

# Excise and GST/HST News

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### **Bills C-40 and C-52 receive Royal Assent**

Bill C-40, *An Act to amend the Excise Tax Act, the Excise Act, 2001 and the Air Travellers Security Charge Act and to make related amendments to other Acts*, and Bill C-52, *An Act to implement certain provisions of the budget tabled in Parliament on March 19, 2007* both received Royal Assent on June 22, 2007. Bill C-40 is now referred to as Statutes of Canada, 2007, c. 18 and Bill C-52 is referred to as Statutes of Canada, 2007, c. 29.

Highlights of Bill C-40 were published in the Winter 2007 edition (no. 63) of the *Excise and GST/HST News* while highlights of Bill C-52 are in the Spring 2007 edition (no. 64) of the *News*.

### **New GST/HST annual information schedule for financial institutions**

On January 26, 2007, the Minister of Finance announced a new requirement for financial institutions to file a new GST/HST annual information schedule.

Financial institutions are subject to a range of unique rules and as a result need to make a variety of calculations to compute the information summarized on their GST/HST return. The new GST/HST annual information schedule for financial institutions is intended to record the results of this analysis.

A new GST/HST Info Sheet, GI-035, *Annual Information Schedule for Financial Institutions*, explains the filing requirements for the new GST/HST annual information schedule for financial institutions. A link to GST111, *Schedule 1 - Financial Institution GST/HST Annual Information Schedule* is included in this info sheet. As well, guide RC4419, *GST/HST Annual Information Schedule for*

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*Financial Institutions*, will be published shortly and will include more information on how to complete form GST111.

### **Selling a medical or dental practice**

This article discusses the use of the election under subsection 167(1) of the *Excise Tax Act* (the Act) in the case of a sale of a medical or dental practice between two non-registrants.

Where a person intends to sell a business, the vendor and the purchaser may qualify to file a joint election under subsection 167(1) of the Act to have no tax payable (with some exceptions) on the supply. However, the use of the above election may not be necessary notwithstanding that the conditions in subsection 167(1) are met where both the vendor and the purchaser are non-registrants engaged exclusively in non-commercial activities. This may be the case with a medical or dental practice.

The sale of a medical or dental practice which constitutes a business generally involves the transfer of assets, as described in the following paragraphs.

### **Medical and dental supplies and equipment/furniture**

In general, sales of medical and dental supplies are either taxable or zero-rated. Sales of equipment and furniture are generally subject to GST/HST. However, if a person sells personal property that was acquired for use exclusively (generally, 90% or more for non-financial institutions) in the course of activities of the person that are not commercial activities and was not consumed or used by the person in the course of commercial activities of the person, the sale of that personal property shall be deemed to be made otherwise than in the course of commercial activities. Under those conditions, the sale of that personal property will not be subject to GST/HST.

### **Goodwill**

Section 167.1 of the Act would generally apply to supply of a medical or dental practice where, under the agreement, the purchaser acquires all or substantially all (generally, 90% or more) of the property required to carry on the business. Where the supply of a medical or dental practice satisfies the conditions for an election under section 167(1), whether the vendor and purchaser make the election or not, section 167.1 provides that the part of the consideration for the supply that is reasonably attributable to goodwill will not be subject to GST/HST.

### **Leasehold improvements**

Where a non-registered vendor, such as a dentist or doctor engaged exclusively in exempt activities, makes a taxable supply of real property/leasehold improvements to a non-registered recipient, such as another dentist or doctor, the vendor must collect and remit GST/HST on that particular supply. This would also be the case if a subsection 167(1) election was filed. However, the vendor may be eligible for a rebate for the GST/HST paid on the vendor's acquisition of, and improvements to the real property.

More information on the sale of a medical or dental practice is available in GST/HST Policy Statement P-166, *Sale of a Medical or Dental Practice Between Two Non-registrants* and more information on the subsection 167(1) election is available in GST/HST Policy Statement P-188, *Supply of a Business or Part of a Business for the Purpose of the Election under Subsection 167(1)*.

### **Additional rents**

Who pays the GST/HST on "additional rent" under commercial real property lease agreements?

Many commercial lease agreements for real property take the form of "net" leases. Under these leases,

the lessee (tenant) is required to pay a fixed base rent, as well as additional amounts on account of common area expenses, insurance premiums, municipal property taxes and water charges, or business taxes. These extra amounts are typically described as "additional rent" in the lease agreement. Where the payment for a taxable supply of real property under a lease agreement includes amounts as "additional rent", the tenant must pay the GST/HST calculated on the total amount of the consideration payable for the lease of the property, including the additional rent, even if the additional amounts are itemized separately.

Generally, property and business taxes paid to a municipality by a property owner (landlord) are not subject to the GST/HST. If a landlord requires a tenant to pay an amount on account of the property and business taxes payable by the landlord, that amount is additional rent, even in cases where the tenant pays the amount directly to a third party (e.g., a municipality). The tenant must pay GST/HST to the landlord calculated on the amount that is additional rent as the amount is additional consideration for the taxable supply of the real property made by the landlord to the tenant. Only if the tenant is directly liable to the municipality for the payment of the amount will the GST/HST not be payable to the landlord. For example, if a tenant is required to pay to a taxing authority a business tax that is imposed on the tenant under legislation, the amount of the business tax payable by the tenant would not be consideration payable to the landlord for the taxable supply of real property made under the lease even if the lease agreement included a requirement that the tenant meet its obligation to pay the business tax to the taxing authority. In this case, the business tax that the tenant is directly liable to pay to the taxing authority is not additional rent.

Generally, a tenant who is a GST/HST registrant may be eligible to recover all or a portion of the tax paid or payable on the "additional rent" as an input tax credit.

The subject of additional rent is discussed further in GST/HST Memorandum 19.4.1, *Commercial Real Property — Sales and Rentals*.

### **Associated persons and the small supplier threshold**

A small supplier is not required to register for the GST/HST and is generally not required to collect the GST/HST. However, in some cases a non-registered small supplier is required to collect the GST/HST on its supplies, such as on the sale of real property. For an example, refer to the information under the heading "Selling a medical or dental practice – Leasehold improvements" in this newsletter.

A person is generally a small supplier during any particular calendar quarter and the following month if the total value of the consideration for world-wide taxable supplies, including zero-rated supplies, made by the person (or an associate of the person at the beginning of the particular calendar quarter) that became due, or was paid without becoming due, in the previous four calendar quarters does not exceed \$30,000 or, where the person is a public service body, \$50,000. The calculation excludes consideration attributable to the sale of goodwill of a business, supplies of financial services, and supplies by way of sale of capital property.

For GST/HST purposes, an "associate" of a person at any time means another person who is associated at that time with the particular person. Therefore, to determine whether you qualify as a small supplier, you must include in your calculation the revenue from persons with whom you are associated.

### **Associated persons**

The concept of associated persons deals with control between persons. For example, an individual and a corporation are associated with each other for GST/HST purposes if the corporation is controlled by the individual. Also, a person and a partnership are associated with each other if the total of the shares of the

profits of the partnership to which the person and all other persons who are associated with the person are entitled is more than half of the total profits of the partnership, or would be more than half of the total profits of the partnership if it had profits. Corporations are associated with each other for GST/HST purposes if they meet the conditions for association set out under the *Income Tax Act*. Moreover, persons are associated with each other if each of them is associated with the same third person. The provisions for determining if persons are associated for GST/HST purposes are set out in section 127 of the *Excise Tax Act*. Associated persons must combine their total taxable supplies to determine whether they are small suppliers and how often they must file GST/HST returns.

If associated persons go beyond the \$30,000 or \$50,000 small supplier's threshold during four consecutive calendar quarters, then each would remain a small supplier for one month after the end of the particular calendar quarter in which their collective total sales surpassed the threshold. Neither person would be required to collect GST/HST on their supplies during that month. However, at the beginning of the following month, each person would have to charge and collect GST/HST and become a GST/HST registrant within 30 days of making their first taxable supply in Canada.

Also, if during any one fiscal quarter, the total taxable supplies of associated persons exceeds the small supplier's threshold, the persons would immediately cease to be a small suppliers. Including the sale which put them over the threshold, an associated person must immediately begin collecting GST/HST on all of their taxable supplies made in Canada. Each person must also become a GST/HST registrant within 30 days after making the first taxable sale.

More information about small suppliers is published in GST/HST Memoranda Series 2.2, *Small Suppliers*.

#### **Filing frequencies of associated persons**

Persons who register for GST/HST are assigned reporting periods for filing their GST/HST returns. The filing frequency of associated persons is determined by the "threshold amount" of their combined total taxable supplies of goods and services made in Canada during the previous or current fiscal year. The "threshold amount" does not include supplies made outside Canada, zero-rated exports of goods and services, zero-rated financial services, taxable sales of capital real property or goodwill.

- If the total threshold amount of taxable supplies of the associated group is more than \$6 million, each member must file GST/HST returns monthly.
- If the total threshold amount of taxable supplies of the associated group is \$6 million or less but more than \$500,000 (or more than \$1,500,000, as announced in the 2007 Federal Budget, for those with a fiscal years that begin after 2007), each member will file GST/HST returns quarterly or elect to file monthly.
- If the total threshold amount of taxable supplies of the associated group is \$500,000 or less (or, as announced in the 2007 Federal Budget, \$1,500,000 or less for those with a fiscal year reporting period that begins after 2007), each member will file GST/HST returns annually. They may elect to file quarterly or monthly.

GST/HST registered charities and listed financial institutions automatically have an annual reporting period, regardless of their revenues, unless they elect to file quarterly or monthly. The one exception to this is where a person is a listed financial institution as a result of making an election for exempt supplies of financial services under section 150. In this situation, the person's filing frequency will be based on the criteria discussed above.

The election to file annually must be made at the time of registration or at the beginning of a registrant's fiscal year. If an annual filer has a net tax remittance for a fiscal year of \$1,500 or more, quarterly instalment payments are required throughout the following fiscal year. The 2007 Federal Budget announced that, for fiscal year reporting periods beginning after 2007, no quarterly instalments are required if the net tax remittance for the fiscal year is less than \$3,000.

Registrants may elect to file monthly or quarterly at the time of registration or at the start of a new fiscal year. Registrants may also elect to file monthly on the first day of the quarter in which they cease to be an annual filer.

If you have questions about your filing frequency as a result of your association with other persons, please contact GST/HST Rulings at 1-800-959-8287.

**Prescribed rates of interest**

In accordance with the recent legislative changes relating to standardized accounting, it is proposed that the interest rate calculations for GST/HST and the air travellers security charge be changed, effective April 1, 2007, to harmonize with the interest rate calculations used for income tax, excise tax, excise duty (except excise duty on beer) and the softwood lumber export charge. As of this date, amounts outstanding will be subject to a proposed new prescribed rate of interest equal to the “basic rate” plus 4% .

The prescribed annual rate of interest in effect from July 1, 2007, to September 30, 2007, on overdue amounts payable to the Minister is 9%. The prescribed annual rate of interest on amounts owed by the Minister (refunds) is 7%. These rates are applicable to income tax, excise tax, softwood lumber products export charge, goods and services tax, harmonized sales tax and air travellers security charge. These rates are also applicable to excise duty (except excise duty on beer) amounts payable after June 30, 2003.

The prescribed annual rate of interest respecting excise duty on beer, on amounts payable for the indicated period, is set at 7%. This rate is also applicable to excise duty (except excise duty on beer) amounts payable prior to July 1, 2003.

Period	Income Tax, Excise Tax, Softwood Lumber Export Charge, GST/HST and ATSC, Excise Duty (wine, spirits, tobacco)		Excise Duty (beer)
	Refund Interest	Arrears and Instalment Interest	Arrears Interest
<b>2007</b>			
July 1 – September 30	7%	9%	7%
April 1 – June 30	7%	9%	7%

**Penalties**

Effective April 1, 2007, the 6% penalty is eliminated on overdue amounts of GST/HST and the air travellers security charge. A new failure to file penalty is charged on a return that is filed late with an unremitted or unpaid amount for the *Excise Tax Act*, the *Excise Act, 2001* and the *Air Travellers Security Charge Act*. This new penalty is equal to: (a) 1% of the amount overdue on the return, plus (b) one quarter of the amount calculated in (a), times the number of complete months the return was overdue, starting April 1, 2007, to a maximum of 12 months.

For more information on the new interest rates and penalties please refer to GST/HST Info sheet GI-024, *Harmonizing the Administrative Provisions Respecting Standardized Accounting*.

**Up to and including March 31, 2007**

The 6% penalty applies on overdue amounts of GST/HST and the air travellers security charge (ATSC) up to and including March 31, 2007.

The prescribed annual rate of interest in effect from January 1, 2007 to March 31, 2007, with respect to the GST/HST and ATSC is set at 3.65%. Interest and the 6% 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 to March 31, 2007, with respect to amounts of income tax, excise tax, excise duty (except excise duty on beer) and the softwood lumber export charge payable to the Minister (i.e., arrears and instalment payments) is established at 9%. The prescribed interest rate on amounts owed by the Minister (i.e., refunds) is established at 7%. These rates compound daily.

The prescribed annual rate of interest respecting excise duty on beer amounts is set at 7% for the period January 1, 2007 to March 31, 2007. Penalty compounds monthly and interest compounds daily.

Period	GST/HST, ATSC (per annum)		Income Tax, Excise Tax, Softwood Lumber Export Charge Excise Duty (wine, spirits, tobacco)		Excise Duty (beer)	
	Interest	Penalty	Refund Interest	Arrears and Instalment Interest	Interest	Penalty
<b>2007</b>						
January 1 – March 31	3.65%	6%	7%	9%	7%	6%

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

**Reminder — New remittance vouchers**

Form GST58, *Goods and Services Tax/Harmonized Sales Tax (GST/HST) Remittance (personalized)* and Form GST426 *Goods and Services Tax/Harmonized Sales Tax (GST/HST) Remittance (non-personalized)* have been cancelled as of April 30, 2007.

These remittance forms are replaced by the following four new remittance vouchers:

- **RC158**, *GST/HST Netfile/Telefile Remittance Voucher* – Beginning in October 2007, this form should be used to remit a GST/HST amount owed on a return that is filed using GST/HST NETFILE or GST/HST TELEFILE.
- **RC159**, *GST/HST Amount Owing Remittance Voucher* – This form should be used to remit a GST/HST amount owed after an assessment or a reassessment.
- **RC160**, *GST/HST Interim Payments Remittance Voucher* – This form should be used by annual filers to make a GST/HST instalment payment.
- **RC177**, *GST/HST Balance Due Remittance Voucher* – This form should be used to remit a GST/HST amount owed by April 30 of each year by an individual who has business income for income tax purposes and the business has a December 31 fiscal year-end. (In this case, the payment is due by April 30 but the return is due by June 15.)

There are three ways for a person to order these new remittance vouchers.

- Online at [www.cra.gc.ca/mybusinessaccount](http://www.cra.gc.ca/mybusinessaccount) (with a Government of Canada epass.)
- Online at [www.cra.gc.ca/requests-business](http://www.cra.gc.ca/requests-business) (no Government of Canada epass required)

- by calling the Business Enquiries line at 1-800-959-5525.

Please note that the CRA guide RC4022, *General Information for GST/HST Registrants* has been updated to provide further information on these new remittance vouchers. Information related to the new remittance vouchers is on pages 2, 24, and 29 of this guide.

### **Friendly URLs for technical publications**

A friendly URL is an Internet address that has been shortened to make it easier to remember and to use. For example, the URL [www.cra-arc.gc.ca/tax/business/topics/gst/soleprop/rulings/menu-e.html](http://www.cra-arc.gc.ca/tax/business/topics/gst/soleprop/rulings/menu-e.html) used to see GST/HST Rulings has been shortened to a "friendly" version [www.cra.gc.ca/gsthstrulings](http://www.cra.gc.ca/gsthstrulings).

To help you get to the information you need on the CRA Web site, you can now use these "friendly URLs" instead of following a set of menus or typing a long Internet address.

- GST/HST Technical Information: [www.cra.gc.ca/gsthsttech](http://www.cra.gc.ca/gsthsttech)
- GST/HST Rulings and Interpretations: [www.cra.gc.ca/gsthstrulings](http://www.cra.gc.ca/gsthstrulings)
- Excise Tax and Special Levies: [www.cra.gc.ca/etsl](http://www.cra.gc.ca/etsl)
- Excise Duty: [www.cra.gc.ca/exciseduty](http://www.cra.gc.ca/exciseduty)
- Softwood Lumber Registration: [www.cra.gc.ca/softwood](http://www.cra.gc.ca/softwood)
- Small businesses: [www.cra.gc.ca/smallbusiness](http://www.cra.gc.ca/smallbusiness)
- Prescribed interest rates: [www.cra.gc.ca/interestrates](http://www.cra.gc.ca/interestrates)
- My Business Account: [www.cra.gc.ca/mybusinessaccount](http://www.cra.gc.ca/mybusinessaccount)
- Visitors to Canada: [www.cra.gc.ca/visitors](http://www.cra.gc.ca/visitors)
- Voluntary Disclosures Program: [www.cra.gc.ca/voluntarydisclosures](http://www.cra.gc.ca/voluntarydisclosures)

### **What's new in publications**

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

#### ***GST/HST Info Sheets***

GI-015	<i>GST/HST Rate Reduction and Purchasers of New Housing – July 2007 (revised)</i>
GI-035	<i>Annual Information Schedule for Financial Institutions</i>
GI-036	<i>Beverages</i>
GI-037	<i>Children's Camps Operated by Public Sector Bodies</i>

#### ***GST/HST Memorandum***

4-4	<i>Agriculture and Fishing (revised)</i>
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#### ***GST/HST Guides***

RC4160	<i>Rebate for Tour Packages, Foreign Conventions, and Non-Resident Exhibitor Purchases (revised)</i>
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#### ***GST/HST Technical Information Bulletin (TIB)***

B-096	<i>GST/HST Rate Reduction and Real Property</i>
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***GST/HST Policy Statements***

- P-196R *Whether Administrative Overhead Costs Fall under Subsection 186(1) of the Excise Tax Act* (revised)
- P-218R *Tax Status of Damage Payments, Whether or not Within Section 182 of the Excise Tax Act* (revised)

***GST/HST Notices***

- NOTICE221 *Questions and Answers on the Cancellation of the Visitor Rebate Program and the New Foreign Convention and Tour Incentive Program* (revised)

***GST/HST Forms***

- GST60 *GST/HST Return for Acquisition of Real Property* (revised)
- GST111 *Schedule 1 – Financial Institution GST/HST Annual Information Schedule*
- GST115 *GST/HST Refund Application for Tour Packages*
- GST386 *Refund application for foreign conventions*
- GST489 *Return for Self-Assessment of the Provincial Part of Harmonized Sales Tax (HST)* (revised)

***Excise Duty Memorandum***

- EDM10-3-1 *Refunds* (revised)

***Softwood Lumber Products Export Charge Forms***

- B253-1 *Softwood Lumber Products Export Charge – Independent Remanufacturer Registration Supplement* (revised)
- B278 *Softwood Lumber Products Export Charge Act, 2006 – Application for Refund* (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](http://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 your business is located 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. 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. 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