

Immediate release

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**PROPOSED LEGISLATION INTRODUCED ON HARMONIZED SALES  
TAX AND STREAMLINED GST**

Finance Minister Paul Martin today tabled a Notice of Ways and Means Motion in the House of Commons to introduce proposed legislation implementing the Harmonized Sales Tax (HST) and changes to the GST announced in April and October 1996.

The proposed legislation provides for the implementation of agreements between the federal government and the governments of Nova Scotia, New Brunswick, and Newfoundland and Labrador to harmonize the federal and provincial sales taxes, effective April 1, 1997. It is based on a joint technical paper released by participating governments in October of this year.

Following consultations with affected organizations, several measures announced in the technical paper have been revised, including transitional provisions relating to subscriptions and leases straddling the April 1, 1997 implementation date of the HST. Further details are described in the attached backgrounder.

The proposed legislation also includes changes to the GST which were outlined in the Notice of Ways and Means Motion tabled on April 23, and provides for the implementation of the GST rebate on books for libraries, schools and certain other institutions that was proposed in the Notice of Ways and Means Motion tabled on October 23, 1996.

Some of the changes announced in April to streamline and simplify the GST have been revised, following consultations with affected organizations. These include:

- transitional relief on the tax treatment of used goods and sales by agents and auctioneers announced on August 29, 1996;
- revisions to the proposed new rules for agents and auctioneers;
- maintaining the current tax treatment of most memberships in non-profit organizations, also announced on August 29, 1996;

- revisions to the nominal consideration rule for charities and public service bodies;
- revisions to the proposed two-year limitation period on claiming input tax credits;  
and,
- other changes relating to remote work sites, supplies of nursing services, condominiums constructed by certain limited partnerships, supplies of laundry facilities in residential complexes, and the definition of “financial service”.

Additional information is provided in the attached backgrounder. Detailed explanatory notes to the proposed legislation will be issued by the Minister of Finance shortly.

Mr. Martin said: "This proposed legislation represents another step toward an integrated national sales tax system for Canada. Together with the proposed streamlining measures, harmonization will mean a simpler tax system for taxpayers. The HST will also improve the competitiveness of businesses in the participating provinces and represents a positive step toward creating jobs in those provinces."

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## BACKGROUNDER

### *Revisions to Measures Included in the Notice of Ways and Means Motion of April 23, 1996.*

#### **Transitional Relief in Relation to Used Goods, Agents and Auctioneers**

The proposed changes announced on April 23, 1996 repeal notional input tax credits for most transactions in favour of a trade-in approach, repeal special rules for appreciating used goods, and introduce new rules for sales by agents and auctioneers. These proposed measures were to be effective for all supplies made after April 23, 1996.

The Notice of Ways and Means Motion tabled today reflects the modifications to the April 23, 1996 measures relating to used goods and sales by auctioneers and agents which were previously announced on August 29, 1996. These changes provide for transitional relief for the period between April 23, 1996 and June 30, 1996.

#### **Agents**

It is proposed that the rules announced April 23, 1996 pertaining to agents be amended to allow an agent who makes a supply on behalf of a principal who is required to collect tax in respect of the supply to elect to have the agent, and not the principal, account for and remit the tax. Where such an election were made, the agent and the principal would be jointly and severally liable for all obligations arising as a consequence of the tax becoming collectible.

#### **Auctioneers**

It is proposed that the rules for auctioneers, which were announced on April 23, 1996, be further simplified effective April 1, 1997. Under the revised proposal, a supply of tangible personal property made by an auctioneer on behalf of a principal is deemed to be made by the auctioneer in all cases. As a result, the auctioneer would be responsible for accounting for and remitting the tax on all supplies of tangible personal property made by auction even where the principal would not have been required to collect tax in respect of the supply. Therefore, the auctioneer would not be required to determine the status of the principal. Also, the auctioneer's service supplied to the principal (i.e., the auctioneer's commission) in all cases would not be taxable. However, the auctioneer would still be considered to supply a service to the principal for the purpose of applying existing section 180 of the *Excise Tax Act* which provides that where a non-resident unregistered principal bringing a good into Canada for sale by auction and paying GST on the importation provides evidence to the auctioneer of

the tax paid at the border, the auctioneer may claim an input tax credit equal to the tax paid by the non-resident.

### **Treatment of NPO Memberships**

On April 23, 1996, the government announced its intention to remove the GST exemption for certain memberships in non-profit organizations. After consultations with the sector, the government has decided not to proceed with this proposed change.

The proposal to repeal the election to treat a supply of a membership in a registered party (including political parties and referendum committees) as a taxable supply is retained. This proposed measure applies to a supply of a membership made after April 23, 1996 unless a written offer or invoice for the membership was issued on or before May 31, 1996.

### **Limitation Period For Claiming Input Tax Credits**

On April 23, 1996, the government announced its intention to amend the limitation period for claiming input tax credits from four years to two years for listed financial institutions and certain registrants with more than \$6 million in annual taxable supplies in each of their two preceding fiscal years.

After consultations with affected registrants, it is proposed that the scope of the proposed measure be limited by excluding registrants, other than listed financial institutions, whose supplies of goods or services (other than financial services) are all or substantially all taxable supplies.

For registrants still affected by the reduced limitation period, the proposal is further modified to allow them to claim an input tax credit within two years after the tax is first charged to them by a supplier, which addresses circumstances where the supplier failed to charge the tax as required. The ability to claim the input tax credit in these cases would not be dependent on an assessment being raised against the supplier or the recipient. Furthermore, in the case of an assessment, the Minister would be permitted to apply any unclaimed input tax credit for a reporting period against any outstanding liability that arose within four years after the end of that reporting period.

### **Nominal Consideration Rule**

The proposed “direct cost rule” applicable to charities, public institutions (i.e., universities, schools, hospitals, and public colleges that are registered charities within the meaning of the *Income Tax Act*) and other public service bodies is modified to provide that a supply by such a body would be exempt where either:

- (a) the body did not charge the recipient an amount as tax and the total charge by the body for the supply was equal to or less than the tax-included direct cost of the good or service, or
- (b) the body charged the recipient an amount as tax and the consideration for the supply (which does not include tax on the supply) was less than the body’s tax-excluded direct cost of the good or service (i.e., where the body sells the good or service for less consideration than the body paid for it).

### **Supplies of Laundry Facilities in Residential Complexes**

The proposed measure to exempt the supply of the right to use a washing machine or clothes dryer located in a common area of a residential complex is extended to also exempt the lease of that common area to the person making the exempt supplies of the use of the machines. Transitional provisions are proposed which would apply during the period April 23, 1996 to December 15, 1996.

### **Definition of “financial service”**

The April 23, 1996, Notice of Ways and Means Motion contained an amendment to paragraph (q) of the definition of “financial service”, pertaining to services provided to corporations, partnerships or trusts whose principal activity is the investing of funds. That amendment is modified to provide authority to prescribe services that are not intended to be included within the ambit of “any other service” referred to in that paragraph. It is proposed that the following services be prescribed for the purpose of subparagraph (q)(ii) of the definition:

- the issuance of a financial instrument by, or transfer of ownership of a financial instrument from, the person supplying the management or administrative service to the corporation, partnership or trust (for example, the consideration for a mortgage sold to a mortgage fund by the manager of the fund would not be taxable);
- the operation or maintenance of a savings, chequing, deposit, loan, or other account that the corporation, partnership or trust has with the supplier of the management or administrative service; and

- the arranging for the issuance, renewal, variation or transfer of ownership of a financial instrument for a trust governed by a self-directed Registered Retirement Savings Plan or Registered Retirement Investment Fund.

### ***Additional Proposed Measures***

The following additional proposed measures were not included in the April 23, 1996 Notice of Ways and Means Motion.

#### **Condominium Complexes Constructed by Limited Partnerships**

On the implementation of the GST, grandfathering relief was provided to certain condominium projects. It is proposed that similar relief be extended in relation to certain condominium complexes constructed by limited partnerships where interests in the partnership were sold under a fixed price offering memorandum issued before October 14, 1989.

Under the proposed new transition rules, where the partnership self-assessed and remitted tax in respect of the condominium units in a qualifying complex before December 1996, the tax with respect to each condominium unit to which a partnership interest related would be calculated as the lesser of 4% of 80% of the subscription price for the partnership unit and 7% of the fair market value of the condominium unit. In any other case, the amount of tax would be based on 4% of 80% of the subscription price of the interest relating to the unit.

Where the tax that the partnership has remitted exceeds the amount calculated under these new rules, limitation periods would be extended to allow the partnership to apply for a refund of the excess amount. The limitation period for assessments would also be extended to allow the Minister of National Revenue to reduce assessments previously issued on the basis of the existing rules and to reduce the amount of a federal sales tax rebate where, under the new rules, a refund or adjustment to a previous assessment is granted.

#### **Supply of Nursing Services**

An amendment is proposed to add the services of registered psychiatric nurses to the list of nursing services that are exempt from tax.

#### **Remote Work Sites**

Where a registrant has constructed a residential complex for use by the registrant's employees and their families at certain remote work sites, the registrant is excluded from the normal self-assessment rules that would apply when the complex is first

supplied and the ongoing provision of the complex by the registrant is considered to be part of the commercial activities of the registrant. It is proposed to extend this treatment to registrants who have constructed such a complex for use as a place of residence for the registrant's contractors, sub-contractors, or their employees.

### **Custodial and Nominee Services in Relation to Precious Metals**

It is proposed that the zero-rating provisions pertaining to custodial and nominee services in respect of securities be amended to include custodial or nominee services in respect of precious metals. Also it is proposed that the self-assessment rules be amended to apply to these services when acquired outside Canada by residents of Canada.

### ***Harmonized Sales Tax***

#### **Subscriptions**

The October 23, 1996, technical paper proposed that a subscription for newspapers, magazines or other periodicals be treated as a supply of a service. Where the provincial portion of the HST would apply to a payment for such a subscription if it were made after March 1997, self-assessment of the provincial component would be required by persons other than consumers where payment was actually made after October 23, 1996 but before February 1997 and pre-collection of the provincial component would be required where payment was made by any person after January 1997 and before April 1997. The legislation tabled today proposes that the provincial portion of the HST not apply to any payment made before April 1997 for a subscription for a newspaper, magazine or other periodical regardless of when delivery occurs.

#### **Leases**

The technical paper proposes that, where a taxable supply by way of lease, licence or similar arrangement is made in a participating province or, in some cases, in a non-participating province to a person who is resident in a participating province and consideration for the supply is attributable to a period after March 1997, the provincial portion of the HST would apply. This rule is amended to provide that the provincial component of the HST is not payable where the payment is attributable to a period that begins before April 1, 1997 and ends before April 30, 1997 (e.g., a car lease payment covering a period beginning February 16, 1997 and ending April 15, 1997 would not be subject to the provincial component of the HST).

## **Nova Scotia New Housing Rebate**

The technical paper set out details of a proposed rebate in respect of the provincial portion of the HST paid on new housing in Nova Scotia. It is proposed that this rebate be extended to new mobile homes acquired or brought into Nova Scotia from outside the participating provinces by an individual for use as the primary place of residence of the individual or a relation of the individual. The proposed rebate would also apply to the purchase of a home from a builder under an arrangement whereby the land on which the home was situated was supplied by the builder by way of a long-term lease. The maximum amount of the rebate (i.e. \$2,250) is proposed to be the same in both cases. The procedure for obtaining the rebate would be the same as under the GST where the builder may pay or credit the rebate at the time of purchase or the individual may file an application for the rebate directly with Revenue Canada.

In addition, an individual who constructs, or engages another person to construct, a home in Nova Scotia would be entitled to the Nova Scotia New Housing Rebate where the individual has paid the provincial component of the HST in respect of land and/or materials that were used in constructing the home and that were acquired in the participating provinces or brought into a participating province from outside the participating provinces. The maximum amount of the rebate in respect of these owner-built complexes would be \$2,250. The provincial component of the HST would not be rebatable in respect of renovated homes.