

Excise and GST/HST News

No. 57

Summer 2005

Table of Contents

Tobacco compliance strategy.....	1
Supplies of Levonorgestrel	2
Supplies of health care services	2
Relief from GST/HST for non-residents attending domestic conventions	3
Employee or self-employed?	4
Keeping electronic records.....	5
Voluntary direct deposit for GST/HST registrants	5
Northwest Territories – Tlicho First Nation	6
Prescribed rates of interest	7
What's new in publications.....	8

Tobacco compliance strategy

Taxing tobacco products at a high and sustainable level is an important element of the federal government's health strategy to discourage smoking among Canadians. Enhancements to tobacco tax compliance programs will ensure that the tobacco tax system continues to support the government's health goals.

The *Federal Budget* tabled on February 23, 2005, announced new funding of \$8 million over the next five years to be allocated to compliance enhancements that will be implemented at three different stages of the production and distribution process:

1. Proposed enhancements to the stamping and marking regime for manufactured tobacco products using new identifiers that will clearly indicate whether excise duty has been paid.
2. Increased monitoring of raw leaf tobacco and new tracking mechanisms will better control the supply of raw leaf tobacco from grower to manufacturer.
3. Additional excise officers to allow for improved inspection and audit of tobacco manufacturers.

For more information on tobacco products please refer to the *Excise Act, 2001*, technical information menu on the CRA excise duty Web site and the Federal Budget 2005 on Finance Canada Web site at this address: <http://www.fin.gc.ca/budtoce/2005/budliste.htm>



More Ways to Serve You!
Pour vous servir encore mieux !

La version française de ce bulletin est intitulée
Nouvelles de l'accise et de la TPS/TVH.



Canada Revenue
Agency

Agence du revenu
du Canada

Canada

Supplies of Levonorgestrel

The *Food and Drug Regulations* were amended effective April 19, 2005 to permit Levonorgestrel 0.75 mg, also known as the "morning after pill", to be sold without a prescription and to be dispensed from behind the counter in pharmacies. The *Canada Gazette* published this amendment, SOR/2005-105, on May 4, 2005.

Under the *Excise Tax Act*, prescription drugs are generally zero-rated (taxed at 0%). Because Levonorgestrel is now available to consumers without a prescription, manufacturers, pharmaceutical companies, pharmacies and other suppliers of Levonorgestrel will be required to charge the 7% GST or 15% HST on sales of this drug. Consumers will be required to pay the tax when they purchase this drug. Importations of Levonorgestrel will also be subject to GST/HST.

For more information on Levonorgestrel, please refer to the Health Canada News Release 2005-25 on the Health Canada Web site at this address:

http://www.hc-sc.gc.ca/english/media/releases/2005/2005_25.html

Supplies of health care services

Under the *Excise Tax Act* (the Act), exemptions from the GST/HST for supplies of medical and certain other health care services are generally limited to those made by suppliers who are engaged in the practice of a particular profession and who are licensed or certified under the laws of a province to practise the particular profession. These suppliers are defined in the Act.

For instance, a supply of a consultative, treatment, diagnostic or other health care service rendered to an individual is exempt for GST/HST purposes when a medical practitioner makes the supply. A medical practitioner is defined as a person who is licensed under the laws of a province to practice the profession of medicine or dentistry.

In addition, a supply of an optometric, chiropractic, physiotherapy, chiropodic, podiatric, osteopathic, audiological, speech-language pathology, occupational therapy, or psychological service rendered to an individual is exempt when a practitioner supplies the service. A practitioner is defined in the Act as a person who practises the profession relevant to one of these services and who is licensed or otherwise certified to practise that profession (if required in the province where the service is supplied) or has the qualifications equivalent to those necessary to be so licensed or certified in another province (if not required in the province where the service is supplied). Please note that it is possible for a corporation to qualify as a medical practitioner or practitioner.

Health care services supplied by corporations that are not medical practitioners or practitioners

The exemptions for supplies of the above-noted health care services do not apply to persons who do not qualify as medical practitioners or practitioners. Thus, the tax status of a health care service can vary depending on the supplier.

Corporations may supply health care services through their employees or through independent contractors they engage to perform services on their behalf. However, corporations who do not meet the definition of medical practitioner or practitioner should be aware that their supplies may not fall within the exemptions in the Act.

Although an employee or subcontractor engaged by a corporation may hold a licence to practise a particular health care profession, this licence does not confer any benefit on the corporation for purposes of the Act. A corporation is a separate legal entity from its owners, directors, subcontractors and employees. The tax status of a corporation's supplies is evaluated separately from the activities of its owners, directors, subcontractors and employees.

Corporations and independent contractors

In the health care field, corporations established to provide health care services to individuals often subcontract with independent contractors to provide these services. Because the GST/HST is a multi-stage tax, each transaction is a supply. This means that when a corporation enters into a contract to obtain the services of an independent contractor, the result is that the contractor has made a supply to the corporation, not to the individual. The provision of the health care service to the individual is made by the corporation.

It is important to note that if the independent contractor's supply to the corporation is exempt, this exemption does not flow through to the corporation's supply. The tax status of the corporation's supply to its client is determined independently of the contractor's supply to the corporation because for purposes of the GST/HST, the corporation's supply to its client is a distinct supply from the independent contractor's supply to the corporation.

Please contact your GST/HST Rulings Centre for information on how GST/HST applies to your supplies of health care services.

Relief from GST/HST for non-residents attending domestic conventions

When a GST/HST registrant sponsor of a convention held in Canada makes a taxable supply of an admission to a non-resident person, certain amounts are not included in the calculation of the consideration for the admission, when determining the GST/HST payable on the admission.

The following amounts should not be included:

- the part of the consideration for admission that is reasonably attributable to providing the convention facility or related convention supplies, other than related convention supplies that are food and beverages or are property or services supplied under a contract for catering; and
- 50% of the part of the consideration for the admission that is reasonably attributable to providing related convention supplies that are food and beverages or are supplied under a contract for catering.

The sponsor should then calculate GST/HST based on the remaining consideration.

Usually a sponsor will use the percentage of each of the above expenses in relation to the total event expenses to determine the part of the consideration for the admission that is subject to tax.

Example:

A sponsor's total expenses for a domestic convention are \$100,000. Of that, \$30,000 (30%) is for providing the convention facility and related convention supplies and \$20,000 (20%) is for providing food and beverages that are related convention supplies.

If the sponsor charges \$100 admission to the convention, a non-resident delegate would pay GST/HST on \$60.

Calculations:

Admission	\$100
less (\$100 × 30%)	30
less (\$100 × 20% × 50%)	<u>10</u>
Admission subject to tax	\$ 60

The amount of the admission subject to tax can also be determined as follows:
 $\$100 \times 60\% = \60 . 60% represents the percentage of the total consideration subject to tax after deducting:

- 30% relating to providing the convention facility and related convention supplies, and
- 10% relating to providing food and beverages (50% of 20%) that are related convention supplies.

Further information on related convention supplies is available in the Guide RC4036, *Information for the Travel and Convention Industry*, which is available on the CRA Web site at : www.cra-arc.gc.ca.

Employee or self-employed?

The criteria for determining if an employee/employer relationship exists are the same for income tax and GST/HST purposes. You need to examine and analyze the terms and conditions of the worker's employment in order to determine if a worker is an employee or self-employed, and if there is an employer-employee relationship.

The courts have developed a number of tests that may be used to determine whether an employee-employer relationship exists. The four factors used are:

- control
- ownership of tools
- opportunity for profit or risk of loss
- integration

For a discussion of these factors refer to our publication RC4110, *Employee or Self-Employed?*. This publication provides a detailed checklist for each factor. If you are still in doubt, please contact your tax services office.

If a worker is determined to be self-employed (i.e., not an employee) and has exceeded the small supplier threshold, he or she will have to register for the GST/HST. A person has exceeded this threshold when the person's total taxable revenues exceed \$30,000 in a single calendar quarter or in the previous four consecutive calendar quarters.

“Total taxable revenues” means worldwide revenues from supplies of goods and services subject to GST/HST (or which would be if supplied in Canada) at a rate of 0% (zero-rated), 7% or 15%. However, it does not include revenue from goodwill, financial services, or sales of capital property. You also have to include the total taxable revenues of all your associates in this calculation.

Once you have established whether an employee/employer relationship exists, please contact your GST/HST Rulings Centre if you need more information on the implications for GST/HST purposes.

Keeping electronic records

Anyone carrying on a business or engaged in a commercial activity in Canada, required to file a GST/HST return, or making applications for rebates or refunds must keep adequate records either in English or French.

The CRA recognizes that business records are increasingly maintained in electronic format. It is important for you to keep not only the traditional paper records, but also those created through computerized business systems such as accounting systems, point of sale systems and Internet based systems.

Records, including supporting documents, must provide sufficient details to determine tax obligations and entitlements. Your records must be kept at your place of business or residence in Canada, unless the CRA gives you permission to maintain them at a specific location outside Canada. They must be maintained for a period of six years after the year to which they relate unless permission to destroy them is obtained from the CRA. When requested by CRA staff, electronic records must also be provided in an accessible and readable format.

To help businesses understand their obligations to keep proper records, the CRA has published a guide RC4099, *Keeping Records*. The CRA has also updated GST/HST Memorandum 15.1, *General Requirements for Books and Records* as well as GST/HST Memorandum 15.2, *Computerized Records* to provide more technical information.

If you have any questions concerning electronic record keeping practices, please contact a CRA tax services office.

Voluntary direct deposit for GST/HST registrants

The CRA is encouraging all new GST/HST registrants to choose the direct deposit payment option for GST/HST refunds. GST/HST registrants choosing this payment option will have their refunds deposited into their chosen account at their financial institution on the same day that the cheque would have been mailed out.

In addition to being a more efficient alternative to paper cheques, direct deposit is also a confidential, convenient and dependable way of receiving a refund. You receive the benefit of the direct deposit payment on the payment date of the refund, which could result in a one to four day saving in transit time. Receiving your refund by direct deposit reduces the possibility of lost, stolen or destroyed cheques as well as other delays that currently may occur on occasion with the mail distribution process.

To take advantage of GST/HST Direct Deposit, complete Form GST 469, *Direct Deposit Request*, which can be obtained at all CRA tax services offices, tax centres and the CRA Web site.

To apply you must complete Parts A, B and C of the application form. Enter your identification information in Part A. In Part B you must provide either a void blank cheque, or the identification numbers of your financial institution, branch, and account numbers as well as the name(s) of the account holders. In Part C the account holder *must* sign the certification area of the form. For these reasons, applying for direct deposit cannot be done over the telephone.

You may choose to have your refund payment deposited in your account at any bank, credit union or other registered financial institution in Canada provided the identified account holds Canadian funds.

Northwest Territories – Tlicho First Nation

The *Tlicho Land Claims and Self-Government Act* received Royal Assent February 15, 2005. Under an Order in Council, P.C. 2005–1054, the legislation is to be effective as of August 4, 2005.

As a result of this Act the tax exemption under the *Indian Act* will no longer apply to the Tlicho First Nation bands and their citizens. This in turn means that the tax relief outlined in Technical Information Bulletin B-039R, *GST Administrative Policy: Application of GST to Indians* is no longer applicable to the Tlicho First Nation bands and their citizens.

On the effective date Tlicho citizens who are identified on their Certificate of Indian Status cards as members of the following four Indian bands are not entitled to GST relief when acquiring goods and services.

<u>First Nation</u>	<u>Former Band Number</u>
The Dogrib Rae	765
The Wha Ti First Nation	769
The Gameti First Nation	773
The Dechi Laot'i First Nation	774

GST Self-Government Refund Program

With the coming into force of the *Tlicho Land Claims and Self-Government Act*, the Dogrib Treaty 11 Council and their four member Indian bands are succeeded by the Tlicho and Tlicho Community Governments. There is no longer any upfront GST relief. However, the *Tlicho Tax Treatment Agreement* provides for a GST self-government refund. A 100% refund is available for that portion of GST paid on goods and services acquired by the Tlicho Government and its eligible entities that is not recoverable as an input tax credit and provided the other eligibility conditions are met.

The Tlicho Government and its eligible entities may claim the refund using Form GST66, *GST/HST Public Service Bodies' Rebate and GST Self-Government Refund*. The claim must be filed within four years after the tax was paid.

Prescribed rates of interest

The prescribed annual rate of interest in effect from July 1, 2005 to September 30, 2005, with respect to the GST/HST and the air travellers security charge (ATSC) is set at 2.3804% . 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 July 1, 2005 to September 30, 2005, 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 7%. The prescribed interest rate on amounts owed by the Minister (i.e., refunds) is established at 5%. These rates compound daily.

The prescribed annual rate of interest respecting excise duty on beer accounts is set at 5% for the period July 1, 2005 to September 30, 2005. Penalty compounds monthly and interest compounds daily.

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
2005						
July 1 – September 30	2.3804 %	6.0 %	5.0 %	7.0 %	5.0 %	6.0 %
April 1 – June 30	2.4066 %	6.0 %	5.0 %	7.0 %	5.0 %	6.0 %
January 1 – March 31	2.4333 %	6.0 %	5.0 %	7.0 %	5.0 %	6.0 %
2004						
October 1 – December 31	2.3870 %	6.0 %	5.0 %	7.0 %	5.0 %	6.0 %
July 1 – September 30	2.3870 %	6.0 %	4.0 %	6.0 %	4.0 %	6.0 %
April 1 – June 30	2.4132 %	6.0 %	5.0 %	7.0 %	5.0 %	6.0 %
January 1 – March 31	2.4132 %	6.0 %	5.0 %	7.0 %	5.0 %	6.0 %

Prescribed interest rates are adjusted every calendar quarter.

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

What's new in publications***GST/HST Guides***

RC4210 GST/HST Credit (Including related provincial credits and benefits) For the period from July 2005 to June 2006

GST/HST Memoranda Series

2.7 Cancellation of Registration (revised)
15.1 General Requirements for Books and Records (revised)
15.2 Computerized Records (revised)

Excise Duty Memoranda

EDM4.1.1 Producers and Packagers of Wine (revised)

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

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 you are 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*, Policy and Planning Branch, CRA, Ottawa, Ontario K1A 0L5. ISSN 1183-689X