

Please note that the following Policy Statement, although correct at the time of issue, may not have been updated to reflect any subsequent legislative changes.

GST/HST POLICY STATEMENT

P-134R Requirement for Returns by Non-Resident Performers Staging Events in Canada

DATE OF ISSUE

November 30, 1993
Revised February 8, 1999

SUBJECT

REQUIREMENT FOR RETURNS BY NON-RESIDENT PERFORMERS STAGING EVENTS
IN CANADA

LEGISLATIVE REFERENCE(S)

Subsection 238(3) of the *Excise Tax Act* (ETA)

NATIONAL CODING SYSTEM FILE NUMBER(S)

11695-13

EFFECTIVE DATE

January 1, 1991 for GST
April 1, 1997 for HST

TEXT

Issue and Decision

Non-resident performers who make taxable supplies of admissions to events in Canada must file a return and remit tax collected or collectible (rather than net tax) prior to the person, or an employee of the person who was involved in the commercial activity in which the supply was made, leaving Canada. If a non-resident performer enters Canada but does not make a taxable supply of admission to an event in Canada (i.e. the supply is to a promoter who is responsible for selling tickets, etc.), the non-resident performer is not required to file a return and remit tax prior to departure from Canada after that event.

This policy clarifies the Department's administrative position as to the forms that are to be filed by non-resident performers making taxable supplies of admissions to events in Canada.

1. Where the person or an employee of the person leaves the country, the Department will accept a remittance form (GST 426) as the return required under subparagraphs. 238(3)(a)(i) and (ii).

2. Where the person or one or more employees of the person who are involved in the commercial activity in which the supply was made, leaves the country, but other employees or the person remain in Canada and make taxable supplies of admission to additional events, the requirement to file a remittance form applies each time that an employee (of the person) leaves the country.

3. If the non-resident person files a remittance form in the above circumstances, the Department will not issue a demand for a return under section 282 of the *Excise Tax Act*, nor will it impose the administrative penalty under section 284 for failure to provide information.

4. The remittance form should be accompanied by the remittance of all amounts that became collectible or all other amounts collected by the person for the events held in Canada from the time of entry of the person or an employee of the person into Canada up until the time of the departure of the person or an employee of the person from Canada.

5. Non-resident performers who have filed remittance forms when they or an employee departed Canada are required to continue to file the regular return for the reporting period by their normal filing due date. Failure to file a regular return would, of course, be subject to any collection action that the Department would normally undertake. The regular return for the reporting period will calculate the net tax for the full reporting period including the reporting of GST/HST collected/collectible taking into consideration ITCs claimed for any events for which a taxable supply of admission was made in Canada during that period. The return will not account for any events in progress in Canada at the time the return is due since those events will be accounted for in the next return.

6. Non-resident performers who have made remittances during a reporting period as required under paragraph 238(3)(b) are entitled to use those remittances as amounts paid on account of the net tax of the person for the reporting period and to reduce the amount of net tax that must be remitted by the amount of those previous remittances and/or to have any excess refunded pursuant to subsection 230(1).

Example 1

Statement of Facts

A non-resident performer and two employees enter Canada and give three concerts. The performer is paid a percentage of the gate by the Canadian promoter who handles ticket sales and promotions. The performer and the employees leave Canada together. The performer is registered for GST/HST and is a calendar year quarterly filer.

Rulings Requested

Is the non-resident performer required to remit tax collected and file a return prior to leaving Canada?

Ruling Given

Since the non-resident performer is not making a direct supply of admissions to the concerts, the non-resident is not required to remit tax collected or collectible and file a return prior to departing Canada.

Example 2

Statement of Facts

A non-resident expert and two employees enter Canada on June 10, 1998 to give three seminars. The non-resident charges \$100 per person for admission to each seminar. One employee leaves Canada after the first seminar which is held on June 11, 1998. The second employee and the expert leave Canada on June 14, after completing the third seminar. The non-resident expert is registered for GST/HST and is a calendar year quarterly filer.

Ruling Requested

Does the non-resident only have to file a return for the calendar quarter and remit any net tax for that quarter, within one month after the quarter end?

Ruling Given

The non-resident person should file a remittance form accompanied by its remittance of tax collected or collectible relating to the first seminar on June 11, 1998. The expert should then file a second remittance form on June 14th along with the remittance of tax collected or collectible for the two seminars that occurred between the departure on June 11 and the departure on June 14, 1998.

A return with the net tax calculation for the entire quarter ending June 30, 1998, must then be filed by the end of July, 1998. The person would only remit the net tax liability as shown on the return less the amount of the remittances previously made for the reporting period, including the two remittances made on June 11 and June 14 respectively. If the total of all remittances made for that reporting period exceed the total net tax liability for the period, the person would file a return but make no remittance and claim a refund of any overpayment for that reporting period.

Example 3

Statement of Facts

A non-resident performer enters Canada on September 28, and charges admission to a concert performed on September 29. The performer then leaves Canada on October 2. The performer is registered for the GST/HST and is a calendar quarterly filer.

Ruling Requested

Must the performer file a return for the period ending September 30 prior to leaving Canada?

Ruling Given

The reporting period July 1 - September 30, has been completed. Therefore, if the non-resident performer is able to calculate net tax for the reporting period, the non-resident may submit the regular return prior to leaving Canada on October 2. The only remittance that would be required at that time would then be any remittance of net tax as set out in the regular return less any previous remittances made on account of net tax for the reporting period.

Should the performer be unable to complete a regular return for the reporting period prior to departure from Canada, the performer must file a remittance form and remit the tax collected or collectible in respect of the September 29, concert. The performer would then file its regular return which included the net tax calculation by the usual due date of October 31. The person would only remit the net tax liability as shown on the return less the amount of the remittances on account of net tax previously made for that reporting period including the remittance made on October 2, in respect of the September 29, concert. If the amount of the remittances exceeded the net tax liability for the reporting period, the person would not make a remittance with the return but would claim a refund of the overpayment for the period.