and 256(3) of the Act, the person has until March 31, 2003 to file an application for the rebate with the Minister of National Revenue. That application may, despite subsection 262(2) of the Act, be the person's second application for the rebate if, before March 2001, the person had made an application for the rebate and it has been assessed.

16. (1) The Act is amended by adding the following after section 256.1:

Definitions

**256.2** (1) The definitions in this subsection apply in this section.

"first use"  
« *première utilisation* »

"first use", in respect of a residential unit, means the first use of the unit after the construction or last substantial renovation of the unit or, in the case of a unit that is situated in a multiple unit residential complex, of the complex or addition to the complex in which the residential unit is situated is substantially completed.

"percentage of total floor space"  
« *pourcentage de superficie totale* »

"percentage of total floor space", in respect of a residential unit forming part of a residential complex or part of an addition to a multiple unit residential complex, means the proportion (expressed as a percentage) that the total square metres of floor space occupied by the unit is of the total square metres

of floor space occupied by all of the residential units in the residential complex or addition, as the case may be.

"qualifying  
portion of  
basic tax  
content"  
« *fraction  
admissible de  
teneur en taxe*  
»

"qualifying portion of basic tax content", at a particular time, of property of a person means the amount that would be the basic tax content of the property at that time if that amount were determined without reference to subparagraph (v) of the description of A in the definition "basic tax content" in subsection 123(1) and if no amount of tax under any of subsections 165(2), 212.1(2) and 218.1(1) and Division IV.1 were included in determining that basic tax content.

"qualifying  
residential  
unit"  
« *habitation  
admissible* »

"qualifying residential unit" of a person, at a particular time, means

(a) a residential unit of which, at or immediately before the particular time, the person is the owner, a co-owner, a lessee or a sub-lessee or has possession as purchaser under an agreement of purchase and sale, or a residential unit that is situated in a residential complex of which the person is, at or immediately before the particular time, a lessee or a sub-lessee, where

(i) at the particular time, the unit is a self-contained residence,

(ii) the person holds the unit

(A) for the purpose of making exempt supplies of the unit that are included in section 5.1, 6, 6.1 or 7 of Part I of Schedule V, or

(B) if the complex in which the unit is situated includes one or more other residential units that would be qualifying

residential units of the person without regard to this clause, for use as the primary place of residence of the person,

(iii) it is the case, or can reasonably be expected by the person at the particular time to be the case, that the first use of the unit is or will be

(A) as the primary place of residence of the person or a relation of the person, or of a lessor of the complex or a relation of that lessor, for a period of at least one year or for a shorter period where the next use of the unit after that shorter period is as described in clause (B), or

(B) as a place of residence of individuals, each of whom is given continuous occupancy of the unit, under one or more leases, for a period, throughout which the unit is used as the primary place of residence of that individual, of at least one year or for a shorter period ending when

(I) the unit is sold to a recipient who acquires the unit for use as the primary place of residence of the recipient or of a relation of the recipient, or

(II) the unit is taken for use as the primary place of residence of the person or a relation of the person or of a lessor of the complex or a relation of that lessor, and

(iv) except where subclause (iii)(B)(II) applies, if, at the particular time, the person intends that, after the unit is used as described in subparagraph (iii), the person will occupy it for the person's own use or the person will supply it by way of lease as a place of residence or lodging for an individual who is a relation, shareholder, member or partner of, or not dealing at arm's length with, the person, the person can reasonably expect that the unit will be the primary place of residence of the person or of that individual; or

(b) a prescribed residential unit of the person.

"relation"



« *proche* »

"relation" has the meaning assigned by subsection 256(1).

"self-contained  
residence"  
« *résidence  
autonome* »

"self-contained residence" means a residential unit

(a) that is a suite or room in a hotel, a motel, an inn, a boarding house or a lodging house or in a residence for students, seniors, individuals with a disability or other individuals; or

(b) that contains private kitchen facilities, a private bath and a private living area.

Reference to  
"lease"

(2) In this section, a reference to a "lease" shall be read as a reference to a "lease, licence or similar arrangement".

Rebate in  
respect of land  
and building  
for residential  
rental  
accommodation

(3) If

(a) a particular person, other than a cooperative housing corporation,

(i) is the recipient of a taxable supply by way of sale (in this subsection referred to as the "purchase from the supplier") from another person of a residential complex or of an interest in a residential complex and is not a builder of the complex, or

(ii) is a builder of a residential complex, or of an addition to a multiple unit residential complex, who makes an exempt supply by way of lease included in section 6 or 6.1 of Part I of Schedule V that results in the particular person being deemed under section 191 to have made and received a taxable supply by way of sale (in this subsection referred to as the "deemed purchase")

of the complex or addition,

(b) at a particular time, tax first becomes payable in respect of the purchase from the supplier or tax in respect of the deemed purchase is deemed to have been paid by the person,

(c) at the particular time, the complex or addition, as the case may be, is a qualifying residential unit of the person or includes one or more qualifying residential units of the person, and

(d) the person is not entitled to include the tax in respect of the purchase from the supplier, or the tax in respect of the deemed purchase, in determining an input tax credit of the person,

the Minister shall, subject to subsections (7) and (8), pay a rebate to the person equal to the total of all amounts each of which is an amount, in respect of a residential unit that forms part of the residential complex or addition, as the case may be, and is a qualifying residential unit of the person at the particular time, determined by the formula

$$A \times (\$450,000 - B) / \$100,000$$

where

A is the lesser of \$8750 and the amount determined by the formula

$$A_1 \times A_2$$

where

A<sub>1</sub> is 36% of the total tax under subsection 165(1) that is payable in respect of the purchase from the supplier or is deemed to have been paid in respect of the deemed purchase, and

A<sub>2</sub> is

(i) if the unit is a single unit residential complex or a residential condominium unit, 1, and

(ii) in any other case, the unit's percentage of total floor space, and

B is the greater of \$350,000 and

(i) if the unit is a single unit residential complex or

a residential condominium unit, the fair market value of the unit at the particular time, and

(ii) in any other case, the amount determined by the formula

$$B_1 \times B_2$$

where

$B_1$  is the unit's percentage of total floor space, and

$B_2$  is the fair market value at the particular time of the residential complex or addition, as the case may be.

Rebate in  
respect of sale  
of building and  
lease of land

(4) If

(a) a person, other than a cooperative housing corporation, is a builder of a residential complex or of an addition to a multiple unit residential complex and the person makes

(i) an exempt supply by way of sale, included in section 5.1 of Part I of Schedule V, of a building or part of a building, and

(ii) an exempt supply, included in section 7 of that Part, of land by way of lease or an exempt supply, included in that section, by way of assignment of a lease in respect of land,

(b) the lease provides for continuous possession or use of the land for a period of at least twenty years or it contains an option to purchase the land,

(c) those supplies result in the person being deemed under section 191 to have made and received a taxable supply by way of sale of the complex or addition and to have paid tax at a particular time in respect of that supply,

(d) in the case of a multiple unit residential complex or an addition to such a complex, the complex or addition, as the case may be, includes, at the particular time, one or more qualifying residential units of the person,

(e) the person is not entitled to include the tax deemed to have been paid by the person in determining an input tax credit of the person, and

(f) in the case of an exempt supply by way of sale of a single unit residential complex or a residential condominium unit, the recipient of that supply is entitled to claim a rebate under subsection 254.1(2) in respect of the complex or unit,

the Minister shall, subject to subsections (7) and (8), pay a rebate to the person equal to the total of all amounts each of which is an amount, in respect of a residential unit that forms part of the complex or addition, as the case may be, and is, in the case of a multiple unit residential complex or an addition to such a complex, a qualifying residential unit of the person at the particular time, determined by the formula

$$[A \times (\$450,000 - B) / \$100,000] - C$$

where

A is the lesser of \$8750 and the amount determined by the formula

$$A_1 \times A_2$$

where

A<sub>1</sub> is 36% of the tax under subsection 165(1) that is deemed to have been paid by the person at the particular time, and

A<sub>2</sub> is

(i) if the unit is a single unit residential complex or a residential condominium unit, 1, and

(ii) in any other case, the unit's percentage of total floor space,

B is the greater of \$350,000 and

(i) if the unit is a single unit residential complex or a residential condominium unit, the fair market value of the unit at the particular time, and

(ii) in any other case, the amount determined by the formula

$$B_1 \times B_2$$

where

- $B_1$  is the unit's percentage of total floor space, and
- $B_2$  is the fair market value at the particular time of the residential complex or addition, as the case may be, and
- C is the amount of the rebate, if any, under subsection 254.1(2) that the recipient of the exempt supply by way of sale is entitled to claim in respect of the complex or unit.

Rebate for  
cooperative  
housing  
corporation

(5) If

(a) a cooperative housing corporation (in this subsection referred to as the "cooperative")

(i) is the recipient of a taxable supply by way of sale (in this subsection referred to as the "purchase from the supplier") from another person of a residential complex or of an interest in a residential complex and is not a builder of the complex, or

(ii) is a builder of a residential complex, or of an addition to a multiple unit residential complex, who makes an exempt supply by way of lease included in section 6 of Part I of Schedule V that results in the cooperative being deemed under section 191 to have made and received a taxable supply by way of sale (in this subsection referred to as the "deemed purchase") of the complex or addition and to have paid tax in respect of that supply,

(b) the cooperative is not entitled to include the tax in respect of the purchase from the supplier, or the tax in respect of the deemed purchase, in determining an input tax credit of the cooperative, and

(c) at any time at which a residential unit included in the complex is a qualifying residential unit of the cooperative, the cooperative first gives occupancy of the unit after its construction or last substantial renovation under an agreement for a supply of that unit that is an exempt supply included in section 6 of Part I of Schedule V,

the Minister shall, subject to subsections (7) and (8), pay a rebate to the cooperative in respect of that unit equal to the amount determined by the formula

$$[A \times (\$450,000 - B) / \$100,000] - C$$

where

A is the lesser of \$8750 and the amount determined by the formula

$$A_1 \times A_2$$

where

A<sub>1</sub> is 36% of the total tax under subsection 165(1) that is payable in respect of the purchase from the supplier or is deemed to have been paid in respect of the deemed purchase, and

A<sub>2</sub> is

(i) if the unit is a single unit residential complex, 1, and

(ii) in any other case, the unit's percentage of total floor space,

B is the greater of \$350,000 and

(i) if the unit is a single unit residential complex or a residential condominium unit, the fair market value of the unit at the particular time at which tax first becomes payable in respect of the purchase from the supplier or tax in respect of the deemed purchase is deemed to have been paid by the cooperative, and

(ii) in any other case, the amount determined by the formula

$$B_1 \times B_2$$

where

B<sub>1</sub> is the unit's percentage of total floor space, and

B<sub>2</sub> is the fair market value of the complex at the particular time, and

C is the amount of the rebate, if any, under subsection 255(2)

that the recipient of the exempt supply of the unit was entitled to claim in respect of the unit.

Rebate for land  
leased for  
residential  
purposes

(6) If

(a) a person makes an exempt supply of land

(i) that is a supply included in paragraph 7(a) of Part I of Schedule V made to a person described in subparagraph (i) of that paragraph, or that is a supply, included in paragraph 7(b) of that Part, of a site in a residential trailer park, and

(ii) that results in the person being deemed under any of subsections 190(3) to (5), 200(2), 206(4) and 207(1) to have made and received a taxable supply by way of sale of the land and to have paid tax, at a particular time, in respect of that supply,

(b) in the case of an exempt supply of land described in paragraph 7(a) of Part I of Schedule V, the residential unit that is or is to be affixed to the land is or will be so affixed for the purpose of its use and enjoyment as a primary place of residence for individuals, and

(c) the person is not entitled to include the tax deemed to have been paid by the person in determining an input tax credit of the person,

the Minister shall, subject to subsections (7) and (8), pay a rebate to the person equal to the amount determined by the formula

$$A \times (\$112,500 - B) / \$25,000$$

where

A is

(i) in the case of a taxable supply in respect of which the person is deemed to have paid tax calculated on the fair market value of the land, 36% of the tax under subsection 165(1) that is deemed to have been paid in respect of that supply, and

(ii) in the case of a taxable supply in respect of which

the person is deemed to have paid tax equal to the basic tax content of the land, 36% of the qualifying portion of the basic tax content of the land at the particular time, and

B is the greater of \$87,500 and

(i) in the case of a supply of land included in paragraph 7(a) of Part I of Schedule V, the fair market value of the land at the particular time, and

(ii) in the case of a supply of a site in a residential trailer park or in an addition to a residential trailer park, the fair market value, at the particular time, of the park or addition, as the case may be, divided by the total number of sites in the park or addition, as the case may be, at the particular time.

Application for  
rebate and  
payment of tax

(7) A rebate shall not be paid to a person under this section unless

(a) the person files an application for the rebate within two years after

(i) in the case of a rebate under subsection (5), the end of the month in which the person makes the exempt supply referred to in subparagraph (5)(a)(ii),

(ii) in the case of a rebate under subsection (6), the end of the month in which the tax referred to in that subsection is deemed to have been paid by the person, and

(iii) in any other case of a rebate in respect of a residential unit, the end of the month in which tax first becomes payable by the person, or is deemed to have been paid by the person, in respect of the unit or interest in the unit or in respect of the residential complex or addition, or interest therein, in which the unit is situated;

(b) if the rebate is in respect of a taxable supply received by the person from another person, the person has paid all of the tax payable in respect of that supply; and

(c) if the rebate is in respect of a taxable supply in respect of which the person is deemed to have collected tax in a



reporting period of the person, the person has reported the tax in the person's return under Division V for the reporting period and has remitted all net tax remittable, if any, as reported in that return.

#### Special rules

(8) For the purposes of this section,

(a) if, at any time, substantially all of the residential units in a multiple unit residential complex containing ten or more residential units are residential units in respect of which the condition set out in subparagraph (a)(iii) of the definition "qualifying residential unit" in subsection (1) is satisfied, all of the residential units in the complex are deemed to be residential units in respect of which that condition is satisfied at that time; and

(b) except in the case of residential units referred to in paragraph (a) of the definition "self-contained residence" in subsection (1),

(i) the two residential units that are located in a multiple unit residential complex containing only those two residential units are deemed to together form a single residential unit, and the complex is deemed to be a single unit residential complex and not to be a multiple unit residential complex, and

(ii) if a residential unit (in this subparagraph referred to as a "specified unit") in a building affords direct internal access (with or without the use of a key or similar device) to another area of the building that is all or part of the living area of a particular residential unit, the specified unit is deemed to be part of the particular residential unit and not to be a separate residential unit.

#### Restrictions

(9) No rebate shall be paid to a person under this section if all or part of the tax included in determining the rebate would otherwise be included in determining a rebate of the person under any of sections 254, 256, 256.1 and 259 and, in determining the rebate of a person under this section, there shall not be included any amount of tax that the person is, under an Act of Parliament (other than this Act) or any other law,

(a) not required to pay or remit; or

(b) entitled to recover by way of a rebate, refund or remission.

Repayment of  
rebate

(10) If a person was entitled to claim a rebate under subsection (3) in respect of a qualifying residential unit (other than a unit located in a multiple unit residential complex) and, within one year after the unit is first occupied as a place of residence after the construction or last substantial renovation of the unit was substantially completed, the person makes a supply by way of sale (other than a supply deemed under section 183 or 184 to have been made) of the unit to a purchaser who is not acquiring the unit for use as the primary place of residence of the purchaser or of a relation of the purchaser, the person shall pay to the Receiver General an amount equal to the rebate, plus interest at the rate prescribed for the purposes of paragraph 280(1)(b), calculated on that amount for the period beginning on the day the rebate was paid or applied to a liability of the person and ending on the day the amount of the rebate is paid by the person to the Receiver General.

(2) Section 256.2 of the Act, as enacted by subsection (1), is deemed to have come into force on February 28, 2000 except that

(a) subsections (3) to (5) of that section apply

(i) to a taxable supply by way of sale of a residential complex or an interest in a residential complex to a person who is not a builder of the complex, or of a residential complex or an addition to a residential complex to a person who is, otherwise than by reason of subsection 190(1) of the Act, a builder of the complex or addition, as the case may be, only if the construction or last substantial renovation of the complex or addition, as the case may be, began after February 27, 2000, and

(ii) to a taxable supply by way of sale of a residential complex or an addition to a residential complex that is deemed to be made to a person who has converted real property for use as the residential complex or the addition to a residential complex and is, as a result, deemed under subsection 190(1) of the Act to be a builder of the complex or addition, only if the construction or alteration necessary to effect the conversion began after February 27, 2000; and

(b) subsection (6) of that section does not apply to exempt supplies made before February 28, 2000.

(3) If, in order to satisfy the condition under paragraph 256.2(7)(a) of the Act, as enacted by subsection (1), with respect to a rebate of a person, the person would have to file an application for the rebate before the particular day that is two years after the day on which this Act is assented to, the person shall, despite that paragraph, have until the particular day to file the application.

17. (1) Subsection 261.01(3) of the Act is amended by striking out the word "and" at the end of paragraph (a), by adding the word "and" at the end of paragraph (b) and by adding the following after paragraph (b):

(c) an amount of tax under subsection 165(1) that was payable or was deemed under section 191 to have been paid by a trust in respect of a taxable supply to the trust of a residential complex, an addition to a residential complex or land if, in respect of that supply, the trust was entitled to claim any rebate under section 256.2 or would be so entitled after paying the tax payable in respect of that supply.

(2) Subsection (1) is deemed to have come into force on February 28, 2000.

1993, c. 27, s.  
117(2)

18. (1) Subsection 262(3) of the Act is replaced by the following:

Group of  
individuals

(3) If

(a) a supply of a residential complex or a share of the capital stock of a cooperative housing corporation is made to two or more individuals, or

(b) two or more individuals construct or substantially renovate, or engage another person to construct or substantially renovate, a residential complex,

the references in sections 254 to 256 to a particular individual shall be read as references to all of those individuals as a group, but only one of those individuals may apply for the rebate under section 254, 254.1, 255 or 256, as the case may be, in respect of the complex or share.

(2) Subsection (1) is deemed to have come into force on June

1, 1997.

19. (1) The Act is amended by adding the following after section 273:

Subdivision b.2

Export distribution centres

Definitions

273.1 (1) The definitions in this subsection apply in this section.

"added  
property"  
« *bien  
d'appoint* »

"added property" that is in the possession of a person means tangible personal property (other than property that serves as evidence of the payment of postage) or software that the person incorporates into, attaches to, combines or assembles with, or uses to pack, other property that is not property of the person held otherwise than for sale by the person.

"base value"  
« *valeur de  
base* »

"base value" of property that a particular person imports or obtains physical possession of in Canada from another person means

(a) if the particular person imports the property, the value that is or would be, but for subsection 215(2), deemed under subsection 215(1) to be the value of the property for the purposes of Division III; and

(b) in any other case, the fair market value of the property at the time the particular person obtains physical possession of it in Canada.

"basic service"  
« *service de  
base* »

"basic service" means any of the following services performed at any time in respect of goods, to the extent that, if the goods were held in a bonded warehouse at that time, it would be

feasible, given the stage of processing of the goods at that time, to perform that service in the bonded warehouse and it would be permissible to do so according to the *Customs Bonded Warehouses Regulations*:

(a) disassembling or reassembling, if the goods have been assembled or disassembled for packing, handling or transportation purposes;

(b) displaying;

(c) inspecting;

(d) labelling;

(e) packing;

(f) removing, for the sole purpose of soliciting orders for goods or services, a small quantity of material, or a portion, a piece or an individual object, that represents the goods;

(g) storing;

(h) testing; or

(i) any of the following that do not materially alter the characteristics of the goods:

(i) cleaning,

(ii) complying with any applicable law of Canada or of a province,

(iii) diluting,

(iv) normal maintenance and servicing,

(v) preserving,

(vi) separating defective goods from prime quality goods,

(vii) sorting or grading, and

(viii) trimming, filing, slitting or cutting.

"bonded  
warehouse"  
« *entrepôt de*

*stockage* »

"bonded warehouse" has the meaning assigned by subsection 2(1) of the *Customs Act*.

"customer's  
good"  
« *produit de  
client* »

"customer's good", in respect of a particular person, means tangible personal property of another person that the particular person imports, or obtains physical possession of in Canada, for the purpose of supplying a service or added property in respect of the tangible personal property.

"domestic  
inventory"  
« *stocks  
intérieurs* »

"domestic inventory" of a person means tangible personal property that the person acquires in Canada, or acquires outside Canada and imports, for the purpose of selling the property separately for consideration in the ordinary course of a business carried on by the person.

"export  
revenue"  
« *recettes  
d'exportation* »

"export revenue" of a particular person for a fiscal year means the total of all amounts each of which is consideration, included in determining the specified total revenue of the person for the year, for

(a) a supply by way of sale of an item of domestic inventory of the person that is made outside Canada or included in Part V of Schedule VI (other than sections 2.1, 3, 11, 14 and 15.1 of that Part);

(b) a supply by way of sale of added property acquired by the person for the purpose of processing in Canada particular property where the particular property, or all the products resulting from that processing, as the case may be, are exported, after that processing is complete, without being consumed, used, transformed or further processed, manufactured or produced in Canada by another person except to the extent reasonably necessary or

incidental to the transportation of the particular property or those products; or

(c) a supply of a service of processing, storing or distributing tangible personal property of another person if the property, or all the products resulting from that processing, as the case may be, are exported, after the processing in Canada, if any, by the particular person is complete, without being consumed, used, transformed or further processed, manufactured or produced in Canada by any person other than the particular person except to the extent reasonably necessary or incidental to the transportation of that property or those products.

"export revenue  
percentage"  
« *pourcentage  
de recettes  
d'exportation* »

"export revenue percentage" of a person for a year means the proportion (expressed as a percentage) that the person's export revenue for the year is of the person's specified total revenue for the year.

"finished  
inventory"  
« *stocks finis*  
»

"finished inventory" of a person means property of the person (other than capital property) that is in the state at which it is intended to be sold by the person, or to be used by the person as added property, in the course of a business carried on by the person.

"labelling"  
« *étiquetage* »

"labelling" includes marking, tagging and ticketing.

"packing"  
« *emballage* »

"packing" includes unpacking, repacking, packaging and repackaging.

"processing"  
« *traitement* »

"processing" includes adjusting, altering, assembling and any basic

service.

"specified  
total revenue"  
« *recettes  
totales  
déterminées* »

"specified total revenue" of a person for a fiscal year of the person means the total of all amounts each of which is consideration, included in determining the income from a business of the person for the year, for a supply made by the person (or that would be made by the person but for any provision of this Part that deems the supply to be made by another person), other than

(a) a supply of a service in respect of property that the person neither imports nor obtains physical possession of in Canada for the purpose of providing the service;

(b) a supply by way of sale of particular property that the person acquires for the purpose of selling the particular property (or selling other property to which the particular property has been added or with which the particular property has been combined) for consideration but that is neither acquired in Canada nor imported by the person;

(c) a supply by way of sale of added property that the person acquires for the purpose of processing tangible personal property that the person neither imports nor obtains physical possession of in Canada; and

(d) a supply by way of sale of capital property of the person.

"substantial  
alteration of  
property"  
« *modification  
sensible* »

"substantial alteration of property" by a person, in respect of a fiscal year of the person, means

(a) manufacturing or producing, or engaging another person to manufacture or produce, property (other than capital property of the person) at any time in the year in the course of a business carried on by the person; or



(b) any processing undertaken by or for the person during the year to bring property of the person to a state at which the property or the product of that processing is finished inventory of the person, if

(i) the person's percentage value added attributable to non-basic services in respect of finished inventory of the person for the year exceeds 10%, and

(ii) the person's percentage total value added in respect of finished inventory of the person for the year exceeds 20%.

Value added  
attributable to  
non-basic  
services in  
respect of  
finished  
inventory

(2) A person's percentage value added attributable to non-basic services in respect of finished inventory of the person for a fiscal year of the person is the amount (expressed as a percentage) determined by the formula

$A/B$

where

A is the total of all amounts each of which

(a) is part of the total cost to the person of all property that was finished inventory of the person supplied, or used as added property, by the person during the year, and

(b) is reasonably attributable to

(i) salary, wages or other remuneration paid or payable to employees of the person, excluding any amounts that are reasonably attributable to the performance of basic services, or

(ii) consideration paid or payable by the person to engage other persons to perform processing, excluding any portion of such consideration that is reasonably attributed by the other persons to tangible personal property supplied in connection

with that processing or that is reasonably attributable to the performance of basic services, and

B is the total cost to the person of the property.

Total value added in respect of finished inventory

(3) The percentage total value added in respect of finished inventory of a person for a fiscal year of the person is the amount (expressed as a percentage) that would be determined for the year by the formula in subsection (2) if the total for A in that subsection did not exclude any amounts that are reasonably attributable to the performance of basic services.

Value added attributable to non-basic services in respect of customers' goods

(4) A person's percentage value added attributable to non-basic services in respect of customers' goods for a fiscal year of the person is the amount (expressed as a percentage) determined by the formula

$$A/(A + B)$$

where

A is the total of all consideration, included in determining the income from a business of the person for the year, for supplies of services, or of added property, in respect of customers' goods, other than the portion of such consideration that is reasonably attributable to the performance of basic services or to the provision of added property used in the performance of basic services, and

B is the total of the base values of the customers' goods.

Total value added in respect of customers'

goods

(5) A person's percentage total value added in respect of customers' goods for a fiscal year of the person is the percentage that would be determined for the year by the formula in subsection (4) if the total for A in that subsection did not exclude any amounts that are reasonably attributable to the performance of basic services or the provision of added property used in the performance of basic services.

Non-arm's  
length  
transactions

(6) For the purpose of determining a particular person's export revenue percentage or an amount under any of subsections (2) to (5) in respect of finished inventory of a particular person or customers' goods in respect of a particular person, if a supply between the particular person and another person with whom the particular person is not dealing at arm's length is made for no consideration or for less than fair market value and any consideration for the supply would be included in determining the income from a business of the particular person for a year, the supply is deemed to have been made for consideration equal to fair market value and that consideration is deemed to be included in determining that income.

Export  
distribution  
centre  
certificate

(7) The Minister may, on the application of a person who is registered under Subdivision d of Division V and who is engaged exclusively in commercial activities, authorize the person to use, beginning on a particular day in a fiscal year of the person and subject to such conditions as the Minister may from time to time specify, a certificate (in this section referred to as an "export distribution centre certificate") for the purposes of section 1.2 of Part V of Schedule VI and section 11 of Schedule VII, if it can reasonably be expected that

(a) the person will not engage in the substantial alteration of property in the year;

(b) either the person's percentage value added attributable to non-basic services in respect of customers' goods for the year will not exceed 10% or the person's percentage total value added in respect of customers' goods for the year will not exceed 20%; and

(c) the person's export revenue percentage for the year will be at least 90%.

#### Application

(8) An application for an authorization to use an export distribution centre certificate shall be made in prescribed form containing prescribed information and be filed with the Minister in prescribed manner.

#### Notice of authorization

(9) If the Minister authorizes a person to use an export distribution centre certificate, the Minister shall notify the person in writing of the authorization, its effective date and its expiry date and the number assigned by the Minister that identifies the person or the authorization and that must be disclosed by the person when providing the certificate for the purpose of section 1.2 of Part V of Schedule VI or when accounting for imported goods in accordance with section 11 of Schedule VII.

#### Revocation

(10) The Minister may, after giving a person to whom an authorization has been granted under subsection (7) reasonable written notice, revoke the authorization, effective on a day in a particular fiscal year of the person, if

(a) the person fails to comply with any condition attached to the authorization or with any provision of this Part;

(b) it can reasonably be expected that

(i) one or both of the conditions described in paragraphs (7)(a) and (b) would not be met if the fiscal year referred to in those paragraphs were the particular fiscal year, or

(ii) the person's export revenue percentage for the particular fiscal year will be less than 80%; or

(c) the person has requested in writing that the authorization be revoked as of that day.

#### Deemed revocation

(11) Subject to subsection (10), an authorization granted to a person under subsection (7) is deemed to have been revoked,

effective immediately after a fiscal year of the person, if

(a) the person had engaged in the substantial alteration of property in that year;

(b) the person's percentage value added attributable to non-basic services in respect of customers' goods for the year exceeds 10% and the person's percentage total value added in respect of customers' goods for the year exceeds 20%; or

(c) the person's export revenue percentage for the year is less than 80%.

#### Cessation

(12) An authorization granted under subsection (7) to a person ceases to have effect immediately before the earlier of

(a) the day on which a revocation of the authorization becomes effective, and

(b) the day that is three years after the day on which the authorization became effective.

#### Application after revocation

(13) If an authorization granted to a person under subsection (7) is revoked, effective on a particular day, the Minister shall not grant to the person another authorization under that subsection that becomes effective before

(a) if the authorization was revoked in circumstances described in paragraph (10)(a), the day that is two years after the particular day; and

(b) in any other case, the first day of the second fiscal year of the person beginning after the particular day.

**(2) Subsection (1) is deemed to have come into force on January 1, 2001.**

1997, c. 10, s.  
77(1)

**20. (1) Subsections 278.1(2) to (4) of the Act are replaced by the following:**

Filing of

return by  
electronic  
filing

(2) A person who is required to file with the Minister a return under this Part, and who meets the criteria specified in writing by the Minister for the purposes of this section, may file the return by way of electronic filing.

1997, c. 10, s.  
77(1)

**(2) Subsection 278.1(5) of the Act is renumbered as subsection 278.1(3).**

**(3) Subsections (1) and (2) are deemed to have come into force on October 4, 2000.**

1997, c. 10, s.  
243(1)

**21. (1) Section 2 of Part I of Schedule V to the Act is replaced by the following:**

**2. A particular supply by way of sale of a residential complex or an interest in a residential complex made by a particular person who is not a builder of the complex or, if the complex is a multiple unit residential complex, an addition to the complex, unless**

**(a) the particular person claimed an input tax credit in respect of the last acquisition by the person of the complex or in respect of an improvement to the complex acquired, imported or brought into a participating province by the person after the complex was last acquired by the person; or**

**(b) the recipient is registered under Subdivision d of Division V of Part IX of the Act and**

**(i) the recipient made a taxable supply by way of sale (in this paragraph referred to as the "prior supply") of the complex or interest to a person (in this paragraph referred to as the "prior recipient") who is the particular person or, if the particular person is a personal trust other than a testamentary trust, the settlor of the trust or, in the case of a testamentary trust that arose as a result of the death of an individual, the deceased individual,**

**(ii) the prior supply is the last supply by way of sale**

of the complex or interest to the prior recipient,

(iii) the particular supply is not made more than one year after the particular day that is the day on which the prior recipient acquired the interest, or that is the earlier of the day on which the prior recipient acquired ownership of the complex and the day on which the prior recipient acquired possession of the complex, under the agreement for the prior supply,

(iv) the complex has not been occupied by any individual as a place of residence or lodging after the construction or last substantial renovation of the complex was substantially completed,

(v) the particular supply is made pursuant to a right or obligation of the recipient to purchase the complex or interest that is provided for under the agreement for the prior supply, and

(vi) the recipient makes an election under this section jointly with the particular person in prescribed form containing prescribed information and filed with the Minister with the recipient's return in which the recipient is required to report the tax in respect of the particular supply.

**(2) Subsection (1) applies to supplies made after October 4, 2000.**

1997, c. 10, s.  
90(1)

**22. (1) Paragraph 9(2)(a) of Part I of Schedule V to the Act is replaced by the following:**

(a) a supply of real property that is, immediately before the time ownership or possession of the property is transferred to the recipient of the supply under the agreement for the supply, capital property used primarily

(i) in a business carried on by the individual or trust with a reasonable expectation of profit, or

(ii) if the individual or trust is a registrant,

(A) in making taxable supplies of the real property by way of lease, licence or similar arrangement, or

(B) in any combination of the uses described in

subparagraph (i) and clause (A);

1997, c. 10, s.  
90(1)

**(2) Subsection 9(2) of Part I of Schedule V to the Act is amended by striking out the word "or" at the end of paragraph (d) and by replacing paragraph (e) with the following:**

(e) a supply of a residential complex or an interest in a residential complex; or

(f) a particular supply to a recipient who is registered under Subdivision d of Division V of Part IX of the Act and who has made an election under this paragraph jointly with the individual or trust in prescribed form containing prescribed information and filed with the Minister with the recipient's return in which the recipient is required to report the tax in respect of the supply, if

(i) the recipient made a taxable supply by way of sale (in this paragraph referred to as the "prior supply") of the real property to a person (in this paragraph referred to as the "prior recipient") who is the individual, trust or settlor of the trust and that supply is the last supply by way of sale of the real property to the prior recipient,

(ii) the particular day that is the earlier of the day on which, under the agreement for the prior supply, the prior recipient acquired ownership of the real property and the day the prior recipient acquired possession of the real property is not more than one year before the day the particular supply is made, and

(iii) the particular supply is made pursuant to a right or obligation of the recipient to purchase the real property that is provided for under the agreement for the prior supply.

**(3) Subsections (1) and (2) apply to supplies by way of sale made after October 4, 2000.**

2000, c. 30, s.  
113(1)

**23. (1) The portion of the definition "practitioner" in section 1 of Part II of Schedule V to the Act before paragraph (b) is replaced by the following:**



"practitioner", in respect of a supply of optometric, chiropractic, physiotherapy, chiropodic, podiatric, osteopathic, audiological, speech therapy, occupational therapy, psychological or dietetic services, means a person who

(a) practises the profession of optometry, chiropractic, physiotherapy, chiropody, podiatry, osteopathy, audiology, speech therapy, occupational therapy, psychology or dietetics, as the case may be,

(2) Subsection (1) applies only to supplies made in 2001.

24. (1) Section 7 of Part II of Schedule V to the Act is amended by adding the following after paragraph (g):

(h) speech therapy services;

(2) Subsection (1) applies only to supplies made in 2001.

1993, c. 27, s.  
159(1); 1997,  
c. 10, s. 99(1)

25. (1) Section 8 of Part III of Schedule V to the Act is replaced by the following:

8. A supply, other than a zero-rated supply, made by a government, a school authority, a vocational school, a public college or a university of a service of instructing 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 individuals to practise or perform a trade or vocation, except where the supplier has made an election under this section in prescribed form containing prescribed information.

(2) Subsection (1) applies

(a) to supplies for which all of the consideration becomes due after October 4, 2000 or is paid after that day without having become due; and

(b) to any supply for which consideration becomes due or is paid on or before that day if no amount was charged or collected as or on account of tax under Part IX of the Act in respect of the supply on or before that day, except that, with respect to that supply, section 8 of Part III of Schedule V to the Act, as enacted by subsection (1), shall be read without reference to the words "except where the supplier has made an election under this section in prescribed form containing

**prescribed information".**

1997, c. 10, s.  
102(1)

**26. (1) Paragraph 1(b) of Part V.1 of Schedule V to the Act is replaced by the following:**

(b) property or a service where the supply is deemed under Part IX of the Act to have been made by the charity (other than a supply that is deemed to have been made under section 187 of the Act or that is deemed only under section 136.1 of the Act to have been made);

1997, c. 10, s.  
102(1)

**(2) Paragraph 1(c) of Part V.1 of Schedule V to the Act is replaced by the following:**

(c) particular personal property (other than property that was acquired, manufactured or produced by the charity for the purpose of making a supply by way of sale of the property and property supplied by way of lease, licence or similar arrangement in conjunction with an exempt supply by way of lease, licence or similar arrangement by the charity of real property) where, immediately before the time tax would first become payable in respect of the supply of the particular property if it were a taxable supply, that property is used (otherwise than in making the supply) in commercial activities of the charity or, in the case of capital property, primarily in such activities;

1997, c. 10, s.  
102(1)

**(3) Paragraph 1(l) of Part V.1 of Schedule V to the Act is replaced by the following:**

(l) real property where the supply is made by way of sale and, immediately before the time tax would first become payable in respect of the supply if it were a taxable supply, the property is used (otherwise than in making the supply) primarily in commercial activities of the charity; or

**(4) Subsection (1) applies to supplies that are deemed to have been made under section 136.1 of the Act for lease intervals or billing periods beginning on or after April 1, 1997.**

**(5) Subsections (2) and (3) apply to supplies for which**

consideration becomes due after 1996 or is paid after 1996 without having become due but do not apply to any supply in respect of which an amount was charged or collected as or on account of tax under Part IX of the Act on or before October 4, 2000.

(6) Where

(a) before 1997 a charity was using capital property of the charity in making taxable supplies by way of lease, licence or similar arrangement of real property, or of personal property in conjunction with supplies of real property, that were included in paragraph 2(f) or 25(f) or (h) of Part VI of Schedule V to the Act as the Act then read, and

(b) because of the enactment of section 1 of Part V.1 of that Schedule, as amended by subsections (2) and (3), the charity

(i) is considered to have, at a particular time, ceased to use the capital property, or reduced the extent to which the capital property is used, in commercial activities of the charity, upon beginning to use the property for the purpose of making the charity's first exempt supply by way of lease, licence or similar arrangement of real property, or of personal property in conjunction with a supply of real property, included in that section that would have been a taxable supply included in any of the said paragraphs if Part VI of the Schedule had continued to apply to charities, and

(ii) is deemed under subsection 200(2) or 206(4) or (5) of the Act to have made, immediately before the particular time, a supply of the capital property, or a portion of it, and to have collected tax in respect of that supply,

the charity is not required to include that tax in determining the net tax for any reporting period of the charity and is deemed, for the purpose of determining the basic tax content (as defined in subsection 123(1) of the Act) of the capital property, to have been entitled to recover an amount equal to the tax as a rebate of tax included in the description of A in that definition.

1997, c. 10, s.  
104(2)

27. (1) Paragraph 2(b) of Part VI of Schedule V to the Act is replaced by the following:

(b) property or a service where the supply is deemed under Part IX of the Act to have been made by the institution (other

than a supply that is deemed only under section 136.1 of the Act to have been made);

**(2) Subsection (1) applies to supplies that are deemed to have been made under section 136.1 of the Act for lease intervals or billing periods beginning on or after April 1, 1997.**

1990, c. 45, s.  
18

**28. (1) Paragraph 25(b) of Part VI of Schedule V to the Act is replaced by the following:**

(b) real property where the supply is deemed under Part IX of the Act to have been made (other than a supply that is deemed only under section 136.1 of the Act to have been made);

**(2) Subsection (1) applies to supplies that are deemed to have been made under section 136.1 of the Act for lease intervals beginning on or after April 1, 1997.**

2000, c. 30, s.  
126(2)

**29. (1) Paragraph 1(e) of Part V of Schedule VI to the Act is replaced by the following:**

(e) the person maintains evidence satisfactory to the Minister of the exportation of the property by the recipient.

**(2) Subsection (1) applies to supplies made after 2000.**

**30. (1) Part V of Schedule VI to the Act is amended by adding the following after section 1:**

**1.1** A taxable supply made by way of sale to a recipient (other than a consumer) who is registered under Subdivision d of Division V of Part IX of the Act of tangible personal property (other than property that is an excisable good or is a continuous transmission commodity that is to be transported by or on behalf of the recipient by means of a wire, pipeline or other conduit), where

(a) the recipient provides the supplier with an export certificate (within the meaning of section 221.1 of the Act), certifying that an authorization to use the certificate granted to the recipient under that section is in effect at the time the supply is made, and discloses to the supplier the number referred to in subsection 221.1(4) of the Act and the expiry date of the authorization; and

(b) if an authorization granted by the Minister to use the certificate is not, in fact, in effect at the time the supply is made or the recipient does not export the property in the circumstances described in paragraphs 1(b) to (d), it is the case that the supplier did not know and could not reasonably be expected to have known, at or before the latest time at which tax in respect of the supply would have become payable if the supply were not a zero-rated supply, that the authorization was not in effect at the time the supply was made or that the recipient would not so export the property.

**1.2** A taxable supply made by way of sale to a recipient who is registered under Subdivision d of Division V of Part IX of the Act of property (other than property that is an excisable good or is a continuous transmission commodity that is to be transported by or on behalf of the recipient by means of a wire, pipeline or other conduit), where

(a) the recipient provides the supplier with an export distribution centre certificate (within the meaning of section 273.1 of the Act), certifying that an authorization to use the certificate granted to the recipient under that section is in effect at the time the supply is made and that the property is being acquired for use or supply as domestic inventory or as added property of the recipient (as those expressions are defined in that section), and discloses to the supplier the number referred to in subsection 273.1(9) of the Act and the expiry date of the authorization;

(b) the total amount, included in a single invoice or agreement, of the consideration for that supply and for all other supplies, if any, that are made to the recipient and are otherwise included in this section is at least \$1000; and

(c) if an authorization granted by the Minister to use the certificate is not, in fact, in effect at the time the supply is made or the recipient is not acquiring the property for use or supply as domestic inventory or as added property (as those expressions are defined in that section) in the course of commercial activities of the recipient, it is the case that, at or before the latest time at which tax in respect of the supply would have become payable if the supply were not a zero-rated supply, the supplier did not know, and could not reasonably be expected to have known, that the authorization was not in effect at the time the supply was made or that the recipient was not acquiring the property for that purpose.

**(2) Subsection (1) applies to supplies made after 2000 except that, with respect to any supply in respect of which the recipient provides an export certificate (within the meaning of section 221.1**

of the Act) that is in effect at the time the supply is made but was issued before January 1, 2001 and not renewed before the supply is made, or was last renewed before January 1, 2001, paragraph 1.1(a) of Part V of Schedule VI to the Act, as enacted by subsection (1), shall be read without reference to the words "and discloses to the supplier the number referred to in subsection 221.1(4) of the Act and the expiry date of the authorization".

31. (1) Schedule VII to the Act is amended by adding the following after section 5:

5.1 Goods that are imported solely for the purpose of fulfilling an obligation under a warranty to repair or replace the goods if defective, where replacement goods are supplied for no additional consideration, other than shipping and handling charges, and exported without being consumed or used in Canada except to the extent reasonably necessary or incidental to the transportation of the goods.

(2) Subsection (1) applies to goods imported after February 28, 2000.

32. (1) Schedule VII to the Act is amended by adding the following after section 8:

8.1 Particular goods that are imported at any time by a registrant to whom has been issued an authorization under section 213.2 of the Act that is in effect at that time and that are

(a) processed, distributed or stored in Canada and subsequently exported without being consumed or used in Canada except to the extent reasonably necessary or incidental to the transportation of the goods,

(b) incorporated or transformed into, attached to, or combined or assembled with, other goods that are processed in Canada and subsequently exported without being consumed or used in Canada except to the extent reasonably necessary or incidental to the transportation of those other goods, or

(c) materials (other than fuel, lubricants and plant equipment) directly consumed or expended in the processing in Canada of other goods that are exported without being consumed or used in Canada except to the extent reasonably necessary or incidental to the transportation of those other goods,

where

(d) the particular goods are imported solely for the purpose of having services performed that are supplied by the

registrant to a non-resident person,

(e) throughout the period beginning at the time the particular goods are imported by the registrant and ending at the time of the exportation of the particular goods or the products (in this section referred to as the "processed products") resulting from the processing referred to in whichever of paragraphs (a) to (c) applies,

(i) neither the particular goods nor the processed products are the property of a person resident in Canada,

(ii) the registrant does not have any proprietary interest in the particular goods or the processed products, and

(iii) the registrant is not closely related to any non-resident person referred to in paragraph (d) or to any non-resident person whose property are the particular goods or the processed products,

(f) at no time during the period referred to in paragraph (e) does the registrant transfer physical possession of the particular goods or the processed products to another person in Canada except for the purpose of their storage, their transportation to or from a place of storage or their transportation in the course of being exported,

(g) the exportation of the particular goods or the processed products, as the case may be, occurs within four years after the day on which the particular goods are accounted for under section 32 of the *Customs Act*,

(h) at the time of that accounting for the particular goods, the registrant discloses, on the accounting document, the number assigned to the registrant under subsection 213.2(1) of the Act, and

(i) the registrant has provided any security that is required under section 213.1 of the Act.

**8.2** For the purpose of section 8.1, "processing" includes adjusting, altering, assembling or disassembling, cleaning, maintaining, repairing or servicing, inspecting or testing, labelling, marking, tagging or ticketing, manufacturing, producing, packing, unpacking or repacking, and packaging or repackaging.

**8.3** For the purpose of section 8.1, a registrant and another person are closely related to each other if they would be closely related under section 128 of the Act if the other person were a

registrant resident in Canada.

(2) Subsection (1) is deemed to have come into force on March 1, 1992 and applies to goods imported on or after that day except that, with respect to goods imported before February 29, 2000, paragraph 8.1(a) of Schedule VII to the Act, as enacted by subsection (1), shall be read without reference to the words "distributed or stored".

33. (1) Schedule VII to the Act is amended by adding the following after section 10:

11. A particular good that is an item of domestic inventory, added property or a customer's good (as those expressions are defined in section 273.1 of the Act) imported at any time by a person who is registered under Subdivision d of Division V of Part IX of the Act and to whom has been granted an authorization that is in effect at that time to use an export distribution centre certificate (within the meaning of that section), if

(a) when the particular good is accounted for under section 32 of the *Customs Act*, the person certifies that the authorization is in effect at that time and discloses the number referred to in subsection 273.1(9) of the Act and the effective date and expiry date of the authorization; and

(b) the person has provided any security that is required under section 213.1 of the Act.

(2) Subsection (1) applies to goods imported after 2000.