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Budget 2009 – Simplification of GST/HST accounting for direct sellers

On January 27, 2009, the Minister of Finance tabled Budget 2009 in the House of Commons. Proposed measures include those which would simplify the operation of the GST/HST for persons in the direct selling industry (i.e., network sellers) who sell their products directly to consumers through a network of commission-based sales representatives. These proposed measures will apply in respect of fiscal years of a network seller that begin on or after January 1, 2010.

Currently, to simplify the operation of the GST/HST for direct sellers and their contractors, the *Excise Tax Act* (the Act) offers an Alternate Collection Method (ACM) for direct sellers employing the “buy and resell” model. The ACM is not available to those in the direct selling industry employing the “commission-based” model.

These proposed measures would allow commission-based network sellers who meet certain conditions to use a special GST/HST accounting method to simplify GST/HST compliance. Under this method, commissions and bonuses paid by network sellers to their independent sales representatives would not be subject to GST/HST. With the approval of the Canada Revenue Agency (CRA), a network seller may use this proposed method provided that all of the conditions are met and it has jointly elected with all of its sales representatives to use the proposed method.

More detailed information, including the criteria for electing to use this proposed method, can be found in the budget documents at the Department of Finance Canada Web site at www.fin.gc.ca under the headings “Budget Plan”, “Annex 5”, “Sales Tax Measures”.

My Business Account: Check account balances and transactions, view correspondence items, stop mail out of account statements, authorize representatives, and more. Visit www.cra.gc.ca/mybusinessaccount.

GST/HST NETFILE: Faster processing and refunds, immediate confirmation of receipt, and no postal costs. Visit www.cra.gc.ca/gsthst-netfile.

La version française de la présente publication est intitulée *Nouvelles sur l'accise et la TPS/TVH*.



Application of the GST to the British Columbia carbon tax

The British Columbia (B.C.) carbon tax, which came into effect July 1, 2008, is a levy imposed under the *Carbon Tax Act* of British Columbia. It applies to purchases (in B.C.) of fuels such as gasoline, diesel, natural gas, heating fuel, propane and coal. It also applies to peat and tires when used to produce energy or heat. The tax is normally payable by purchasers of such products and collectible by the supplier.

For GST purposes, the consideration for a supply of property or a service includes any provincial levy that is payable by the recipient, or payable or collectible by the supplier, in respect of that supply or in respect of the consumption or use of the property or service, other than a prescribed provincial levy that is payable by the recipient. A provincial levy is a tax, duty or fee imposed under an Act of the legislature of a province in respect of the supply, consumption or use of property or a service. The carbon tax levied by the Province of British Columbia under the *Carbon Tax Act* is considered a provincial levy. Therefore, the carbon tax is subject to GST at a rate of 5%.

The prescribed provincial levies that are excluded are listed in the *Taxes, Duties and Fees (GST/HST) Regulations* that prescribe certain taxes, duties and fees that are not included in the base for purposes of calculating the GST/HST payable on a supply. The carbon tax, under the *Carbon Tax Act*, is not a prescribed levy included in the *Taxes, Duties and Fees (GST/HST) Regulations* and is therefore included in the consideration for the supply of property.

Example

1. A retailer in B.C. supplies 18 litres of propane. The price per litre (e.g., 86c/L) includes the carbon tax. GST is calculated on this consideration and the total amount for the purchase of propane is \$16.25.

\$15.48	18 litres of propane at 86 cents per litre which includes the carbon tax
<u>\$.77</u>	<u>5% GST</u>
\$16.25	total

2. A business supplies in B.C. low heat value coal for \$10,000. The carbon tax is included in the purchase price. GST is calculated on this consideration and the total owing for their purchase of low heat value coal is \$10,500.

\$10,000	x# tonnes of low heat value coal
<u>\$ 500</u>	<u>5% GST</u>
\$10,500	total

For a detailed look at the carbon tax please see the British Columbia Small Business and Revenue Web site at: www.sbr.gov.bc.ca/business/Consumer_Taxes/Carbon_Tax/carbon_tax.htm A collection of frequently asked questions is also on the Web site: www.sbr.gov.bc.ca/business/Consumer_Taxes/Carbon_Tax/faq.htm#8.

The Tsleil-Waututh Nation and Whitecap Dakota First Nation implement the First Nations goods and service tax

The First Nations goods and services tax (FNGST) applies to supplies made on the Tsleil-Waututh Nation (Burrard) reserve in British Columbia and the Whitecap Dakota First Nation reserve in Saskatchewan, effective November 27, 2008, and January 2, 2009, respectively. These First Nations signed a tax administration agreement with the Government of Canada and each has passed a law to enact the FNGST.

The Tsleil-Waututh Nation (Burrard) joins seven other B.C. First Nations that have imposed an FNGST. Whitecap Dakota is the first First Nation in Saskatchewan to impose an FNGST. Everyone, including status Indians, pays the FNGST.

Effective January 2, 2009, the Whitecap Dakota First Nation has repealed the by-law imposing the First Nations Tax (FNT) on certain alcoholic beverages, fuel and tobacco products. Vendors will no longer be required to charge FNT as the FNGST has replaced the FNT on the Whitecap Dakota reserve.

As the FNGST is designed to work within the GST/HST framework, no additional forms or changes to registration will be required. Vendors will simply apply the FNGST to their supplies of goods and services in the same manner as the GST/HST.

Note: Special rules exist for leased vehicles under the *First Nations Goods and Services Tax Act*.

The Tsleil-Waututh Nation (Burrard) and the Whitecap Dakota First Nation and their Indian members are still eligible for tax relief on goods and services acquired on a reserve where FNGST or FNT does not apply. However, if the Tsleil-Waututh Nation (Burrard) and the Whitecap Dakota First Nation or their Indian members acquire goods on a tax-relieved basis and bring them onto their respective reserves, they will be liable for FNGST on these goods.

GST/HST Notice239, *The Tsleil-Waututh Nation implements the First Nations Goods and Service Tax (FNGST)* and GST/HST Notice240, *First Nations Goods and Services Tax (FNGST) Imposed by the Whitecap Dakota First Nation* are both available on the CRA Web site. If you require additional information on the FNGST, see RC4365, *First Nations Goods and Services Tax (FNGST)* or contact the CRA at 1-800-959-5525. You can obtain form GST531, *Return for Self-Assessment of the First Nations Goods and Services Tax (FNGST)* from any tax services office or on the CRA Web site as well.

Reminder: exemption for services by social workers

After October 3, 2003, certain health-related services rendered by social workers became exempt from the GST/HST.

GST/HST-exempt services include those supplied by social workers who are counselling individuals for the prevention or treatment of physical or mental disorders or to assist afflicted individuals or their caregivers in coping with such conditions. The services must be rendered in the practice of the profession of social work to an individual in the course of a professional-client relationship between the social worker and the individual. The person providing the services must be licensed or otherwise certified to practise the profession of social work in the province in which the services are supplied. Alternatively, where the person is not required to be licensed or otherwise certified in that province, the person must have qualifications equivalent to those required for licensing or certification in another province.

This is a reminder that the application for a rebate of the GST/HST paid in error for exempt services must be filed before two years after the day on which the tax was paid.

Alternatively, a supplier may adjust, credit or refund an amount charged as tax for these exempt services before two years after the day on which the tax was charged or collected.

Example

A social worker collected the GST on the consideration for counselling services provided to a client on June 30, 2007. The client may apply for a rebate of tax paid in error before June 30, 2009 or the social worker may refund the amount charged as tax to the client before that date.

For more information on this topic, please call GST/HST Rulings at 1-800-959-8287.

Canada's Enhanced Tobacco Stamping Regime

In an effort to combat the contraband tobacco market, and to enhance the integrity of the tobacco tax system which supports the Government's health objectives, the CRA is implementing an enhanced excise duty tobacco stamping regime.

A key element of the tobacco stamping regime is the introduction of a new excise duty stamp. The new stamp will contain a number of overt and covert security features much like those found on Canadian currency that will allow authorities to more easily identify legitimate tobacco products and detect counterfeit or contraband products. The CRA contracted with the joint venture of Canadian Bank Note Company and SICPA Product Security SA to design, produce, and distribute the new stamp.

The stamping regime is designed to:

- provide a reliable indication of the duty-paid status of tobacco products;
- make counterfeit products easier to detect by enforcement agencies;
- strengthen controls over the manufacturing and distribution of tobacco stamps; and
- provide an additional enforcement tool for federal and provincial compliance and enforcement authorities.

CRA and the tobacco industry are working towards an early 2010 implementation date. For more information, see the CRA News Release of September 4, 2008, on the CRA Web site at www.cra-arc.gc.ca under the heading for "Media room".

Keep your business records up to date

The CRA would like to remind GST/HST registrants and licensees and registrants for excise duties, taxes and other levies to make sure they maintain and keep complete and organized records. Records are documents or electronic files that contain financial information such as ledgers, journals, financial statements, returns, correspondence, charts, and tables. It is important to keep records created by computerized business systems such as accounting systems, point of sale systems, Internet-based systems, electronic purchasing and restocking systems, and tax return preparation software, as well as traditional paper records.

If your transactions fall under the *Excise Tax Act*, the *Excise Act, 2001*, the *Air Travellers Security Charge Act*, or the *Softwood Lumber Products Export Charge Act, 2006*, you are required to keep complete and organized records as stated in these acts.

For example, if your transactions include any of the following:

- you are engaging in a commercial activity in Canada,
- you are a registrant or licensee under the above mentioned Acts,
- you are required to file any return under the above mentioned Acts,
- you are applying for a rebate or refund (e.g., GST/HST or excise)
- you transport non-duty-paid packaged alcohol or an unstamped tobacco product;

you must keep records of your transactions.

Your records have to provide enough details to determine your tax or duty obligations and entitlements, your records must be supported by original documents and you must keep these records for six years after the end of the year to which they relate. Keep in mind that the CRA is entitled to ask for anything that will help them verify your GST/HST return.

Helpful tips are published at on the CRA Web site under the headings “Business” and “Keeping records” (www.cra-arc.gc.ca/tx/bsnss/tpcs/kprc/menu-eng.html). The CRA Web site has information on how to organize your files and keep complete records. Please refer to GST/HST guide RC4409, *Keeping Records* for detailed information. You can also call Business Enquiries at 1-800-959-5525.

Transfer payments online in My Business Account

Recent enhancements to My Business Account provide additional self-service options to help businesses in their dealings with the CRA.

Payments can now be transferred within the same 15-digit account from one interim period to another, or to pay an amount owing. Users with amounts eligible for transfer will select the “Transfer payment” option under “Account balance and activities”, submit and confirm the transfer details, and see the updated account balance and interest amounts immediately. The transfer payment service is available for GST/HST, excise tax, excise duty, excise tax on insurance premiums, softwood lumber products export charge, air travellers security charge, and corporation income tax accounts.

GST/HST registrants now also have the ability to view the status of GST/HST returns filed with the CRA to confirm whether they have been (re) assessed. Also, don’t forget eligible registrants can file a return with an amount owing (debit balance), a nil (zero) balance, or a refund of \$10,000 or less through My Business Account.

To use My Business Account or to find out more, visit www.cra-arc.gc.ca/mybusinessaccount.

Prescribed rates of interest

The prescribed annual rate of interest in effect from January 1, 2009 to March 31, 2009, 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 4%. 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	Income Tax, Excise Tax, Softwood Lumber Products Export Charge, GST/HST and ATSC, Excise Duty (wine, spirits, tobacco)		Excise Duty (beer)
	Refund Interest	Arrears and Instalment Interest	Arrears Interest
2009			
January 1 – March 31	4%	6%	4%
2008			
October 1 – December 31	5%	7%	5%
July 1 – September 30	5%	7%	5%
April 1 – June 30	6%	8%	6%

Prescribed interest rates for previous years are available on the CRA Web site 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

RC59	<i>Business Consent Form</i>
GST10	<i>Application or Revocation of the Authorization to File Separate GST/HST Returns and Rebate Application for Branches or Divisions</i>
GST17	<i>Election Concerning the Provision of a Residence or Lodging at a Remote Work Site</i>
GST20	<i>Election for GST/HST Reporting Period</i>
GST22	<i>Real Property - Election to Make Certain Sales Taxable</i>
GST23	<i>Election by a Public Sector Body to Have Its Exempt Memberships Treated as Taxable Supplies</i>
GST24	<i>Election To Tax Professional Memberships</i>
GST25	<i>Closely Related Corporations and Canadian Partnerships - Election or Revocation of the Election to Treat Certain Taxable Supplies as Having Been Made for Nil Consideration</i>
GST26	<i>Election or Revocation of an Election by a Public Service Body to Have an Exempt Supply of Real Property Treated as a Taxable Supply</i>
GST27	<i>Election or Revocation of an Election to Deem Certain Supplies to be Financial Services</i>
GST29	<i>Educational Services: Election and Revocation of the Election to Make Certain Supplies Taxable</i>
GST31	<i>Application by a Public Service Body to have Branches or Divisions Designated as Eligible Small Supplier Divisions</i>
GST32	<i>Application to Deem One Unincorporated Organization to be a Branch of Another Unincorporated Organization</i>
GST44	<i>Election Concerning the Acquisition of a Business or Part of a Business</i>
GST59	<i>GST/HST Return for Imported Taxable Supplies and Qualifying Consideration</i>
GST70	<i>Election or Revocation of an Election to Change a GST/HST Fiscal Year</i>
GST71	<i>Notification of Accounting Periods</i>
GST74	<i>Election and Revocation of an Election to use the Quick Method of Accounting</i>
GST115	<i>GST/HST Rebate Application for Tour Packages</i>
GST119	<i>GST/HST Election to Adjust Net Tax for the Self-Supply of a Residential Complex</i>
GST177	<i>Refund Application for Non-Resident Travel Organizers</i>
GST190A	<i>GST/HST New Housing Rebate - Appendix A</i>
GST287	<i>Election or Revocation of the Election by Public Service Bodies to Use the Special Quick Method Of Accounting</i>
GST288	<i>Supplement to Forms GST189, GST386, and GST498</i>
GST303	<i>Application to Offset Taxes by Refunds or Rebate</i>
GST322	<i>Certificate of Government Funding</i>
GST352	<i>Application for Clearance Certificate</i>
GST386	<i>Rebate Application for Foreign Conventions</i>
GST488	<i>Election or Revocation of an Election Not To Use the Net Tax Calculation for Charities</i>
GST489	<i>Return for Self-Assessment of the Provincial Part of Harmonized Sales Tax (HST)</i>
GST495	<i>Rebate Application for Provincial Part of Harmonized Sales Tax (HST)</i>
GST497	<i>Election Under the Special Attribution Method for Selected Listed Financial Institutions and Notice of Revocation</i>
GST502	<i>Election and Revocation of Election Between Auctioneer and Principal</i>
GST506	<i>Election and Revocation of an Election Between Agent and Principal</i>
GST507	<i>Third Party Authorization and Cancellation of Authorization for GST/HST Rebates</i>
GST515	<i>Direct Deposit Request for the GST/HST New Housing Rebate</i>
GST518	<i>GST/HST Specially Equipped Motor Vehicle Rebate Application</i>
GST523-1	<i>Non-Profit Organizations - Government Funding</i>
GST524	<i>GST/HST New Residential Rental Property Rebate Application</i>
GST525	<i>Supplement to the New Residential Rental Property Rebate Application - Multiple Units</i>
GST528	<i>Authorization to Use an Export Distribution Centre Certificate</i>
GST532	<i>Agreement and Revocation of an Agreement Between Supplier and Constructive Importer</i>

GST/HST guides

- RC4072 *First Nations Tax (FNT)*
- RC4080 *GST/HST Information for Freight Carriers*
- RC4103 *GST/HST Information for Suppliers of Publications*
- RC4160 *Rebate for Tour Packages, Foreign Conventions, and Non-Resident Exhibitor Purchases*
- RC4231 *GST/HST New Residential Rental Property Rebate*
- RC4365 *First Nations Goods and Services Tax (FNGST)*
- RC4481 *My Business Account*

GST/HST info sheets

- GI-049 *Fishing Equipment and Products*
- GI-050 *Residential Care Facilities and the GST/HST Election to Adjust Net Tax for the Self Supply of a Residential Complex*
- GI-051 *Zero-rated Farm Equipment*

GST/HST Memoranda Series

- 16-2 *Penalties and Interest*
- 16-3 *Cancellation or Waiver of Penalties and/or Interest*

GST/HST notices

- Notice239 *The Tsleil-Waututh Nation Implements the First Nations Goods and Services Tax (FNGST)*
- Notice240 *First Nations Goods and Services Tax (FNGST) Imposed by the Whitecap Dakota First Nation*
- Notice241 *Whether an Application for the First Nations Self-Government Refund May Include the FNGST*

GST/HST policy statements

- P-251 *Eating Establishments*
- P-252 *Agricultural Equipment Supplied Together with Accessories*
- P-253 *Sharecropping*

GST/HST technical information bulletins

- B-091 *Application of the GST/HST to Prepaid Funeral Arrangements (revised)*
- B-093 *Application of GST/HST to Interment Rights and Prepaid Cemetery Arrangements (revised)*

Softwood lumber products export charge notices

- SWLN8 *American Consumption of Softwood Lumber Products Regulations (revised)*
- SWLN9 *Surge Charge - Alberta Region (October 2008)*
- SWLN10 *Surge Charge - Alberta Region (November 2008)*
- SWLN11 *Third Country Adjustment Refund*
- SWLN12 *Third Country Adjustment Refund (October 2007 to March 2008)*

Softwood lumber products export charge forms

- B278-1 *Softwood Lumber Products Export Charge - Supplementary Information Third Country Adjustment*
- B278 *Softwood Lumber Products Export Charge - Application for Refund*

Excise taxes and special levies forms

- XE8 *Application for Refund of Federal Excise Tax on Gasoline*

Excise taxes and special levies notices

ETSL70 *Notice to all Producers of Renewable Fuels*

Excise taxes and special levies memoranda

X7-1 *Special Levies – Insurance Premiums*

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

Enquiries

For online access to account balances, transactions and more for your GST/HST, softwood lumber products export charge, air travellers security charge as well as excise taxes and duty accounts, visit www.cra.gc.ca/mybusinessaccount.

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 1-800-565-9353.

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

Forms and publications

To access forms and publications online visit www.cra.gc.ca/orderforms.

To order forms and publications by telephone call 1-800-959-2221.

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 Web site at www.revenu.gouv.qc.ca.

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.