

Excise and GST/HST News

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Bill C-26 receives Royal Assent

Bill C-26, *An Act to establish the Canada Border Services Agency (CBSA)*, received Royal Assent on November 3, 2005. The CBSA brings together the border services of the Canada Customs and Revenue Agency (CCRA), the Canadian Food Inspection Agency and Citizenship and Immigration Canada. This enactment sets out the mandate, responsibilities, powers, duties and functions of the Minister responsible for the CBSA and its President.

The *Canada Border Services Agency Act*, as it may now be called, also includes consequential amendments to the *Canada Customs and Revenue Agency Act* renaming it the *Canada Revenue Agency Act* and to a number of statutes administered by the Canada Revenue Agency. Among other amendments are those officially changing the name of the CCRA to the Canada Revenue Agency (CRA) and the Commissioner's title to that of Commissioner of Revenue. As a result, the CRA and the CBSA are now separate agencies reporting to different Ministers.

By Order of the Governor in Council the *Canada Border Services Agency Act* came into force on December 12, 2005.

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

Bill C-259 receives Royal Assent

On November 25, 2005, Bill C-259, *An Act to amend the Excise Tax Act (elimination of excise tax on jewellery)* received Royal Assent.

Bill C-259 amended the wording of the *Excise Tax Act* and had the following immediate impacts on the administration of the excise tax:

- The excise tax on all watches has been eliminated as of November 25, 2005.
- The excise tax on clocks adapted for household or personal use, except those specially designed for the use of the blind, increased to 10% of the amount by which the sale price or duty-paid value exceeds fifty dollars, as of November 25, 2005. As well, the rate reduction schedule for clocks has been eliminated.

Under the existing legislation, all articles made of semi-precious stones, jewellery, precious and semi-precious stones, and goldsmiths' and silversmiths' products remain subject to excise tax at the rate of 8%, and are subject to the rate reduction schedules currently in place. Also, as outlined in existing legislation, the excise tax on these goods as well as on clocks will be eliminated on March 1, 2009.

More information

For more information please refer to [ET/SL Notice 55](#), *Notice to all Licensed Jewellery Manufacturers and Wholesalers under the Excise Tax Act, and to Importers – Changes to the Excise Tax on Clocks and Watches*.

Who to call

If you would like to speak with someone regarding these amendments to the *Excise Tax Act* please call one of these telephone numbers:

- **Toll free national line:** 1-866-330-3304 (English) or 1-800-877-9277 (French)
- **Quebec Region Excise Tax Line:** 1-888-609-0073
- **Northern Ontario Region** 1-705-677-7764 (collect calls accepted)
Serving Ottawa and Northern Ontario areas

Proposed GST/HST amendments relating to the financial services sector

On November 17, 2005, the Minister of Finance tabled a Notice of Ways and Means Motion proposing amendments to GST/HST provisions of the *Excise Tax Act* (the Act) relating to the financial services sector.

Proposed amendments include:

- Measures to clarify that debt collection services (including activities such as arranging for the collection of, attempting to collect, negotiating the payment of and forgiveness of debt) are not considered financial services and are therefore taxable for GST/HST purposes. These proposed amendments are to apply to a supply if any consideration is due or paid after November 17, 2005. These proposed amendments are also to apply if consideration was due or paid on or before November 17, 2005, unless the supplier did not charge, collect or remit tax in respect of the supply.

- Measures to assist foreign banks to restructure under the foreign bank branching regime in the *Bank Act*, by providing transitional GST/HST relief for the initial transfer of assets from a foreign bank's existing Canadian subsidiary to its newly established Canadian branch. These proposed amendments are to have effect from June 28, 1999.
- Two amendments that broaden the scope of the elections that allow relief from GST/HST on supplies of goods and services among members of a closely related group. The first proposed amendment ensures that two Canadian-resident, closely related corporations, both of which are registered for the GST/HST, will not be disqualified from making those elections simply because they are connected to each other in the ownership chain by other corporations that are non-resident and/or non-registered for the GST/HST. The second proposed amendment facilitates corporate reorganizations where, in order to comply with the requirements of the *Income Tax Act*, a corporation transfers assets to a newly incorporated subsidiary in the first step of realizing an income-tax-free reorganization. The proposed amendment will allow the election under section 156 to be used in the case of these reorganizations as long as particular conditions are met. These proposed amendments are to be effective November 17, 2005.
- Measures to re-establish the intended application and policy objectives of the self-assessment provisions in Division IV of the Act for intangible property and services imported into Canada. Although there was no proposed legislation released on the date of the press release, a document with a detailed explanation of the proposed *New Rule for Financial Institutions Under Division IV of Part IX of the ETA* and the proposed *Clarifying Amendment to Section 220 of Division IV of Part IX of the ETA* was released. It is proposed that the amendment to section 220 be effective December 17, 1990, the day that the GST legislation came into force and that it apply to both financial institutions and non-financial institutions. Once the new rule for financial institutions takes effect, section 220 as amended will apply to non-financial institutions only. The new financial institutions rule is to apply to taxation years of "qualifying taxpayers" that begin after November 17, 2005, and subject to certain exceptions, to the taxation year that includes November 17, 2005.

The Minister also announced that draft amendments regarding the multi-employer pension plan (MEPP) rebate, originally tabled on October 3, 2003, will not be enacted into law because they are no longer required. After consulting with the pension industry and the CRA, it was determined that these plans could more appropriately be accommodated through modifications to CRA administrative policies that apply the existing GST/HST legislation to pension plans.

For more detailed information regarding this announcement please see the Department of Finance Web site at this address: www.fin.gc.ca/news05/05-079e.html

Driver and trainer fees in Standardbred horse racing

Driving or training a horse is the supply of a service rendered to the owner of the horse. Drivers and trainers that are GST/HST registrants are required to collect the GST/HST on taxable supplies of property and services, including driving and training services supplied to the owners of a horse in a racing event.

Various racetracks in Ontario have entered into agreements whereby the fees for drivers or trainers services are deducted from the Standardbred horse owner's purse money (winnings or prize) and distributed directly to drivers and trainers. This method of payment does not change the nature of the supply of the services rendered by the driver or trainer to the owner. In other words, drivers and trainers that are GST/HST registrants are required to collect the GST/HST on their taxable supplies regardless of the method of payment.

For more information regarding this subject and how it may pertain to you, please call GST/HST Rulings to discuss your particular situation.

Private campground owners and the GST/HST status of property tax

Some private campground owners (the landlords) charge their trailer site renters (the lessees) an extra amount of money to recover municipal property taxes assessed on their trailer sites. Recently, there has been some discussion about the application of the GST/HST to amounts that have to be paid by a lessee to the campground landlord, which may include an amount that covers the additional property tax payable by the landlord.

Property taxes paid by the landlord to the municipality are generally not subject to GST/HST. The landlord may include an amount that represents a recovery of such taxes from the lessee either as part of the basic rent or as an additional rent in the lease agreement. The assessment of property taxes on the trailer sites does not affect whether or not GST/HST applies to the rents for the trailer sites.

Additional amount of rent

For GST/HST purposes, the CRA considers the landlord to be collecting an additional amount of rent in respect of the trailer sites where the landlord charges an additional amount in order to recover a portion of the municipal property taxes assessed on the sites that the landlord was obliged to pay. (Even if the lessee pays the amount directly to the municipality, where a separate amount is paid by a lessee on account of property taxes payable by the landlord, this amount is part of the consideration for the rental of the trailer site.)

The additional amounts to recover the property taxes will take on the same tax status as the rents, even where the landlord separately identifies the amounts or the lessee pays the amounts directly to the municipality. Where the rentals of the trailer sites are taxable, the landlord must collect and remit the tax on both the trailer site rental fees and these additional amounts.

Should you wish to discuss your particular circumstances regarding property taxes and the GST/HST please call GST/HST Rulings at 1-800-959-8287. Information regarding real property and trailer sites can also be found in GST/HST Memoranda 19.2, *Residential Real Property*, 19.2.2, *Residential Real Property – Rentals* and 19.5, *Land and Associated Real Property*, which are available on the CRA Web site.

Home office expenses

Many registrants operate their businesses out of their homes. Eligible registrants may claim input tax credits (ITCs) for certain expenses related to their commercial activities. The following article briefly outlines the restrictions on claiming ITCs related to home office expenses.

A registrant is not entitled to claim an ITC in respect of the tax paid or payable on a supply, importation, or bringing into a participating province of property or a service acquired, imported, or brought in for consumption or use by the registrant (or, where the registrant is a partnership, an individual who is a member of the partnership), in relation to a work space (i.e., home office) in a self-contained domestic establishment in which the registrant or individual resides unless the work space:

- is the registrant's principal place of business; or

- is used exclusively (90% or more) for the purpose of earning income from a business and is used on a regular and continuous basis for meeting the registrant's clients, customers, or patients in respect of the business.

What is a self-contained domestic establishment?

The definition of the term “self-contained domestic establishment” for GST/HST purposes is the same as that for income tax purposes. It means a dwelling-house, apartment or other similar place of residence in which place a person as a general rule sleeps and eats. Whether a particular place fits this definition will be a question of fact.

What is a principal place of business of a registrant?

The word “principal” is not defined in the *Excise Tax Act* (the Act), but it is generally regarded as being synonymous with the words “chief” or “main”. Therefore, where an individual has two or more places of business in respect of the same business, the work space must be the main place of business in order to meet the requirements set out in the Act. More information on this topic is available in Interpretation Bulletin IT-514, *Work Spaces in Home Expenses*.

For example, a room in a contractor's residence is used to carry out the office functions of the business such as receiving work orders, bookkeeping, purchasing and preparing payrolls. The remaining activities of the business (i.e., the performance of the contracts) are carried out at the customer's location. In this case, the room in the contractor's residence is considered to be the contractor's principal place of business. This room could also be used for personal purposes since there is no requirement for the room to be used exclusively for business in order for it to be considered a principal place of business.

Is it used on a regular and continuous basis for meeting clients?

Whether the space is being used on a regular and continuous basis will depend, in part, on the nature of the business activity. This is determined on the basis of the facts of each situation. For example, a work space for a business that normally requires infrequent meetings or frequent meetings at irregular intervals would probably not meet the requirement.

For example, a home office is used by Doctor M to meet occasionally with one or two patients a week, while he meets most of his patients in a doctor's office in another building. This doctor's home office is not considered to be used on a regular and continuous basis for meeting patients.

On the other hand, an accountant meets an average of five clients a day for five days each week in his home office. The accountant's work space is clearly being used to meet clients on a regular and continuous basis. However, if that accountant used that work space more than 10% for personal purposes, it would not be used “exclusively for the purposes of earning income”. Unless the home office was the accountant's principal place of business, it would not be considered a qualifying work space, notwithstanding that it may be used on a regular and continuous basis for meeting clients.

Is the consumption or use of the office space in relation to any part of a self-contained domestic establishment?

The ITCs may be restricted where the GST/HST is payable in relation to any part of a self-contained domestic establishment. Typically, supplies of property and services consumed or used in relation to a part of a self-contained domestic establishment can easily be distinguished from supplies made in relation to the business itself.

Full ITCs would generally be available in respect of expenses incurred on supplies for only the office, while expenses relating to the domestic establishment as a whole may need to be apportioned between personal and business use. There would be no ITCs in respect of expenses that did not relate at all to the

commercial activity. For example, heat and electricity would be included and apportioned when calculating a registrant's ITC entitlement (provided that the portion related to the home office was more than 10%), while costs relating to a room such as a bedroom that is not used at all in the business would be excluded.

Since each person's business affairs and home office arrangements are unique, please call GST/HST Rulings at 1-800-959-8287 to discuss your ITC eligibility.

ABM transactions

The CRA has completed a review of its position on the application of the GST/HST to certain transactions involving automated bank/teller machines (ABMs). Further to this review, this article discusses the application of GST/HST to supplies for which the interchange fee is consideration and to supplies involving the dispensing of cash for which the consideration is derived from the interchange fee.

The dispensing of cash at an ABM may involve a number of persons: **issuers**, who maintain accounts and issue their customers (**cardholders**) with debit, credit or charge cards, which can be used to access accounts to withdraw cash at an ABM connected to a network (e.g., Interac), and **acquirers**, who are members of the network and who either act as card acceptors or who obtain and process a request from a card acceptor to authorize the dispensing of cash to a cardholder. An acquirer may actually dispense cash or forward the approval to dispense cash to another person who is not a member of the network such as an Independent Sales Organization (ISO) or a card acceptor. **Card acceptors** are persons from whose ABMs cash is ultimately dispensed to a cardholder.

An issuer pays an interchange fee to an acquirer, the person who is a member of a payment network (e.g., Interac) for the service of dispensing cash or agreeing to dispense cash to a cardholder. The service provided by an acquirer to an issuer, for which the interchange fee is consideration, is generally an exempt financial service for GST/HST purposes.

In some cases, an amount derived from the interchange fee may be paid by an acquirer to a person who is not a member of the network (e.g., an ISO) who in turn may pay a portion of that amount to a third person, such as a card acceptor. If that amount is paid for the service of dispensing or agreeing to dispense cash to a cardholder, that payment is generally consideration for an exempt financial service for GST/HST purposes. On the other hand, where such a payment is made for taxable services, for example, where an ISO pays an amount derived from the interchange fee as a commission on the sale of an ABM, GST/HST will apply. Similarly, where a merchant simply provides space to an ISO or to a card acceptor to locate an ABM in their establishment in exchange for a fee derived from the interchange fee, the supply being made by the merchant is taxable and the merchant, if a registrant, is required to collect and account for tax on the payments received.

Registrants making exempt supplies of financial services are generally precluded from claiming input tax credits (ITCs) in respect of purchases of goods or services used in making such supplies.

It is important to note that there may be payments apart from the interchange fee, for other services provided for under agreements between any of the parties involved in the cash dispensing process, which may be taxable for GST/HST purposes. For example, an acquirer or an ISO may provide services to a card acceptor, such as technical support for software and hardware related to ABMs, operation and maintenance services related to ABMs, or marketing services. The supply of these services is generally taxable for GST/HST purposes and the supplier is required to collect and account for tax in respect of such supplies.

Tax applies on the total consideration payable for taxable supplies. A registrant is required to collect and account for tax calculated on the entire amount payable for a taxable supply, i.e., before any set-off or netting of amounts payable or receivable by the registrant under the same or another agreement.

It should be noted that fees paid by a cardholder in respect of a cash dispensing transaction at an ABM are generally consideration for an exempt financial service for GST/HST purposes (whether paid to the issuer, in respect of their account, or to an acquirer or a card acceptor, in respect of the cash withdrawal).

Please contact a GST/HST Rulings Centre if you have any questions concerning the application of GST/HST to these transactions.

Labrador Inuit – a self-governing First Nation

Effective December 1, 2005, the Labrador Inuit became a self-governing First Nation. Its government is called the Nunatsiavut Government. The Labrador Inuit will remain subject to federal and provincial taxes.

GST self-government refund

Along with the enactment of the *Labrador Inuit Land Claims Agreement Act*, a separate tax treatment agreement came into effect on December 1, 2005. The tax treatment agreement provides for a 100% refund of that portion of the federal segment of the HST paid on goods and services acquired by the Nunatsiavut Government and its eligible entities provided that input tax credits are not available and the other eligibility conditions are met.

The Nunatsiavut Government and its eligible entities may claim the self-government GST refund using the form GST66, [Application for GST/HST Public Service Bodies' Rebate and GST Self-Government Refund](#). The claim must be filed within four years after the tax was paid.

The *Labrador Inuit Tax Treatment Agreement* identifies the conditions under which a GST refund for self-government activities may be claimed.

FNGST for the Tlicho First Nation

Effective December 5, 2005 a First Nations Goods and Services Tax (FNGST) is imposed on Tlicho lands.

As the FNGST is designed to work within the GST framework, no additional forms or registration will be required and vendors will simply apply the FNGST in the same manner as the GST/HST. Tlicho citizens will continue to pay GST/HST on taxable supplies acquired outside Tlicho lands.

The Summer 2005 edition of the [Excise and GST/HST News No.57](#) contains the original notice for the Northwest Territories – Tlicho self-government agreement and their GST self-government refund program.

Additional information on FNGST can be found in the CRA publication RC4365, [First Nations Goods and Services Tax \(FNGST\)](#).

Prescribed rates of interest

The prescribed annual rate of interest in effect from January 1, 2006 to March 31, 2006, with respect to the GST/HST and the air travellers security charge (ATSC) is set at 2.4333% . 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, 2006 to March 31, 2006, 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 January 1, 2006 to March 31, 2006. 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
2006						
January 1 – March 31	2.4333 %	6.0 %	5.0 %	7.0 %	5.0 %	6.0 %
2005						
October 1 – December 31	2.3804 %	6.0 %	5.0 %	7.0 %	5.0 %	6.0 %
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 %

Prescribed interest rates are adjusted every calendar quarter.

[Rates of interest for previous periods](#) are available on the CRA Web site.

New GST/HST Rulings telephone service

On September 26th, 2005, GST/HST Rulings implemented changes to its current 1-800 network. The network now distributes calls nationally to any one of our nine regional GST/HST Rulings Centres during regular business hours (8:15 a.m. to 5:00 p.m.) in each time zone. This change will increase caller accessibility and maintain the high quality of service we provide to our clients. The contact number remains the same: 1-800-959-8287 (English) and 1-800-959-8296 (French).

What's new in publications

GST/HST Pamphlets/Guides

P143	Using your Home for Day Care
RC4060	Farming Income and the CAIS Program – Joint Forms and Guide – 2005
RC4110	Employee or Self-employed?
RC4408	Farming Income and the CAIS Program Harmonized Guide - Joint Forms and Guide - 2005

RC4049 GST/HST Information for Municipalities
T4130 Employers' Guide - Taxable Benefits
T4131 Canadian Residents Abroad
T4133 Are You a Newcomer to Canada?

GST/HST Forms

GST521 GST/HST Multi-Employer Pension Plan Trust Rebate Application
RC1 Request for a Business Number (BN)

GST/HST Notice

Notice 206 GST/HST Notice Carcross/Tagish First Nation

GST/HST Policy Statements

P-128R2 Tax Treatment of a Supply of an Undivided Working Interest in the Assets of a Mine or an Oil or Gas Well (revised)

Excise Taxes and Special Levies Notices

ETSL55 Notice to all Licensed Jewellery Manufacturers and Wholesalers under the Excise Tax Act, and to Importers - Changes to the Excise Tax on Clocks and Watches
ETSL56 Notice to all Tax Practitioners and Licensed Manufacturers, Wholesalers, and Filers of End-user Refunds under the Excise Tax Act
Fact Sheet Bill C-259 – An Act to amend the Excise Tax Act

Excise Forms

B268 Notification of Fiscal Months
B269 Application or Revocation of the Authorization to File Separate Excise Duty Returns and Refund Applications for Branches or Divisions
E447 Wholesaler's Bond - Excise Taxes
E664 Direct Deposit Request / Electronic Transfer Request (Payments > \$25 Million) for Excise Refunds and Rebates

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*, Legislative Policy and Regulatory Affairs Branch, CRA, Ottawa, Ontario K1A 0L5. ISSN 1183-689X