

GST/HST Info Sheet

Applying the GST/HST Rate Reduction to Prepaid Funeral and Cemetery Arrangements

June 2006

Effective July 1, 2006, the rates of the goods and services tax/harmonized sales tax (GST/HST) will be reduced. The rate of the GST will be reduced from 7% to 6%. The rate of the HST will be reduced from 15% to 14%. The Minister of Finance is introducing legislative amendments to implement these changes (see Bill C-13, the *Budget Implementation Act, 2006*).

This info sheet explains how to determine the rate of the GST/HST that applies to products or services sold under prepaid funeral and cemetery arrangements and to taxable interment rights.

In this info sheet, “arrangement” means a prepaid funeral or cemetery arrangement. “Operator” means the operator of a funeral home and/or cemetery.

The HST applies only to supplies made in or imported into a participating province (i.e., Nova Scotia, New Brunswick, and Newfoundland and Labrador). The GST applies to supplies made in or imported into the rest of Canada. If you are uncertain as to whether a supply is made in a participating province, refer to the Technical Information Bulletin B-078, *Place of Supply Rules under the HST*, available from any Canada Revenue Agency (CRA) tax services office.

This info sheet provides general information on the application of the GST/HST to arrangements.

GI-016

La version française de ce document est intitulée *Application du taux réduit de la TPS/TVH aux arrangements de services funéraires payés d'avance et aux accords de prévoyance pour biens ou services de cimetière*.

Operators can get additional information by referring to the GST/HST Technical Information Bulletins listed below:

- B-091 – Timing of the Application of the GST/HST to Prepaid Funeral Arrangements
- B-093 – Application of the GST/HST to Cemetery Products and Services

The GST/HST becomes due when amounts are withdrawn from trust (“new rules”)

Amounts in trust

Operators do not account for the GST/HST when contributions under an arrangement are placed in trust. Operators account for the GST/HST on all amounts withdrawn from trust when these amounts are distributed to the operator. The contributions made under an arrangement are based on an estimate of the amount that will be payable for the products or services and the GST/HST that will eventually apply.

Where these rules apply to an arrangement entered into between May 3, 2006, and June 30, 2006, operators may use the rate of 6% or 14% to estimate the GST/HST that will apply. For arrangements entered into on or after July 1, 2006, operators should use the rate of 6% or 14% to estimate the GST/HST that will eventually apply.

ABC Funeral Home (ABC) entered into an arrangement on May 10, 2006, with Mrs. D to provide funeral services on her death. The services will be provided in a non-

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participating province. ABC will hold all of the contributions in trust for Mrs. D. ABC may estimate the eventual GST that will apply at the rate of 6%.

Where all of the contributions under an arrangement are payable and paid before July 1, 2006, operators need not adjust the estimate of the GST/HST that will eventually apply, even if the purchaser asks for a refund.

However, where some of the contributions under the arrangement are payable on or after July 1, 2006, operators should adjust the rates used to estimate the GST/HST included in those contributions payable and paid on or after July 1, 2006, to 6% or 14%.

If an operator does not adjust the estimate of the GST/HST included in contributions payable and paid before July 1, 2006, the purchaser cannot recover the amount from the CRA because the amount paid to the operator is not tax, but rather an estimate of the GST/HST that will eventually apply.

Similarly, where an operator does adjust the estimate of the GST/HST included in contributions payable and paid before July 1, 2006, and refunds that part of the contributions to the purchaser, the operator cannot recover the amount refunded from the CRA since the amount refunded was not tax, but rather an estimate of the GST/HST that will eventually apply.

Amounts not in trust

Any contributions paid or payable under an arrangement before July 1, 2006, and not placed in trust (e.g., administrative fees) are subject to the GST/HST at the rate of 7% or 15%. Similarly, any amounts that are withdrawn from trust before July 1, 2006, are subject to GST/HST at the rate of 7% or 15%.

Conversely, any contributions payable under an arrangement on or after July 1, 2006, which were not paid before July 1, 2006, and which were not placed in trust are subject to the GST/HST at the rate of 6% or 14%. Similarly, any amounts withdrawn from trust on or after July 1, 2006, are subject to the GST/HST at the rate of 6% or 14%.

XYZ Cemeteries (XYZ) entered into an arrangement with Mr. W to provide cemetery products and services on his

death. The products and services will be provided in a participating province.

Under the arrangement, Mr. W paid an initial amount on May 1, 2006, and the first quarterly instalment on July 1, 2006. XYZ withheld \$10 from each payment as an administrative fee.

The HST at the rate of 15% applies to the administrative fee paid before July 1, 2006. The HST at the rate of 14% applies to the administrative fee paid on July 1, 2006, and to all subsequent administrative fees.

The GST/HST was charged and accounted for when the arrangement was entered into (“old rules”)

Some operators charged an amount as GST/HST when the contributions were paid or payable under the arrangement, even where the contributions were placed in trust. These operators accounted for the amount charged as GST/HST in their net tax calculation for the period in which the contributions were paid or payable, whichever was earlier.

Where this was the case, operators cannot adjust the amounts charged as GST/HST for the contributions under the arrangement that were payable and paid before July 1, 2006. Operators cannot adjust these amounts even if the products or services are provided on or after July 1, 2006.

Where any of the contributions under the arrangement are payable on or after July 1, 2006, and not paid before that date, the operator charges an amount as GST/HST at the rate of 6% or 14%.

EFG Funeral Home (EFG) entered into an arrangement with Mrs. H to provide funeral services on her death. The services will be provided in a non-participating province. Mrs. H made all the required payments before July 1, 2006. EFG charges an amount as GST on each payment. The GST at the rate of 7% applies to these payments.

TUV Cemeteries (TUV) entered into an arrangement with Mr. S to provide cemetery products and services on his death. The products and services will be provided in a non-participating province.

Under the arrangement, Mr. S pays an initial amount and quarterly instalments. The final instalment is payable and paid on July 13, 2006.

TUV charges an amount as GST at the rate of 7% for the payments payable and paid before July 1, 2006. TUV

charges the GST at the rate of 6% on the final instalment payable and paid on July 13, 2006.

Adding products or services

When an arrangement is amended to add products or services, the rate to be charged as GST/HST depends on the date when the consideration charged for the products or services is paid or becomes due. Where the contributions for the products or services are paid before July 1, 2006, the operator charges an amount as GST/HST at the rate of 7% or 15%.

Where the contributions for the products or services become due on or after July 1, 2006, the operator charges an amount as GST/HST at the rate of 6% or 14%, provided the amount was not paid before July 1, 2006.

PQR Cemeteries (PQR) entered into an arrangement with Mr. N to provide cemetery products and services on his death. The products and services will be provided in a participating province.

PQR charged Mr. N an amount as HST at the rate of 15% when the payments were payable and paid under the arrangement. All the required payments under the arrangement were paid before July 1, 2006, and PQR has accounted for these amounts in its net tax calculation.

On August 1, 2006, Mr. N asked PQR to add a service to the arrangement. The rate of 14% applies to the amount charged as HST for the additional service.

Cancelling products or services

Sometimes arrangements are amended to cancel products or services that were to have been provided. Where an amount was charged and accounted for as GST/HST at the rate of 7% or 15% by the operator, the amount can be refunded to the customer and a deduction taken from the operator's net tax calculation, provided the usual requirements are met (i.e., that an acceptable credit/debit note is issued within the applicable time limits).

IJK Cemeteries (IJK) entered into an arrangement with Mrs. L to provide cemetery products and services on her death. The products and services will be provided in a non-participating province.

IJK charged Mrs. L an amount as GST at the rate of 7% on each payment under the arrangement. All the required payments were paid before July 1, 2006, and IJK has accounted for these amounts in its net tax calculation.

On August 14, 2006, Mrs. L asked IJK to cancel one of the services included in the arrangement. IJK refunds the cost

of the service to Mrs. L, plus the amount she paid as GST at the rate of 7%.

IJK may take a deduction for the amount refunded as GST, provided an acceptable credit/debit note is issued within the appropriate time limit.

Further information will be available in the GST/HST Info Sheet, *GST/HST Rate Reduction – Application to Price Adjustments, Adjustments for the GST/HST Overcharged and Returned Goods*.

Cancelling arrangements

Sometimes an arrangement is cancelled before the products or services are provided. Normally, the operator charges a cancellation fee that is withdrawn from trust.

In these situations, the operator must account for the GST/HST on a tax-included basis with respect to the amount charged as a cancellation fee. Any cancellation fees withdrawn from trust before July 1, 2006, are GST/HST included at 7/107 or 15/115.

Conversely, any cancellation fees withdrawn from trust on or after July 1, 2006, are GST/HST included at 6/106 or 14/114.

Transitional measures

Some operators were unable to comply with the “new rules” by the dates established by the CRA. In these cases the operators were able to use transitional rules.

Under the transitional rules, the operators must:

- charge an amount as GST/HST when the contributions are paid or payable under the arrangement, whichever is earlier, and must account for these amounts in their net tax calculations;
- charge and account for the GST/HST on the amount equal to any interest that accumulates in the trust when the amount is withdrawn from trust and disbursed to the operator; and
- account for the GST/HST on any increase in the amount payable to the operator for the products or services supplied, if applicable.

Where these rules apply, operators must charge an amount as GST/HST at the rate of 7% or 15% on any contributions paid or payable before July 1, 2006. Where the contributions are payable on or after July 1, 2006, the operator must charge an amount as GST/HST at the rate of 6% or 14%, provided that the amount was not paid before July 1, 2006.

Operators will charge and account for the GST/HST on the amount equal to any interest that accumulates in the trust and that is withdrawn from trust on or after July 1, 2006, at the rate of 6% or 14%.

Finally, where products or services are provided on or after July 1, 2006, the operator multiplies the new amount payable by the rate of 6% or 14% and subtracts the original amount charged as GST/HST for the products or services and accounts for the difference.

Grandfathered arrangements

Written arrangements entered into before September 1990 are not subject to the GST/HST. Similarly, arrangements entered into before April 1, 1997, in a participating province are not subject to the provincial component of the HST, but are subject to the GST if entered into after August 1990. The CRA refers to these arrangements as grandfathered arrangements.

Arrangements that were grandfathered during the period when the rates of the GST/HST were 7% and 15% will continue to be grandfathered under the new reduced rates, provided the conditions for grandfathering the arrangement are still valid.

LMN Funeral Homes (LMN) entered into an arrangement on January 3, 1997, with Mr. K to provide cemetery products and services on his death. The products and services will be provided in a participating province.

Under the arrangement, Mr. K paid an initial amount and quarterly instalments with the last instalment paid on July 1, 2000.

Mr. K dies on August 1, 2006, and LMN supplies the products and services as set out in the arrangement. However, at the request of Mr. K's family, LMN supplies an additional service.

Since the arrangement was entered into before April 1, 1997, but after August 1990, the contributions were subject to GST at the rate of 7%. The supply of the additional service made after Mr. K's death is not part of the arrangement and is subject to the HST at the rate of 14%.

Taxable interment rights

The GST/HST becomes payable on interment rights supplied by way of lease, licence or similar arrangement on the earlier of the day the payment is made and the day the payment becomes due. Where the lease, licence or similar arrangement for the interment rights is under a written agreement that provides for a series of payments, a payment is considered to become due on the day it is required to be paid under the agreement. The GST/HST is payable on the value of each payment on the earlier of the day on which the payment is paid and the day on which the payment becomes due. Therefore, any payment for interment rights that is paid or becomes due before July 1, 2006, is subject to the GST/HST at the rate of 7% or 15%.

Where a payment becomes due on or after July 1, 2006, and has not been paid before that date, the rate of the GST/HST to be charged is 6% or 14%.

If you did not have to charge tax when you provided interment rights before the announcement about the rate reduction, you still do not have to charge tax when you provide these rights.

QRS Funeral Home (QRS) entered into a written agreement on January 4, 2006, with Mrs. U for the supply of interment rights by way of lease, licence or similar arrangement. The interment rights will be supplied in a non-participating province.

Mrs. U made an initial payment and paid a quarterly instalment on April 1, 2006. According to the agreement, her next quarterly instalment is payable and will be paid on July 1, 2006.

The GST at the rate of 7% applied to the initial payment and the first quarterly instalment paid on April 1, 2006. The GST at the rate of 6% applies to the second instalment payable and paid on July 1, 2006.

This info sheet does not replace the law found in *the Excise Tax Act* (the Act) and its Regulations. It is provided for your reference. As it may not completely address your particular operation, you may wish to refer to the Act or appropriate regulation, or contact any CRA GST/HST Rulings Centre for additional information. These centres are listed in GST/HST Memorandum 1.2, *Canada Revenue Agency GST/HST Rulings Centres*. If you wish to make a technical enquiry on the GST/HST by telephone, please call the toll-free number 1-800-959-8287. A ruling should be requested for certainty in respect of any particular GST/HST matter.

This info sheet reflects changes to the Act announced by the Minister of Finance on May 2, 2006, and included in Bill C-13, the *Budget Implementation Act, 2006*, which received third reading on June 6, 2006. Any commentary in this info sheet should not be taken as a statement by the CRA that these amendments will be enacted in their current form.

If you are located in the province of Quebec and wish to make a technical enquiry or request a ruling related to the GST/HST, please contact Revenue Québec by calling the toll-free number 1-800-567-4692.

All GST/HST publications are available on the Internet at the CRA site at www.cra-arc.gc.ca/tax/technical/gsthst-e.html.