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Bill C-4

On October 29, 2013, Bill C-4, *A second act to implement certain provisions of the budget tabled in Parliament on March 21, 2013 and other measures*, known as *The Economic Action Plan 2013 Act, No.2*, received second reading in the House of Commons.

Bill C-4 implements the remaining tax measures from *Economic Action Plan 2013*, as well as certain previously announced tax measures.

Bill C-4 includes proposed amendments to the *Excise Tax Act* (the Act) relating to supplies of paid parking by certain public sector bodies and to electronic suppression of sales software.

Supplies of paid parking made by certain public sector bodies

Amendments in Bill C-4 clarify that supplies of paid parking made by a public sector body would be taxable even if the body provides a significant amount of parking at no charge.

Currently, the legislation exempts supplies of property or services (excluding supplies of blood and blood derivatives) made by a public sector body if all or substantially all (90% or more) of the body’s supplies of the property or service are made for no consideration. For purposes of this exemption, a public sector body means a municipality, university, public college, school authority, hospital authority, non-profit organization or government.

Online services built for businesses: Submit online account-related enquiries; view account information, endorsements, notices, statements and responses to your enquiries submitted online; adjust a GST/HST return; and do other online transactions, go to: www.cra.gc.ca/representatives, if you are an authorized representative or employee; or www.cra.gc.ca/mybusinessaccount, if you are the business owner.

GST/HST NETFILE: Faster processing and refunds, immediate confirmation of receipt, and no postal costs. Go to www.cra.gc.ca/gsthst-netfile or through www.cra.gc.ca/representatives, if you are an authorized representative or employee; or www.cra.gc.ca/mybusinessaccount, if you are the business owner.

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Bill C-4, if enacted, would also exclude from this exemption the supply of a parking space if the supply is made for consideration by way of lease, licence or similar arrangement in the course of a business carried on by a public sector body.

If enacted, this amendment will be deemed to have come into force on December 17, 1990.

Electronic suppression of sales software

Bill C-4 provides for new administrative monetary penalties and criminal offences in relation to electronic suppression of sales (ESS) software or devices that are, or are intended to be, capable of being used in relation to records that are required to be kept under section 286 of the Act. These new penalties are in addition to other penalties that may be assessed under the Act.

Bill C-4 proposes new definitions for the terms “electronic cash register” and “electronic suppression of sales device” for GST/HST purposes.

- “Electronic cash register” generally means an electronic device or computer system designed to record transaction data or any other electronic point-of-sale system.
- “Electronic suppression of sales device” (ESS device) generally means a software program that falsifies the records of electronic cash registers or a hidden programming option in an electronic cash register that may be used to create a virtual second till or to eliminate or manipulate transaction records in the electronic cash register.

Penalties and offences

Bill C-4 proposes to impose a first time penalty of \$5,000 on every person that uses an ESS device or a similar device or software or that under circumstances attributable to neglect, carelessness or wilful default, participates in, assents to or acquiesces in the use of an ESS device or similar device or software. A first time penalty of \$5,000 is also proposed where a person acquires or possesses an ESS device or a right in respect of an ESS device. If a person has already been assessed a penalty in relation to an ESS device under the Act or the *Income Tax Act*, the penalty for any subsequent use, acquisition or possession by the person of an ESS device is \$50,000.

Bill C-4 also proposes to impose a penalty on every person that designs, develops, manufactures, sells, possesses for sale, offers for sale, transfers or otherwise makes available an ESS device or that supplies installation, upgrade or maintenance services for an ESS device.

- If it is the first penalty in relation to the manufacturing or making available of an ESS device imposed under the Act or the *Income Tax Act* and the person has not already been assessed a penalty in relation to an ESS device under either Act, the amount of the penalty is \$10,000.
- If it is the first penalty in relation to the manufacturing or making available of an ESS device, but another penalty in relation to the use, acquisition or possession of an ESS device has previously been assessed under the Act or the *Income Tax Act*, the amount of the penalty is \$50,000.
- If a penalty in relation to the manufacturing or making available of an ESS device has previously been assessed under the Act or the *Income Tax Act*, the amount of the penalty is \$100,000.

A person is not liable for the penalties that apply where the person acquires or possesses an ESS device, or manufactures or makes available an ESS device, if the person exercised the degree of care, diligence and skill that a reasonably prudent person would have exercised in comparable circumstances to prevent that action from occurring.

These amendments also set out new criminal offences punishable by fines or a prison sentence or both. For use, possession, acquisition, manufacture, development, sale, possession for sale, offer for sale or otherwise making available ESS software:

- on summary conviction, a fine of not less than \$10,000 and not more than \$500,000 or imprisonment for a term of not more than two years, or both is applicable; or
- on conviction by indictment, a fine of not less than \$50,000 and not more than \$1,000,000 or imprisonment for a term of not more than five years, or both is applicable.

These amendments come into force on the later of January 1, 2014 and the day of Royal Assent to the enacting legislation.

Please see the Department of Finance Canada September 13, 2013 news release (2013-117) for more information.

More information

For more information, refer to the list of questions and answers regarding the electronic suppression of sales software sanctions found on the CRA website page “Budget 2013.”

Line 101 of the GST/HST return (GST34-2)

It is mandatory to fill in line 101 (sales and other revenue) when you file a GST/HST return for registrants.

Registrants must include on line 101 the total amount of revenue that their business accrued for the reporting period for all supplies of goods and services, including zero-rated supplies and other revenue shown in their records. Line 101 does not include provincial sales tax, GST, HST or any amounts a registrant reported on a previous return.

In most circumstances, if you collected tax, you will also have an amount to report on line 101. If you had no business sales or other income for the reporting period you must still report \$0 on line 101.

Regular method of accounting

For registrants using the regular method of accounting for GST/HST, revenues from exempt supplies are required to be entered on line 101 along with revenues from taxable supplies, including zero-rated supplies, and other revenue for the reporting period.

Do not include the following on line 101:

- provincial sales tax; and
- GST, HST or any amounts reported on a previous return.

Note: Should the inclusion of exempt sales and services cause a change in reporting period, for example, from quarterly reporting periods to monthly reporting periods, the registrant should contact Business Enquiries at 1-800-959-5525 to correct the filing frequency.

Net tax calculation for charities

For registrant charities using the net tax calculation for charities, revenues from exempt supplies are required to be entered on line 101 along with revenues from taxable supplies, including zero-rated supplies, and other revenue for the reporting period.

Do not include the following on line 101:

- provincial sales tax; and
- GST, HST or any amounts reported on a previous return.

Streamlined accounting quick method

Registrants using the streamlined accounting quick method for GST/HST enter revenues from taxable supplies including the GST/HST on line 101 of their GST/HST returns for the reporting period.

For each reporting period, add your revenues from taxable supplies (include the GST/HST at the rate that applied at that time) and enter the total on line 101, rounded off to the nearest dollar.

Do not include the following on line 101:

- provincial sales tax;
- revenue from supplies that are not eligible for the quick method calculation; and
- revenues from supplies on which no GST/HST was charged (such as zero-rated supplies, exempt supplies, supplies made outside Canada, or goods and services sold to Indians or provincial or territorial governments that are relieved of paying the GST/HST).

Special quick method of accounting for public service bodies

Similar instructions discussed above apply for the special quick method of accounting for public service bodies.

Do not include the following on line 101:

- provincial sales tax; and
- revenue from supplies that are not eligible for the special quick method calculation.

More information

Instructions for completing the GST/HST return can be found in the Guide RC4022, *General Information for GST/HST Registrants*, RC4082, *GST/HST Information for Charities*, RC4058, *Quick Method of Accounting for GST/HST*, and RC4247, *The Special Quick Method of Accounting for Public Service Bodies*.

For more information about filing your GST/HST return, please see how to file a GST/HST Return on the CRA website.

Third-party fundraising

This article discusses third-party fundraising for the benefit of a registered charity as defined under the *Income Tax Act*. In this article, the term “third-party fundraiser” refers to a person that is not a registered charity (and therefore neither a charity nor, in some circumstances, a public institution for GST/HST purposes), and that is operated for the sole purpose of raising funds which will be donated to a registered charity. The information in this article does not apply to fundraising conducted by a registered charity.

GST/HST issues

Generally, fundraising by its very nature is considered a profit activity. Organizations that are established

and operated for the sole purpose of raising funds are not considered non-profit organizations for GST/HST purposes, even if all the profit from a fundraising activity is donated to a registered charity. These organizations do not meet the “operated solely for a purpose other than profit” requirement in the definition of non-profit organization. For more information on the definition of “non-profit organization” for GST/HST purposes, see GST/HST Policy Statement P-215, *Determination of whether an entity is a “non-profit organization” for purpose of the Excise Tax Act (ETA)*.

A third-party fundraiser may make supplies of property or services in the course of a fundraising activity or event. Most supplies of property and services made in Canada are subject to the GST/HST, unless specifically exempt or zero-rated (taxed at the rate of 0%).

Supplies made by a third-party fundraiser will generally be taxable, even when the profits from the fundraising event will be donated to a registered charity.

Examples of taxable supplies that may be made by a third-party fundraiser include:

- admissions to a fundraising dinner or ball;
- tickets to professional performances (however, exempt from GST/HST are tickets to a performance, athletic, or competitive event at which 90% or more of the performers, athletes, or competitors are not paid directly or indirectly for their participation other than by government and municipal grants, and reasonable amounts as gifts, prizes, or compensation for travel or other incidental costs. The admissions will not be exempt if they are for events specifically advertised as featuring paid participants or for events at which professional athletes compete for cash prizes);
- entry in a golf tournament;
- promotional services provided to sponsors of a fundraising event;
- goods sold as part of a fundraising campaign (e.g., T-shirts, chocolate bars); and
- food and beverages sold at a concession stand during a fundraising event.

Where the third-party fundraiser is making a supply as agent of a charity, the supply will have the same tax status as if it were made by the charity directly. For more information on whether a person is acting as agent in making a transaction on behalf of another person for GST/HST purposes, see GST/HST Info Sheet GI-012, *Agents*.

If a third-party fundraiser is a GST/HST registrant, it must collect and remit GST/HST on its taxable supplies and may claim input tax credits for the GST/HST paid or payable on purchases related to these supplies.

A person must register for GST/HST purposes if it provides taxable supplies in Canada and is not a small supplier. Generally, a person is a small supplier if its total revenues from taxable supplies, including those of its associates, are \$30,000 or less (\$50,000 for public service bodies) in the last four consecutive calendar quarters or in any single calendar quarter. A third-party fundraiser is not a public service body; therefore, a third-party fundraiser is subject to the \$30,000 small supplier threshold. A small supplier engaged in a commercial activity in Canada can choose to register voluntarily.

Income tax issues

As previously mentioned, fundraising by its very nature is generally considered a profit activity. A third-party fundraiser will also not qualify as a non-profit organization as described in paragraph 149(1)(l) of the *Income Tax Act*, as it is not operated exclusively for a purpose other than profit. Therefore, a third-party fundraiser’s taxable income will generally not be exempt from income tax. The fact that a third-party fundraiser’s profits are earmarked for a worthwhile cause does not make it exempt from tax. This is

sometimes referred to as the destination of funds test. We note that this "destination of funds" test has been rejected on several occasions by the courts for both registered charities and non-profit organizations. For more information on the CRA's position with respect to paragraph 149(1)(l) of the *Income Tax Act*, see Interpretation Bulletin IT-496, *Non-Profit Organizations*.

A third-party fundraiser cannot issue official donation receipts for income tax purposes, even if some of the funds raised will ultimately be given to a registered charity. A registered charity can enroll a third-party organization or retain a fundraiser or other contractor as an agent to organize a fundraising event. However, the charity should maintain control over all monies that are earned as part of the event, and over the receipts that are issued for part of those monies. For more information, see CPC-026, *Third Party Fundraisers*.

An organization that meets the requirements for charitable registration can become a registered charity under the *Income Tax Act*. Registration offers advantages, such as exemption from income tax and the ability to issue official donation receipts, but also requires a charity to meet a number of corresponding obligations regarding the use of its resources. For more information, see CG-017, *General Requirements for Charitable Registration*.

Example

A group of concerned citizens forms an association to raise money for charitable organizations in their community. Each year the association holds a golf tournament where the funds raised are donated to a registered charity. The association does not have any other activities. The association solicits sponsorships from local businesses, in exchange for which the association will place the businesses' logos on all tournament signage and on the tournament website. Does the association need to charge GST/HST on the funds received from sponsors and on the tournament entry fees? Is the association's taxable income exempt from income tax? Can the association issue official donation receipts?

The association is not a non-profit organization for GST/HST purposes as the association is not operated for a purpose other than profit. Likewise, the association does not meet the requirements in paragraph 149(1)(l) of the *Income Tax Act* and therefore, the association's taxable income is not exempt from income tax under this provision. The association is making taxable supplies of promotional services to the sponsors of the tournament. The association is also making taxable supplies of the right to play in the tournament. Therefore, if the association is a GST/HST registrant, it must collect and remit GST/HST on the sponsorship funds and the tournament entry fees. Finally, although the proceeds of the tournament are donated to a registered charity, the association itself is not a registered charity. As such, the association cannot issue official donation receipts, unless it applies for and receives registration as a charity.

Red tape reduction and CRA's online mail service

On September 6, 2013, the Minister of National Revenue announced a new online mail service for Canadian businesses that will help streamline their interactions with the CRA. The new mail service, which is accessible through My Business Account, supports the CRA's commitment to reducing red tape for GST/HST registrants.

The CRA's online mail service is faster and easier than managing paper correspondence from the CRA. By signing up, Canadian businesses can receive their notices of assessment and reassessment, and some letters online for the accounts they select such as the corporation income tax and GST/HST accounts. Since the service saves time and reduces the volume of paper, it is a cost-effective way to do business.

To find out more about services for businesses, go to the CRA's one-stop shop for businesses: www.cra.gc.ca/businessonline. To learn more about the CRA's commitment to red tape reduction, go to www.cra.gc.ca/redtapereduction.

Electronic filing of combined GST/HST and QST returns (Form RC7200)

Selected listed financial institutions with a permanent establishment in Quebec can now electronically file the equivalent of Form RC7200, *Goods and Services Tax/Harmonized Sales Tax (GST/HST) and Québec Sales Tax (QST) Return for Selected Listed Financial Institutions*, using GST/HST NETFILE or the "File a return" option in My Business Account and Represent a Client.

View elections online

You can now select the "View elections" service to see details of the following GST/HST elections (if applicable):

- GST20, *Election for GST/HST Reporting Period*
- GST70, *Election or Revocation of an Election to Change a GST/HST Fiscal Year*
- GST71, *Notification of Accounting Periods for GST/HST*
- GST74, *Election and Revocation of an Election to Use the Quick Method of Accounting*
- RC4530, *Election or Revocation of an Election to Use a Production Proxy to Report the Recapture of Input Tax Credits*
- RC4531, *Election or Revocation of an Election to Use the Estimation and Reconciliation Method to Report the Recapture of Input Tax Credits*
- RC7220, *Election for GST/HST and QST Reporting Period for a Selected Listed Financial Institution*
- RC7270, *Election or Revocation of an Election to Change a GST/HST and QST Fiscal Year for a Selected Listed Financial Institution*
- RC7271, *Notification of Accounting Periods of a Selected Listed Financial Institution for GST/HST and QST*

You can also file the GST20, GST70, GST71, GST74, RC7220, RC7270, and RC7271 by selecting the "File an election" service.

To access these online services, go to www.cra.gc.ca/mybusinessaccount or www.cra.gc.ca/representatives.

View direct deposit transactions online

To help you reconcile your direct deposits with the information related to your CRA program accounts, you can now select the "View direct deposit transactions" service and a time period, and see the following information:

- the deposit date;
- the program account number;
- the filing period end date; and
- the CRA refund amount.

It can take up to 24 hours for refunds to display.

If you would like to take advantage of using direct deposit, go to www.cra.gc.ca/dd-bus.

Prescribed rates of interest

The prescribed annual rate of interest in effect from October 1, 2013, to December 31, 2013, on overdue amounts payable to the Minister is 6%. The prescribed annual rate of interest on amounts owed by the Minister (i.e., rebates or refunds) is 2% for corporate taxpayers and 3% for non-corporate taxpayers. These rates are applicable to income tax, excise tax, the softwood lumber products export charge, GST/HST and the air travellers security charge (ATSC) and excise duty on wine, spirits and tobacco.

The prescribed annual rate of interest respecting excise duty on beer, on overdue amounts payable for the indicated period, is set at 4%. Refund interest rates are not applicable for amounts owed by the Minister (i.e., rebates or refunds) for excise duty that is in relation to beer.

PERIOD	REFUND INTEREST		ARREARS AND INSTALMENT INTEREST	ARREARS INTEREST
	<i>Corporate Taxpayers</i>	<i>Non-Corporate Taxpayers</i>		
October 1 to December 31, 2013	2%	4%	6%	4%
July 1 to September 30, 2013	1%	3%	5%	3%
April 1 to June 30, 2013	1%	3%	5%	3%
January 1 to March 31, 2013	1%	3%	5%	3%

Prescribed interest rates for previous years are available on the CRA website at www.cra.gc.ca/interestrates.

What's new in publications

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

GST/HST forms

GST20	<i>Election for GST/HST Reporting Period</i>
GST20-1	<i>Notice of Revocation of an Election for GST/HST Reporting Period by a Listed Financial Institution</i>
GST70	<i>Election or Revocation of an Election to Change a GST/HST Fiscal Year</i>
GST523-1	<i>Non-profit Organizations - Government Funding</i>
GST524	<i>GST/HST New Residential Rental Property Rebate Application</i>
GST489	<i>Return for Self-Assessment of the Provincial Part of Harmonized Sales Tax (HST)</i>
RC4615	<i>Election to Not Account for GST/HST on Actual Taxable Supplies and Notice of Revocation</i>
RC7220	<i>Election for GST/HST and QST Reporting Period for a Selected Listed Financial Institution</i>
RC7220-1	<i>Notice of Revocation of an Election for GST/HST and QST Reporting Period by a Selected Listed Financial Institution</i>

RC7270 *RC7270, Election or Revocation of an Election to Change a GST/HST and QST Fiscal Year for a Selected Listed Financial Institution*

GST/HST guides

RC4365 *First Nations Goods and Services Tax (FNGST)*
RC4419 *Financial Institution GST/HST Annual Information Return*

GST/HST info sheets

GI-134 *Insurance - Appraisals of Damage Caused to Property (revised)*
GI-166 *Application of the GST/HST to Home Care Services*

Excise duty forms

E60 *Tobacco Products Export Form*
E681 *Excise Act 2001 Refund Claim on Exported Tobacco Products*
L63 *Licence and Registration Application Excise Act, 2001*

Excise duty notices

EDN34 *Notice to all Tobacco Manufacturers – Prescribed Brands of Tobacco Products*

Excise duty memoranda

EDM3-1-2 *Licensed Users (revised)*
EDM8-1-1 *Excise Warehouses (revised)*
EDM8-1-2 *Special Excise Warehouses (revised)*
EDM10-1-8 *Completing an Excise Duty Return – Tobacco Licensee (revised)*

Excise taxes and special levies memoranda

X6-1 *Books and Records (revised)*
X6-3 *Objections and Appeals (revised)*

Softwood lumber products export charge forms

B253 *Softwood Lumber Products Export Charge – Registration Form*
B253-1 *Softwood Lumber Products Export Charge – Independent Remanufacturer Registration Supplement*
B253-2 *Softwood Lumber Products Export Charge - Registration Supplement - Multiple Regions or Mills*
B278 *Softwood Lumber Products Export Charge –Application for Refund*
B278-1 *Softwood Lumber Products Export Charge -- Supplementary Information - Third Country Adjustment*
B279 *Softwood Lumber Products Surge Charge Return*

All GST/HST, Excise Duty, and Excise Taxes and Special Levies publications can be found on the CRA website at www.cra.gc.ca/gsthsttech, at www.cra.gc.ca/etsl, and at www.cra.gc.ca/exciseduty.

To receive email notification as soon as a document is published on the CRA website, go to the electronic mailing lists page at www.cra.gc.ca/lists and subscribe to the RSS feed for all new CRA publications and forms, or subscribe to any number of mailing lists for different types of publications.

Enquiries

For online access to your GST/HST, softwood lumber products export charge, air travellers security charge, excise tax and duty accounts, (such as viewing up-to-date account balances and transactions, transferring payments, and more) go to:

- www.cra.gc.ca/representatives, if you are an authorized representative or employee; or
- www.cra.gc.ca/mybusinessaccount, if you are the business owner.

For technical help while using our online services:

- business accounts, call 1-877-322-7849
- teletypewriter users, call 1-888-768-0951
- calls outside of Canada and the United States, call collect 1-613-940-8528

Please have the screen number (bottom right); and if applicable, the error number and message received on hand when calling.

For specific account-related enquiries, use the online "Enquiries service" on My Business Account. Select the "Submit an enquiry" option to send us your question and receive a response electronically.

For general information and to make enquiries regarding your account (except for softwood lumber products export charge accounts), call Business Enquiries at 1-800-959-5525.

For enquiries regarding your softwood lumber products export charge account, call 1-800-935-0313.

To make enquiries regarding the status of specific GST/HST domestic rebate claims, call Business Enquiries at 1-800-959-5525.

For GST/HST technical enquiries call GST/HST Rulings at 1-800-959-8287.

Forms and publications

To access forms and publications online go to www.cra.gc.ca/forms.

To order forms and publications by telephone call 1-800-959-5525.

Are you a GST/HST registrant located in Quebec?

To make an enquiry or obtain information on the GST/HST, contact Revenu Québec at 1-800-567-4692 or visit their website at www.revenuquebec.ca.

Are you a selected listed financial institution (including one located in Quebec)?

For GST/HST account-related enquiries or for registration for a CRA business number, call Business Enquiries at 1-800-959-5525. For GST/HST technical enquiries, call GST/HST Rulings at 1-855-666-5166.

For QST account-related enquiries for reporting periods ending on or after January 1, 2013 or for registration for a CRA business number effective on or after January 1, 2013, call Business Enquiries at 1-800-959-5525. For technical enquiries related to the amended QST, call GST/HST Rulings at 1-855-666-5166.

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), First Nations goods and services tax (FNGST) and First Nations tax (FNT), softwood lumber products export charge, air travellers security charge (ATSC) as well as excise taxes and duties. If you would like to receive a link to each new edition of the *Excise and GST/HST News* as it is published, subscribe to the electronic mailing list.

This publication is provided for information purposes only and does not replace the law, either enacted or proposed. Please note that any commentary in this newsletter regarding proposed measures should not be taken as a statement by the CRA that such measures will in fact be enacted into the law in their current form. 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, ON K1A 0L5.