

Excise and GST/HST News

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Notice of Ways and Means Motion

On November 27, 2006, the Minister of Finance tabled a Notice of Ways and Means Motion in the House of Commons to implement measures aimed at increasing the fairness, efficiency, and ease of compliance and administration of the sales tax system. These measures have been incorporated into Bill C-40, an Act to amend the *Excise Tax Act*, the *Excise Act, 2001* and the *Air Travellers Security Charge Act*, which received first reading in the House of Commons on December 5, 2006.

The proposed measures pertain to the GST/HST, excise duties on wine, spirits, and tobacco and the application of the air travellers security charge (ATSC).

Most of these proposals were previously released as Notice of Ways and Means Motions and draft legislative amendments dated November 17, 2005, October 3, 2003, June 24, 2003, December 20, 2002, and February 8, 2002.

For both the *Excise Tax Act* and the *Excise Act, 2001* proposed measures were announced which permit the Minister of National Revenue to exchange information with foreign governments that are signatories to the Convention on Mutual Administrative Assistance in Tax Matters. As well, the proposed measures add a discretionary power under both the *Excise Tax Act* and the *Excise Act, 2001* for the Chief Statistician of Canada to provide statistical information concerning business activities in a province to a statistical agency in that province.

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La version française du présent bulletin est intitulée
Nouvelles sur l'accise et la TPS/TVH.



Canada Revenue
Agency

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du Canada

Canada

GST/HST Measures

The following are highlights of the proposed measures to amend the *Excise Tax Act*:

Health

- Confirms the exemption for speech-language pathology services.
- Exempts health-related services of a social worker.
- Zero-rates supplies of plasma expanders.
- Zero-rates the group of drugs collectively known as Benzodiazepines.
- Broadens the specially equipped vehicle GST/HST rebate to include motor vehicles that have been used subsequent to being specially equipped for use by individuals with disabilities.

Charities

- Ensures that the exemption of supplies by charities of real property under short-term leases and licences extends to any goods supplied together with such real property.

Business arrangements

- Provides transitional relief for the initial asset transfer by a foreign bank that restructures its Canadian subsidiary into a Canadian branch.
- Excludes beverage container deposits that are refundable to the consumer from the GST/HST base.
- Permits an agent to claim a GST/HST deduction for bad debts.
- Clarifies the treatment of the operation of mechanical coin-operated devices which accept only a single coin of twenty-five cents or less.
- Broadens certain conditions for making the section 156 election for nil consideration.

Governments

- Ensures that the small supplier division of a municipality is treated in the same manner as a municipality that is a small supplier.
- Exempts the supply of a right to file or retrieve a document or information stored in an electronic official registry.

HST-related rules

- Limits the availability of the current Nova Scotia HST new housing rebate to first-time homebuyers and reduces the maximum rebate available to \$1,500.
- Includes in the Act the provisions of the draft *Specified Motor Vehicle (GST/HST) Regulations*, which prescribe the value of a specified motor vehicle for the purposes of calculating the 8 % provincial component of the HST in circumstances where the vehicle is brought into a participating province and prescribe the manner in which that tax is required to be paid.

Administration of the GST/HST

The proposed measures relating to the administration of the GST/HST add a discretionary power for the Minister of National Revenue to accept:

- late-filed applications for the GST new housing rebate and the Nova Scotia HST new housing rebate for owner-built homes, where exceptional circumstances have prevented an applicant from meeting the normal filing deadline; and
- late-filed elections under subsection 225.2(4) of the Act between closely related financial institutions, one of which is a selected listed financial institution, for adjustments the selected listed financial institution is required to make related to the provincial component of the HST.

Excise Duty Measures

The following are highlights of the proposed measures to amend the *Excise Act, 2001*:

Tobacco

- Extends the requirement to identify the origin of tobacco products to all tobacco products, including those for sale at duty-free shops or for export, consistent with the Framework Convention on Tobacco Control.
- Clarifies that cigarettes, tobacco sticks, fine-cut tobacco or cigars, but **not** packaged raw leaf tobacco, may be supplied to the export market or the domestic duty-free market.

Alcohol

- Authorizes private laboratories, provincial liquor boards and vintners to possess a still or similar equipment and produce spirits for the purpose of analyzing substances containing ethyl alcohol without holding a spirits licence.
- Defers the payment of duty by small vintners selling wine on consignment in retail stores operated by an association of vintners until the wine is sold.

Air Travellers Security Charge Measures

These measures relieve, in particular circumstances, the ATSC in respect of air travel sold by resellers or donated by air carriers, and provide authority for the Governor in Council to add, delete, or vary by regulation the schedule of listed airports.

More information

More information on the Notice of Ways and Means Motion of November 27, 2006, including the effective dates of the measures listed above, can be found on the Department of Finance Canada Web site at www.fin.gc.ca under the headings Media Room, News Releases.

Exemption for midwifery services

On December 28, 2006 the Minister of Finance proposed an amendment to the *Excise Tax Act* to exempt the services of midwives from the GST/HST.

It is proposed that the profession of midwifery be added to the list of health care practitioners whose services are exempt from the GST/HST, when the services are rendered to an individual. The exemption is proposed to apply to supplies of midwifery services made after December 28, 2006.

For more information please see the Department of Finance Canada Web site at www.fin.gc.ca

Application for direct sellers to use the alternate collection method

Direct sellers are persons that market their products to consumers through distributors and/or independent sales contractors (“contractors”), who solicit orders and deliver merchandise directly to consumers.

Direct sellers sell their exclusive products (“products”) to distributors and/or contractors. Contractors are persons who purchase products from a direct seller, or from a distributor of the direct seller, to sell to other contractors or to consumers, and who make no more than 50% of their sales through a place of business other than their homes. “Consumers” in this context, means persons that buy property that is a product of a direct seller for their own use, and not for resale.

To simplify accounting for GST/HST, many direct sellers choose to use the alternate collection method (ACM). Under the ACM, the direct seller accounts for the GST/HST on the contractor’s sales of products to consumers, instead of the contractor.

Some direct sellers sell products to contractors who are distributors. Distributors resell at least some of the products they purchase to other contractors who then sell to consumers. In some organizations, the distributor, instead of the direct seller, accounts for the GST/HST using the ACM.

Application to use ACM

Direct sellers who choose to use the ACM must apply to the CRA to request approval before first using the method. If a direct seller and a distributor wish to have the distributor account for GST/HST using the ACM, they must submit a joint application. Applications to request the use of the ACM must be made in writing and sent to the applicant’s local tax services office to the attention of the Assistant Director, Audit Division.

A written request to use the ACM should include all of the following information:

- identification of direct seller (and distributor(s), if a joint application)
 - GST/HST registration number(s),
 - full legal name(s) and trading name(s), and
 - full address(es) and telephone number(s);
- the starting date to use the ACM;

- a statement that the direct seller sells some products through contractors to consumers;
- a statement that contractors
 - are not agents or employees of the direct seller or distributor(s),
 - do not solicit, negotiate or enter into contracts for the sale of products of the direct seller to consumers primarily (more than 50%) at a fixed place of business (other than a private residence), and
 - have a contractual right to purchase products from the direct seller or distributor(s) for sale to other contractors or consumers;
- a statement that the direct seller is aware that the approval to use the ACM may be revoked if the direct seller or distributor(s) fails to comply with the *Excise Tax Act* ;
- a statement that certifies that the information given in the application, and any document attached, is true, correct, and complete to the best of the applicant's knowledge; and
- the signature(s) of person(s) authorized to sign on behalf of the direct seller or distributor(s);

The CRA will notify the direct seller and distributor(s) in writing when an application is approved and will confirm the date the approval takes effect.

New request or revocation of request

If any of the following changes occur:

- a change in legal structure, for example, a reorganization or an amalgamation of a direct seller or a distributor;
- a decision by a new distributor to use the ACM; or
- a decision by an approved distributor to cease using the ACM;

a new request and application to use the ACM and/or a request to revoke an existing approval must be submitted. Furthermore, any such changes involving a distributor require a joint application or request with the direct seller.

For more information about the ACM, refer to GST/HST Memorandum 14.1, *Direct Sellers*.

Documentary requirements for Internet sales to Indians and Indian bands

The CRA's policy on making sales to Indians and Indian bands (bands) is found in GST/HST Technical Information Bulletin (TIB) B-039R3, *GST/HST Administrative Policy - Application of the GST/HST to Indians*.

In order to provide tax relief at the time of sale, the conditions outlined in TIB B-039R3 must be met when making sales to Indians and bands. One of these conditions is that the vendor maintains documentary evidence that the sale was made to an Indian or a band and that the property was sold on a reserve or was delivered to a reserve by the vendor or the vendor's agent.

When purchasing over the Internet, the purchaser does not have the opportunity to present his or her Certificate of Indian Status card to the vendor at the time of the purchase. As a result, the vendor may not be able to meet the documentary evidence required under TIB B-039R3 to make a tax-relieved sale.

However, the CRA will allow for a copy of the status card to be mailed or sent electronically to the vendor to support the tax relief given to an individual Indian at the time of the sale. The information on the status card must match the information provided on-line by the purchaser to the vendor.

When supplies are made to a band, the CRA considers a certificate indicating that the property is being acquired by a band as satisfactory documentary evidence. When a band is making a purchase of property on-line, the band may mail or electronically send such a certificate. The vendor must retain this certificate as evidence that the property was sold to a band. If received electronically, the certificate and related correspondence must also be retained in an electronically readable format.

When making sales to Indians or bands, documentary evidence is only one of the conditions that must be met in order for the Indians and bands to receive GST/HST relief. The remaining conditions in TIB B-039R3 must also be met at the time of the sale. Otherwise, GST/HST must be charged by the vendor.

Where an Indian or a band purchases goods on-line that will be imported into Canada (even if the goods are delivered to a reserve in Canada), any applicable duties or taxes must be paid to the Canada Border Services Agency.

Consultants' invoices

Registered consultants are required to charge the GST/HST on their base contract amount. The treatment of additional expenses depends on the agreement between the consultant and the client.

Consultants may or may not be agents of their clients. Where a consultant is not acting as an agent of its client, expenses incurred by a consultant that a client has agreed to reimburse are treated as additional consideration payable by the client for the consultant's services. The reimbursement for these expenses is treated in the same manner as the consultant's base contract amount (i.e., the GST/HST is applicable on the amount being reimbursed). As a registrant, the consultant can claim input tax credits for the GST/HST paid or payable on the expenses. Even if consultants are agents of their clients, they do not

necessarily incur all of their expenses as agents. Therefore, it is important to determine whether the expense that is being reimbursed by the client has been incurred by the consultant as the client's agent.

Where a consultant incurs an expense to acquire a supply as the client's agent, the client is considered to be the recipient of the supply. The reimbursement for the expense incurred by the consultant as agent is not treated as additional consideration, and the consultant is not eligible to claim an input tax credit for the GST/HST paid or payable on the supply. Instead, the consultant would flow through the expense, including any applicable GST/HST to the client. The client can claim input tax credits for the GST/HST paid or payable on the consulting services in addition to the GST/HST on the expense incurred by the consultant as its agent to the extent that the services were provided in the course of the client's commercial activities. However, if the supply did not attract GST/HST when acquired by the consultant as an agent (e.g., a zero-rated or an exempt supply), the supply would flow through to the client without the GST/HST, and no input tax credit could be claimed.

For more information on agents please see GST/HST Policy Statement P-182R, *Agency* and GST/HST Info Sheet GI-012, *Agents*.

GST/HST Redesign and Standardized Accounting

The Canada Revenue Agency (CRA) is replacing its current GST/HST processing system on April 10, 2007.

The CRA is sending information to registrants by mail and with their returns about:

- the implementation of the new processing system;
- the availability of new services and more account information;
- the temporary interruption in service; and
- key legislative changes that will affect registrants.

New services and more account information

Through *Online Requests for Business*, GST/HST registrants will be able to electronically ask the CRA to perform certain actions on their account, such as:

- searching for the status of a payment;
- reviewing interest charged or paid;
- transferring a credit to certain other accounts;
- providing additional remittance vouchers for payments;
- providing account statements such as a statement of arrears and/or a statement of interim payments;
- providing copies of previously issued notices or statements; and
- changing some of the communication instructions on accounts, such as stopping us from sending certain statements or the return envelope with remittance voucher(s).

Registrants will be able to access these services by visiting www.cra.gc.ca/requests-business or through My Business Account at www.cra.gc.ca/mybusinessaccount.

We will also send you, on a regular basis, statements and notices about the status of your account.

Temporary interruption in service

As we convert to our new system, there will be a temporary interruption in service from March 19 to April 9, 2007. During this time, you should expect a delay in the processing of your return, and we may not be able to answer specific questions regarding your GST/HST account or the status of your refund. However, we will continue to create GST/HST accounts and provide Business Numbers.

During this interruption in service, you still have to file your returns and make your payments as required.

Note that from April 6 to April 9, 2007, the GST/HST NETFILE and GST/HST TELEFILE services will not be available. However, you will still be able to file your return and remit payments through your online banking service, by mail, or through your third-party service provider during that period.

Please continue to check the CRA Web site for updates.

Transfer of jurisdiction

Currently, the mailing address of your GST/HST program account is used to determine whether Revenu Québec or the CRA administers it. As of April 2007, the business address will be used to determine the organization responsible for administering GST/HST. All accounts will be reviewed and transferred between the CRA and Revenu Québec as necessary, and all affected registrants will be notified by mail.

Standardized Accounting – key legislative changes for businesses

These measures will take effect April 1, 2007.

New failure to file penalty

A penalty will be charged if your GST/HST return is filed late. This penalty is equal to

- (a) 1% of the amount overdue on the return, plus
- (b) one quarter of the amount calculated in paragraph (a) times the number of complete months the return was overdue, to a maximum of 12 months.

Refund hold

If you are expecting a refund after filing your GST/HST return or a rebate application, you will receive the refund or rebate amount **only if you have filed all returns for all of your applicable business program accounts** required under the *Excise Tax Act*, the *Income Tax Act*, the *Excise Act, 2001*, and the *Air Travellers Security Charge Act*.

Offset of refunds

If you are expecting a refund after filing your GST/HST return or a rebate application and you owe an amount under the *Excise Tax Act*, the *Income Tax Act*, the *Excise Act, 2001*, or the *Air Travellers Security Charge Act*, the refund or rebate may be used to offset the other debt.

Calculation of interest

The prescribed interest rate paid on a refund of net tax or on a rebate of GST/HST will be the basic rate, plus 2%. The prescribed interest rate charged on an overdue amount will be the basic rate, plus 4%. The basic rate is based on the rate charged on 90-day Treasury Bills, adjusted quarterly, and rounded up to the nearest whole percentage (expressed as a percentage per year). This new calculation replaces the 6% late remitting penalty.

Date interest begins

Interest on a refund of net tax or overpayment will be paid beginning 30 days after the **later of**

- the day the return in which the refund or overpayment arises, is filed; and
- the day after the end of your reporting period.

In the case of rebates, interest will be paid beginning on the day that is 30 days after the application in which the rebate claim is filed and ending on the day the rebate is paid.

To learn more about the standardized accounting legislative changes see GST/HST Info Sheet GI-024, *Harmonizing the Administrative Provisions Respecting Standardized Accounting*.

What's new in publications

The following is a list of new or revised excise and GST/HST forms and publications.

GST/HST Memoranda Series

- | | |
|------|---|
| 1.2 | GST/HST Memorandum 1.2 Canada Revenue Agency GST/HST Rulings Centres (correction) |
| 1.4 | Excise and GST/HST Rulings and Interpretations Service (revised) |
| 4.3 | Basic Groceries (revised) |
| 31.0 | Objections and Appeals (revised) |

GST/HST Technical Information Bulletins

- | | |
|-------|--|
| B-094 | Amendments to the Point-of-Sale Rebate for Printed Books |
|-------|--|

GST/HST Info Sheets

- | | |
|--------|--|
| GI-006 | ABM Services (revised) |
| GI-024 | Harmonizing the Administrative Provisions Respecting Standardized Accounting |

GST/HST Guides

- | | |
|--------|--|
| RC4213 | Your Rights |
| RC4050 | GST/HST Information for Selected Listed Financial Institutions |
| RC4091 | GST/HST Rebate for Partners |
| RC4214 | Your Rights in Your Dealings with the Canada Revenue Agency |

GST/HST Notices

- | | |
|-----------|--|
| NOTICE215 | Draft Revised GST/HST Policy Statement P-125R Input Tax Credit Entitlement for Tax on Imported Goods |
|-----------|--|

GST/HST Forms

- | | |
|----------|---|
| GST25 | Closely Related Corporations and Canadian Partnerships - Election or Revocation of the Election to Treat Certain Taxable Supplies as having been made for Nil Consideration |
| GST523-1 | Non-profit organizations - Government Funding |
| GST532 | Agreement and Revocation of an Agreement Between Supplier and Constructive Importer |
| GST370 | Employee and Partner GST/HST Rebate Application |

GST494 Goods and Services Tax/Harmonized Sales Tax Final Return for Selected Listed
Financial Institutions

Excise Duty Notice

EDBN-11 K50B Filing and Payment Schedules for Brewers (2007-2008)

Excise Duty Memoranda Series

EDM1-1-2 Regional Excise Duty Offices (updated)
EDM3-1-1 Producers and Packagers of Spirits (revised)
EDM4-1-1 Producers and Packagers of Wine (revised)
EDM10-1-6 Completing an Excise Duty Return – Wine Licensee (revised)

Excise Duty Forms

E110 Description of Premises to Accompany Application for Licence
E111 Description of Vessels and Utensils

Excise Taxes and Special Levies Notices

ET/SL61 Notice to all Tax Practitioners and Licensed Manufacturers, Wholesalers and Filers of End-user Refunds under the Excise Tax Act - Extension of the CRA Excise Tax End-User Refund Policy until June 30, 2007
ET/SL62 Notice to all Excise Tax Licensees and Tax Professionals - Centralization of Excise Tax Licensing and Related Enquiries Workload

Softwood Lumber Notices

SWLN1 Softwood Lumber Products Export Charge Notice – Notice to Exporters on Transitional Rules – Transitional Rules for Option B regions for the months of October, November and December 2006
SWLN2 Softwood Lumber Products Export Charge Notice – Notice to Recipients of Duty Deposit Refunds

Softwood Lumber Forms

RC45 Notice of Objection (Softwood Lumber Products Export Charge Act, 2006)
B277 Charge on Refunds of Duty Deposits Return

All GST/HST, Excise Duty, and Excise Taxes and Special Levies publications can be found on the CRA Web site at: www.cra-arc.gc.ca/tax/technical/menu-e.html

Prescribed rates of interest

The prescribed annual rate of interest in effect from January 1, 2007 to March 31, 2007, with respect to the GST/HST and the air travellers' security charge (ATSC) is set at 3.6500%. Interest and penalty compound daily. To calculate interest, divide the annual rate by 365 (366 in a leap year) and apply it daily to the previous day's compound balance.

The prescribed annual rate of interest in effect from January 1 to March 31, 2007, with respect to amounts of income tax, excise tax and excise duty (except excise duty on beer) payable to the Minister (i.e., arrears and instalment payments) is established at 9%. The prescribed interest rate on amounts owed by the Minister (i.e., refunds) is established at 7%. These rates compound daily.

The prescribed annual rate of interest respecting excise duty on beer accounts is set at 7% for the period January 1, 2007 to March 31, 2007. Penalty compounds monthly and interest compounds daily.

In accordance with the measures for standardized accounting, the interest rate calculations for the GST/HST and ATSC will change April 1, 2007.

| Period | GST/HST ATSC (per annum) | | Income Tax, Excise Tax, Excise Duty (wine, spirits, tobacco) | | Excise Duty (beer) | |
|----------------------|--------------------------------|---------|--|------------------------------------|-----------------------|---------|
| | Interest | Penalty | Refund Interest | Arrears and Instalment Interest | Interest | Penalty |
| 2007 | | | | | | |
| January 1 – March 31 | 3.6500 % | 6.0 % | 7.0 % | 9.0 % | 7.0 % | 6.0 % |

Prescribed interest rates are adjusted every calendar quarter.

Rates of interest for previous periods are available on the CRA Web site.

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

If your business is located in Quebec please call the following toll-free number:
1-800-567-4692 (Revenu Québec)

The *Excise and 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 Revenue Agency (CRA) tax services office or call Business Enquiries at 1-800-959-5525. Comments or suggestions about the newsletter should be sent to the Editor, *Excise and GST/HST News*, Legislative Policy and Regulatory Affairs Branch, CRA, Ottawa, Ontario K1A 0L5. ISSN 1183-689X