

GST/HST News #48

Spring 2003

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

La version française de ce bulletin est intitulée *Nouvelles de la TPS/TVH*.

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Federal Budget

The Minister of Finance announced the following legislative amendments when he presented the federal budget on February 18, 2003. These proposed amendments were included in Notices of Ways and Means Motions which were tabled with the budget.

Transportation services by school authorities

A supply made by a school authority to elementary or secondary school students of a service of transporting the students to or from school is GST/HST exempt. On December 21, 2001, a proposed amendment was announced to ensure that the service of transporting elementary or secondary school students to or from a school operated by a school authority continues to be treated as an exempt supply where it is made by a school authority to a person other than another school authority.

A Notice of Ways and Means Motion tabled with the budget includes a proposed amendment, retroactive to December 1990, to implement the December 21, 2001 announcement. The proposed amendment will not affect the cases that were decided in favour of appellant school authorities by the Federal Court of Appeal before December 21, 2001, in respect of the reporting periods of those authorities that were the subject of those decided cases, but will allow CCRA to assess school authorities for other reporting periods in which they received full input tax credits as a result of the court decision, even if those reporting periods are otherwise statute-barred.

Likewise, the reassessment authority permits the CCRA to reassess the net tax, or an amount payable under section 230.1 of the Act in respect of an overpayment of a net tax refund, of any other school authority whose net tax was previously assessed by the Minister, in order to take into account any difference in that net tax that results from the application of the amendment to the exempting provision, despite any court decision rendered after December 21, 2001. The limitation period for making reassessments under this provision is extended by one year from the day the provision receives Royal Assent, if the limitation period under the Act for making reassessments would otherwise have expired sooner.

Municipal services

Most supplies of basic municipal services to municipal residents are exempt from GST/HST. These supplies are exempt to the municipal residents (i.e. no GST/HST is payable on any fee charged to the

residents), whether or not the services are delivered directly by a municipality or government, or by private companies with which the municipality or government contracts to provide services. However, this exemption is not intended to apply to supplies made by private companies where the recipient of the supply is the municipality or government, rather than the municipal residents. The budget proposes to amend the Act, retroactive to December 1990, to clarify that purchases by municipalities or governments of contracted municipal services continue to be taxable.

Tobacco products

The *Excise Tax Act*, *Customs Tariff* and the *Excise Act, 2001* will be amended to implement the tobacco tax increases proposed on June 17, 2002. These include increases in the excise tax on cigarettes, tobacco sticks and other manufactured tobacco, as well as a range of increases in excise tax and excise duty on cigars, exported tobacco products, tobacco products delivered to duty free shops and for use as ships' stores, or imported by Canadian residents returning to Canada. These increases have been in effect since June 18, 2002.

Bio-diesel and ethanol-diesel (E-diesel)

The current \$0.04 per litre tax on diesel fuel will be removed from the following:

- bio-diesel fuel produced from waste materials or feed stocks of biological non-fossil fuel origin;
- that portion of blended bio-diesel fuel that is equal to the percentage by volume of the blended fuel that constitutes bio-diesel fuel produced from waste materials or feed stocks of biological non-fossil fuel origin;
- that portion of ethanol-diesel fuel blend or methanol-diesel fuel blend that is equal to the percentage by volume of the fuel blend that constitutes ethanol or methanol that is made from biomass or renewable feed stocks, and not from petroleum, natural gas, or coal.

These amendments will be applicable to fuel sold or imported after February 18, 2003.

Fuel excise tax refund claims

The *Excise Tax Act* will be amended to clarify that the refund of excise tax on goods exported from Canada will not apply to fuel transported out of Canada in the fuel tank of the vehicle used for that transportation. This amendment will apply to all applications for refund received by the Minister of National Revenue on or after February 18, 2003.

Air Travellers Security Charge (ATSC)

The charge will be reduced for tickets acquired in Canada (including tickets deemed to have been acquired in Canada) for travel solely within Canada. The charge for transborder and international flights will not be affected.

For domestic air travel, where the GST/HST applies at the rate of 7% or 15% for the air transportation service, the ATSC will be \$6.54 for each chargeable emplanement, to a maximum of \$13.08. Where the GST/HST does not apply, the ATSC will be \$7.00 for each chargeable emplanement, to a maximum of \$14.00. These reductions apply to travel on or after March 1, 2003, so long as the ticket is not purchased before that date. There will be no refund for amounts paid before March 1, even if the travel takes place on or after March 1, 2003.

Standardized Accounting

As part of its Standardized Accounting initiative, the budget proposes to harmonize a number of interest, penalty, and related administrative provisions of the non-GST/HST parts of the *Excise Tax Act* and the *Income Tax Act*.

More information

For more detailed information about the budget, please refer to the Department of Finance Internet site under the heading "Budget Info". (Link: www.fin.gc.ca/news03/03-010e.html)

Excise Act, 2001

The new *Excise Act, 2001* (link <http://www.fin.gc.ca/news01/01-113e.html>), is scheduled to be implemented July 1, 2003. The new Act modernizes the legislative provisions governing 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.

Upon implementation, current licences or permits dealing with the manufacture, warehousing, or use of these products will become obsolete. Licensing and registration packages for the new *Excise Act, 2001* are being mailed out to persons licensed under the existing *Excise Act* (except for brewers), as well as wine producers and ferment-on-premises operations. If you do not receive a package in the mail and believe you require one, please contact your regional excise duty office to request one. (link <http://www.ccra-adrc.gc.ca/E/pub/ed/edfield/README.html>)

En français : Opérations liées aux droits d'accise Bureaux régionaux

<http://www.ccra-adrc.gc.ca/F/pub/ed/edfield/LISEZ-MOI.html>

Finance Release - Proposed GST/HST Amendments

On December 20, 2002, the Minister of Finance issued a press release announcing technical amendments to the *Excise Tax Act* (the Act) . The most significant amendments relate to the GST/HST treatment of transactions involving agents and the addition of discretionary power for the CCRA to accept late filed applications for the GST/HST New Housing Rebates for owner-built homes.

The Act has special rules that allow a vendor to recover the GST/HST portion of a bad debt. In addition, a vendor and an agent who makes a sale on behalf of the vendor can jointly elect to have the agent account for the GST/HST on the sale, though they each remain jointly and severally liable for the tax. However, at present, neither the vendor nor the agent can recover GST/HST on bad debts when such an election has been made in respect of the sale. The amendments correct this anomaly and extend the election to billing agents.

As well, the amendment to the legislation permits the CCRA to accept applications for owner-built homes under the GST New Housing Rebate and the Nova Scotia HST First-time Homebuyers' Rebate after the period otherwise allowed for making the application. The amendment recognizes that exceptional circumstances may prevent an owner-builder from filing the rebate application by the normal due-date.

Other amendments include a permanent exemption from tax for speech language pathology services, modifications to the Nova Scotia HST First-time Homebuyers' Rebate, and the addition of an artists' collective to the list of prescribed collectives, and the addition of another literacy organization to the list of prescribed organizations eligible to receive the Federal Book Rebate.

A copy of the release, background, draft amendments and explanatory notes are available via Finance Canada's Internet site (link [HTTP://www.fin.gc.ca](http://www.fin.gc.ca)) under "What's New".

Prepaid Funeral Arrangements

Technical Information Bulletin (TIB) B-091, *Timing of the Application of the GST/HST to Prepaid Funeral Arrangements*, (link <http://www.ccr-aadrc.gc.ca/E/pub/gm/b-091/>) has been published. It discusses in detail the CCRA's position with respect to prepaid funeral arrangements.

A prepaid funeral arrangement is an arrangement under which a supplier of funeral services, such as a funeral home, contracts with a person to provide specific funeral services on an individual's death. The arrangement is typically financed by placing funds in a trust or by the purchase of an insurance policy.

In general, the CCRA position is that for prepaid funeral arrangements where the contributions are held in trust pursuant to provincial legislation and/or the terms of the arrangement, the contributions are not considered to be prepayments. The funeral home will not be required to account for the GST/HST on the contributions made under the prepaid funeral arrangement and any interest that accumulates in the trust until the amounts are no longer required to be held in trust and are distributed to the funeral home. The contributions may be based on an estimate of the consideration that will be payable for the funeral services and the eventual GST/HST that will apply.

GST/HST will apply on the value of the consideration to be paid to the funeral home under the prepaid funeral arrangement at the time it is paid or becomes due to the funeral home whichever is earlier. The value of the consideration and tax payable to the funeral home under the agreement generally approximates the amount of the contributions and any interest that has accumulated in the trust. Any additional amounts payable by the purchaser or the individual's estate at the time the funeral services are provided will also be subject to the GST/HST at that time.

The funeral home will be required to account for the GST/HST on any amount that is not held in trust, whether it is pursuant to the applicable provincial legislation or the terms of the contract itself.

Additionally, where the income generated by the funds held in trust is payable directly to the funeral home, pursuant to provincial legislation and/or the terms of the arrangement, that income is considered to be part of the consideration for the services to be provided by the funeral home and is subject to the GST/HST at the time that it is paid to the funeral home. Of course, if the price charged to the client is tax-

included, that portion of the amount that represents GST/HST must also be accounted for according to the usual rules.

The funeral home is not required to account for any GST/HST in respect of any funds received from the trust that are to be disbursed to the purchaser or the individual's estate.

GST/HST will also apply in the above manner where the contribution is made by the purchaser to an insurer in respect of an insurance contract whereby the insurance proceeds are payable to the funeral home as the beneficiary.

Effective date and transitional rules

These rules are effective from the implementation of the GST on January 1, 1991, and the HST on April 1, 1997. However, these rules will not affect the majority of contracts where the funeral home remitted tax at the time of entering into the agreement. Funeral homes that had been remitting tax at the time of entering into prepaid agreements must comply with the rules by April 1, 2003.

If the funeral home cannot comply by April 1, 2003, transitional rules will be in effect for contracts entered into by those homes until January 1, 2004.

***In Vitro* Diagnostic Products**

In vitro diagnostic products, namely, test kits, reagents, and animal blood products purchased by medical laboratories and hospitals are subject to the GST/HST at the rate of 7% or 15%. These products are for use in an assortment of laboratory procedures, such as growing cells, research, and the testing of bodily specimens.

In vitro diagnostic products are not considered drugs included by name or description, in the schedules to the *Food and Drugs Act*. Therefore, they do not fall within the zero-rating provision of section 2 of Part I of Schedule VI to the *Excise Tax Act* for prescription drugs and biologicals.

For more information on the tax status of drugs and biologicals, please refer to GST/HST Memorandum 4.1 *Drugs and Biologicals*.

Sale of Prepaid Telephone Cards to Indians

For purposes of Technical Information Bulletin B-039R, “*GST Administrative Policy: Application of GST to Indians*,” the CCRA’s position is that the supply of prepaid telephone cards, whether acquired on or off reserve by an Indian, is taxable at 7% (GST) or 15% (HST).

If you have questions regarding the sale of telephone cards to Indians and the GST/HST, please call a GST/HST Rulings Officer at 1-800-959-8287.

Reminder for Non-Registrant Builders

If you are a non-registrant builder who qualifies for the New Residential Rental Property Rebate, you are required to remit GST/HST on the fair market value of the residential property, and you must report the tax using form GST62, *GST/HST Return (Non-personalized)*. Note the GST62 must be filed and GST/HST due must be paid not later than the last day of the month following the month when the residential property is first rented following substantial completion of the property's construction.

To claim the New Residential Rental Property Rebate, use form GST524, *New Residential Rental Property Rebate Application*, and where the claim is for multiple units in the same residential complex, complete the supplementary form GST525, *Supplement to the New Residential Rental Property Rebate Application – Multiple Units*. If you file this rebate along with the GST62, you can offset part of the amount of GST/HST owing on the GST62 by the amount of this rebate.

Please note that this rebate cannot be claimed until you have filed the GST62 and remitted the tax on the self-assessment of the property.

You may also be entitled to claim a rebate of the GST/HST paid on the cost of constructing the complex. This rebate is equal to the lesser of the basic tax content and the tax that is required to be remitted on the deemed sale of the property. To claim this rebate, use form GST189, *General Application for Rebate of GST/HST*.

For more information please refer to guides RC4231, *GST/HST New Residential Rental Property Rebate* and RC4033, *GST/HST General Rebate Application*.

Net Tax Calculation Method for Charities

To calculate their net GST/HST remittance or refund, charities that are GST/HST registrants are required to use a simplified net tax calculation when completing their GST/HST returns.

By using this method, charities remit only 60% of the GST/HST they collect or that was collectible on most of their taxable supplies, and 100% of the GST/HST collected or that was collectible on taxable sales of real and capital property.

Charities are able to claim input tax credits for GST/HST payable only on purchases of and improvements made to real or capital property, subject to the normal eligibility rules. Charities are still entitled to claim rebates in respect of their non-creditable tax charged.

These charities must use form GST34, *Goods and Services Tax/Harmonized Sales Tax Return*, or GST62, *Goods and Services Tax/Harmonized Sales Tax Return (Non-personalized)*.

Election not to use the net tax calculation for charities

A charity may elect not to use this special net tax calculation method if it makes supplies outside Canada, or zero-rated supplies in the ordinary course of its business, or if 90% or more of the supplies are taxable. In this case, it would elect using form GST488, *Election or Revocation of an Election Not To Use the Net Tax Calculation for Charities*. Once the election is made, the charity will calculate its net tax remittance or refund using the general rules and must apportion its purchases between its taxable and exempt activities when calculating its entitlement to input tax credits and rebates.

For more information, please refer to guide RC4082, *GST/HST Information for Charities*.

Third-Party Permit and Inspection Services in Alberta

This article is of interest to accredited municipalities and accredited regional services commissions in Alberta, as well as the accredited agencies that issue permits on behalf of accredited municipalities and accredited regional services commissions who would like information on the application of the GST to permit and inspection services provided under the Alberta *Safety Codes Act*.

Permits, whether issued by an accredited municipality, accredited regional services commission or an accredited agency on behalf of an accredited municipality or an accredited regional services commission, are GST exempt to the purchaser of the permit. GST should not be charged on building, plumbing, electrical, etc. permits issued in Alberta.

However, permit-related inspection services provided by an accredited agency to an accredited municipality or regional services commission are subject to GST. Accredited agencies who are GST registrants, are required to charge and remit GST on these services. They are also entitled to claim input tax credits for GST paid on any costs incurred in providing these taxable services.

Accredited municipalities and accredited regional services commissions may be entitled to claim the municipal rebate (57.14%) for the GST they paid to the accredited agency.

Please contact a GST/HST Rulings Officer at 1-800-959-8287 for more information.

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

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.

For more information please go to the official Web site (www.HiringAContractor.com) which includes a wide array of information and advice for consumers, including links to other relevant government and industry Web sites.

(The French Website will be www.ParEcritSVP.com.)

What's New in Publications

GST/HST Technical Information Bulletins

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

GST/HST Guides

RC4160 Tax Refund for Non-Resident Travel Organizers and Foreign Conventions

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

Prescribed Rates of Interest

GST/HST interest and penalty compound daily. Income tax interest also compounds daily. For excise duty, penalty compounds monthly, and interest compounds daily. For excise tax, penalties and interest are calculated monthly for each month or part-month in which a balance remains. The total amount payable is based on the total tax, penalties, and interest outstanding. Prescribed interest rates are adjusted every calendar quarter.

These rates of interest are also available on the CCRA Internet site at: <http://www.ccra-adrc.gc.ca/E/pub/gi/prier---eq/>

2003	GST/HST, Excise Tax (annualized rates)		Excise Duty (annual rates)		Income Tax (annual rates)	
	Interest % *	Penalty %	Interest %	Penalty %	Refund Interest %	Arrears and Instalment Interest %
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

* To calculate interest for GST/HST purposes only, divide the adjusted annual interest rate by 365 and apply it daily.

GST/HST Enquiries

To make enquiries regarding your GST/HST account call Business Enquiries at 1-800-959-5525

To make enquiries regarding the status of specific GST/HST domestic rebate claims call 1-800-565-9353

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

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