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Applications under the *Excise Tax Act*

This article is a companion article to *Elections under the Excise Tax Act* published in the previous edition of this newsletter, Excise and GST/HST News, Summer 2008 – No. 69. As mentioned in that article the *Excise Tax Act* (the Act) provides opportunities for registrants to personalize their business activities with the Canada Revenue Agency (CRA) by filing elections. Filing an application is another way for a registrant to personalize its business activities.

Applications are different from elections. Although you need to meet certain criteria to use an election, elections can be in effect without the explicit permission of the CRA. Although you also have to meet certain criteria for applications, the CRA must acknowledge that we have processed and approved your application before you can begin to use the procedure for which you have applied.

The following is a list of possible applications in the order of the provision of the Act to which they relate. All forms are available on the CRA Web site at www.cra.gc.ca/forms. In the case of an application for which there is no form, we have provided detailed information to assist you.

Applications with forms

Subsection 129(3)

Application by a Public Service Body to Have Branches or Divisions Designated as Eligible Small Supplier Divisions, GST31. Use this form to request that branches or divisions of your organization be designated "small supplier divisions" for purposes of GST/HST. As a small supplier division, the branch or division will be treated as if it were a separate person that is a small supplier. An authorized representative of your head office must complete this form and send it to the head office's tax services office. If your request is approved, we will send you a written confirmation of the designation with its effective date.

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.

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Canada Revenue
Agency

Agence du revenu
du Canada

Canada

Subsection 130(1)

Application to Deem One Unincorporated Organization to be a Branch of Another Unincorporated Organization, GST32. When an unincorporated organization is a member of another unincorporated organization, they can jointly apply to the CRA to have the member organization considered to be a branch of the other organization and not to be a separate person for GST/HST purposes. Where this application is approved in writing by the CRA, GST/HST does not apply on transfers of property or services between the two organizations. The completed application form must be sent to the CRA tax services office serving the main organization.

Subsections 141.02(18) and (20)

Application, Renewal or Revocation of the Authorization for a Qualifying Institution to Use Particular Methods, GST116. This application allows a financial institution which is a qualifying institution to request authorization under proposed subsections 141.02 (18) and (20) to use particular methods to determine the operative extent and the procurative extent of each input for a particular fiscal year beginning after March 2008. Also use this application to renew or revoke an authorization previously granted under proposed subsection 141.02(20). The application is for the legal entity. Branches or divisions should not submit their own applications. Send the completed form to the Assistant Director of Audit of the tax services office serving your head office. For more information see GST/HST Technical Information Bulletins B-097, *Determining Whether a Financial Institution is a Qualifying Institution for Purposes of Section 141.02* or B-098, *Application of Section 141.02 to Financial Institutions that are Qualifying Institutions* and Notice 236, *Draft GST/HST Technical Information Bulletin, Input Tax Credit Allocation Methods for Financial Institutions for Purposes of Section 141.02 of the Excise Tax Act – For Discussion Purposes Only*.

Subsection 228(7) and the Offset of Taxes (GST/HST) Regulations

Application to Offset Taxes by Refunds or Rebates, GST303. This application allows members of a group of closely related corporations to apply to reduce or offset an amount of GST/HST remittable or payable by one member of the group by the amount of any GST/HST rebate or refund to which another member is entitled to claim. The closely related group making this application has to designate one of its members as the coordinator. The form has two parts. GST303A has to be completed by the coordinator. GST303B has to be completed by each other member of the closely related group making this application. Members of the closely related group making this application can only offset or reduce the tax owing beginning with the reporting period in which they receive our acknowledgment of this application. The coordinator must send the form and any other related documents to the coordinator's taxation centre.

Sections 239 and 259

Application or Revocation of the Authorization to File Separate GST/HST Returns and Rebate Applications for Branches or Divisions, GST10. Use this form if you are a GST/HST registrant and you want to file separate GST/HST returns for your branches or divisions. You may also use this form if you are a public service body which is entitled to rebates and you want to file separate rebate applications for your branch(es) or division(s). Once the CRA authorizes you to file separate GST/HST returns and rebate applications, your authorization will be in effect until the CRA revokes it in writing. This form (and attachments) must be completed by your head office and sent to your head office's tax services office.

Subsection 273.1(8)

Authorization to Use an Export Distribution Centre Certificate, GST528. Use this form to apply for a new authorization, or to renew or revoke an existing authorization to use an Export Distribution Centre Certificate. An Export Distribution Centre Certificate allows businesses that provide limited value-added in the course of processing goods to acquire or import, without paying GST/HST, domestic inventory, added property, and customers' goods. For more information, see Technical Information Bulletin B-088, *Export Distribution Centre Program*. You must apply to renew your authorization at least three months before the expiry date of your existing authorization. This form must be completed by your head office and sent to your tax services office.

Applications that do not have forms

Subsections 178.2(1) and (2)

Application to use the Alternate Collection Method and Joint Application to use the Alternate Collection Method. A direct seller who is a registrant may apply in writing to the CRA for approval to use the Alternate Collection Method (ACM). A direct seller may also jointly apply with its distributors to have the ACM rules apply at the distributor's level.

A request to use the ACM must be in writing and should include all of the following information:

- (a) identification of direct seller (and distributor(s), if a joint application) including its Business Number;
- (b) the starting date to use the ACM;
- (c) a statement that the direct seller sells exclusive products through independent sales contractors to consumers (i.e., individuals, businesses, or organizations that do not intend to resell the exclusive products);
- (d) a statement that contractors
 - are not agents or employees of the direct seller or distributor(s),
 - do not solicit, negotiate or enter into contracts for the sale of exclusive products of the direct seller to consumers primarily (more than 50%) at a fixed place of business (other than a private residence), and
 - have a contractual right to purchase exclusive products from the direct seller or distributor(s) for sale to other contractors or consumers;
- (e) a statement that the direct seller is aware that the approval to use the ACM may be revoked if the direct seller or distributor(s) fails to comply with all GST/HST provisions;
- (f) a statement that certifies that the information given in the application, and any document attached, is true, correct, and complete to the best of the applicant's (or applicants') knowledge; and
- (g) the signature(s) of person(s) authorized to sign on behalf of the direct seller or distributor(s).

The CRA will notify the direct seller and distributor(s) in writing when an application is approved and will confirm the date the approval takes effect. Applications to request approval to use the ACM must be sent to the applicant's tax services office to the attention of the Assistant Director, Audit Division. For more detailed information see *Excise and GST/HST News*, Winter 2007 – No. 63.

Section 181.3

Application for Designation of a Barter Exchange Network. The administrator of a barter exchange network may apply to the CRA to designate the barter exchange network for GST/HST purposes. A letter applying for designation is required, signed by the administrator (or an authorized individual), and must contain the following information:

- (a) the name of the barter exchange network;
- (b) the name, address, telephone number, trading name and CRA Business Number of the administrator of the barter exchange network;
- (c) the effective date requested (cannot be earlier than the later of the date of establishment of the barter exchange network and October 20, 2000);
- (d) a copy of the standard membership agreement of the barter exchange network describing the responsibilities of the members and the administrator;
- (e) a statement from the applicant stating that it meets the definition of "administrator" of a barter exchange network in subsection 181.3(1); and
- (f) a statement from the applicant that certifies that the information given in the application, and any document attached, is true, correct and complete, signed by the administrator or an individual authorized to sign on behalf of the administrator.

Administrators should submit their requests for designation to: Director, Public Service Bodies and Governments, Excise and GST/HST Rulings Directorate, Legislative Policy and Regulatory Affairs Branch, Canada Revenue Agency, 14th Floor, Place de Ville, Tower A, 320 Queen Street, Ottawa, Ontario K1A 0L5.

The CRA shall notify the administrator in writing of the designation and its effective date. For more information please see *Excise and GST/HST News*, Fall 2003 - No. 50.

Subsection 238.1(2)

Application for Designation to Temporarily Cease Filing GST/HST returns

If you have tax collected, collectible, or other amounts that must be added to your net tax of \$1,000 or less in a particular reporting period, you may be eligible to apply to have that reporting period designated for purposes of not having to file a GST/HST return. Upon approval, you may then temporarily cease filing for that and all other requested designated reporting periods, provided you continue to meet the eligibility criteria. Registrants will occasionally find themselves in a position where they will have little or no tax collected/collectible, but may have input tax credits (ITCs) to claim. If you have applied to have designated reporting periods, you can accumulate your ITCs until such time as you resume regular filing of GST/HST returns or when a return must be filed because the cumulative tax collected/collectible has exceeded \$1,000 for the reporting period. Apply in writing to your tax services office providing you have met the following criteria:

- (a) you expect that the amount of GST/HST you will charge and other amounts that you must add to your net tax in a reporting period will be \$1,000 or less;
- (b) you have met all your payment, remittance and filing obligations with the CRA; and
- (c) you did not revoke a designation for reporting periods in the current fiscal year.

You cannot temporarily stop filing GST/HST returns if you are an annual filer or a branch or division of a registrant, unless the registrant as a whole applies for designated reporting periods. For more information see the guide RC4022, *General Information for GST/HST Registrants*.

Incentive trips

Under the Foreign Convention and Tour Incentive Program (FCTIP), a non-resident may claim a rebate in respect of the GST/HST paid on certain purchases made in connection with a foreign convention and on eligible tour packages. Usually, incentive trips that include business meetings would not be eligible for a FCTIP rebate. Registrant suppliers cannot pay or credit a rebate amount to a non-resident if the non-resident would not be eligible for a rebate.

An incentive trip that includes business meetings is usually not a convention. The definition of “convention” excludes a meeting or an assembly the principal purpose of which is to transact the business of the convenor or attendees. Therefore, incentive trips which have business meetings as their principal purpose would not qualify for a rebate for foreign conventions.

In addition, an incentive trip that is a single supply and that includes business meetings would not be an eligible tour package. As the purpose of the trip is to conduct or attend business meetings, it is not a tour package for GST/HST purposes and consequently, it cannot be an eligible tour package. For more information on eligible tour packages, see Info Sheet GI-044, *Foreign Convention and Tour Incentive Program – Tour Packages: What Is an Eligible Tour Package*.

It is always a question of fact whether any particular event or package would be a foreign convention or a tour package. If you are unsure as to whether an event or a package would qualify for a FCTIP rebate, please contact any GST/HST Rulings Centre.

Hunting and fishing packages, and taxidermy

Canadian outfitters selling hunting and fishing packages may want to inform their non-resident clients that they may qualify for a GST/HST rebate under the Foreign Convention and Tour Incentive Program (FCTIP). Non-resident hunters and anglers may qualify for this rebate if the hunting or fishing package they purchased is an eligible tour package.

An eligible tour package is a tour package that is sold for an all-inclusive price and that includes:

- short-term and/or camping accommodation in Canada; and
- at least one service.

To determine if a hunting or fishing package is an eligible tour package, each element of the package has to be examined. For example, an eligible tour package could be a hunting package sold for an all-inclusive price that includes short-term accommodation in a hunting camp in Canada, meals, and the services of a guide. The guide accompanies the hunters on their expedition, assists them in tracking game, and helps them get the game back to camp.

Other examples of services that may be included in hunting and fishing packages include:

- transportation services such as transportation by floatplane to and from the accommodation;
- game processing that may include skinning, cutting, wrapping, and packaging;
- fish processing that may include scaling, cutting, wrapping, and packaging.

Hunting or fishing packages may also include other elements that are not services. For example, housekeeping, baggage handling, and setting stands and baiting sites are not services. As well, fish cleaning when provided alone is not a service. Other elements, such as hunting and fishing licences, tags, and seals cannot form part of an eligible tour package as they are sold by a government. Their costs cannot be included in the price of a package when calculating any rebate amount.

As it may sometimes be difficult to determine whether an element of a hunting or fishing package is property, a service, or something else, the CRA has published GST/HST Info Sheet GI-046, *Foreign Convention and Tour Incentive Program - Hunting and Fishing Packages*. Using examples of property and services usually supplied by outfitters, the info sheet explains when hunting and fishing packages are eligible tour packages. It also provides important information for outfitters that pay or credit the rebate amount at the point of sale.

After a successful hunting or fishing expedition, non-resident hunters and anglers may purchase property and services from a taxidermist. GST/HST Info Sheet GI-047, *Taxidermy - Animal, Bird and Fish Mounts* explains how the GST/HST applies to property and services provided by taxidermists.

Purchases of new housing and the GST/HST transitional rebate

In keeping with the January 1, 2008 GST/HST rate reduction, home-buyers may be eligible for the 2008 GST/HST transitional rebate if they entered into an agreement to purchase new housing after May 2, 2006 and before October 31, 2007, where ownership and possession were transferred after December 31, 2007. In some circumstances, both the 2006 and 2008 transitional rebates may be available.

Generally, the GST/HST transitional rebate is available to a purchaser of new housing to account for the reduction in the GST/HST rate. In certain circumstances, where tax was paid at the rate of 6% or 14%, a 2008 GST/HST transitional rebate may be available to a purchaser to account for the 2008 rate reduction. The 2008 transitional rebate is available if you take ownership and possession of your new house after December 31, 2007,

you paid GST/HST at the rate of 6% or 14%, and you entered into the agreement of purchase and sale after May 2, 2006, and before October 31, 2007. Both the 2006 transitional rebate and the 2008 transitional rebate are available if you take ownership and possession of your new house after December 31, 2007, you paid GST/HST at the rate of 7% or 15% and you entered into the agreement of purchase and sale before May 3, 2006.

Any person, including an individual, a non-profit organization or a corporation, who purchases new housing in Canada, may be eligible to claim a GST/HST transitional rebate. If you are entitled to claim a transitional rebate, a builder cannot pay or credit an amount to you for this rebate. You have to send an application for the transitional rebate directly to the CRA and we will pay the rebate amount to you. To apply for the rebate, the purchaser must complete form GST193, *GST/HST Transitional Rebate Application for Purchasers of New Housing*, and file it with the CRA within two years after the day ownership of the house is transferred to you.

GST/HST Info Sheet GI-043, *The 2008 GST/HST Rate Reduction and Purchases of New Housing* provides more detailed information.

New eligibility criteria for the new residential rental property rebate

On June 18, 2008, Bill C-50 the *Budget Implementation Act, 2008* received Royal Assent and is now law (referred to as Statutes of Canada, 2008, c.28). As a result, the legislative changes affecting residential care facilities extend eligibility for the new residential rental property rebate (NRRP rebate) to builder-operators and purchasers of long-term residential care facilities such as nursing homes, and ensure that subsequent sales of such facilities are GST/HST exempt.

The new rules affect the conditions for claiming an NRRP rebate for long-term residential care facilities, head lease payments, and self-assessment rules for builder-operators of such facilities. Prior to February 27, 2008, builder-operators and purchasers of residential care facilities could only claim an NRRP rebate if the supply made to residents of the facility was that of residential units (i.e., long-term residential rentals). Under the new rules, builder-operators and purchasers of residential care facilities will be eligible to claim an NRRP rebate where they are supplying their residents with nursing and/or personal care services that include a residential unit, provided that all of the other conditions for claiming the rebate are met. Operators who filed NRRP rebate applications that were denied under the old rules may file a second rebate application on or before February 26, 2010, if they are now eligible under these amendments.

Under the new rules, builder-operators of residential care facilities who meet the new legislative requirements for claiming the NRRP rebate, but have not self-assessed tax on the facility on or before February 26, 2008, may be eligible to make an election to adjust their net tax and claim the rebate. To be eligible to make the election, a builder-operator must be eligible to claim the NRRP rebate and must not have sold the facility. The election can be made to adjust the net tax of a reporting period that ends on or before February 26, 2010.

More information is also available in GST/HST Info Sheet GI-045, *Residential Care Facilities and Proposed Changes in the 2008 Budget*.

Sale of goods on or off a reserve to Indians, Indian bands and band-empowered entities

GST/HST Technical Information Bulletin B-039, *GST/HST Administrative Policy – Application of the GST/HST to Indians* summarizes the CRA's policy concerning the treatment of goods supplied to Indians, Indian bands and band-empowered entities under the GST/HST.

For vendors selling goods to Indians, Indian bands and unincorporated band-empowered entities, tax relief applies when the goods are sold on or delivered to a reserve by the vendor or vendor's agent and the appropriate

documentation is provided. An incorporated band-empowered entity acquiring the goods for band management activities will also be eligible for tax relief.

For more information regarding the term “reserve” or what settlements are affected by remission orders and are treated as reserves, visit the CRA Web site at www.cra.gc.ca/aboriginalpeoples. Under the information for Aboriginal Peoples, select: *Access to forms and publications that Aboriginal Peoples may need*.

Where a vendor is unsure whether a tract of land qualifies as a reserve they may wish to check the Indian and Northern Affairs Canada Web site at www.ianc-inac.gc.ca under *Publications and Research: Community Profiles* which lists First Nations and their reserves.

Note: There are no special GST/HST provisions for vendors operating on a reserve even if the business is owned by an Indian or a band.

The regular GST/HST registration rules apply and vendors must collect the 5% GST or the 13% HST on all their sales of goods subject to the tax unless the purchases are made by Indian individuals or Indian bands that meet the conditions under B-039. For more information on registering for the GST/HST see RC4022, *General Information for GST/HST Registrants*.

Individuals claiming a GST/HST exemption

Vendors should be aware that a number of individuals are claiming exemptions and in some cases are presenting a card not recognized by the CRA in an attempt to avoid paying the GST/HST. Examples of invalid tax exemption cards include: Corporation Sole, Indigo Foundation of the Child, and International Humanity House cards. Such cards do not entitle individuals to exemption from the GST/HST. As well, a bill-of-sale from a previous transaction, showing that no tax was charged, does not lend any validity to a card such as those listed above.

The only individuals who can purchase taxable goods and services without paying the GST/HST are Indians who present a Certificate of Indian Status card that is issued by Indian and Northern Affairs Canada and who receive goods or services on a reserve. Please note however, that citizens of First Nations having a final or self-government agreement ending *Indian Act* tax relief while retaining their Certificate of Indian Status card are no longer entitled to tax relief. This set of circumstances is discussed in GST/HST Notice 238, *First Nations Having a Self-Government Agreement Ending Indian Act Tax Relief – Determining Tax Relief for Indian Members who are not Citizens*. As well, Métis individuals who present their Métis cards are not entitled to tax relief.

Please note that registrant vendors who do not collect the GST/HST from an individual falsely claiming to be exempt from the GST/HST must still remit the tax that should have been collected.

If you have questions about the GST/HST call the Business Enquiries line at 1-800-959-5525. For more information on tax myths visit the CRA Internet site at www.cra.gc.ca/myths. For more information about sales to Indians and the GST/HST, please consult GST/HST Technical Information Bulletin B-039, *GST/HST Administrative Policy: Application of GST/HST to Indians*.

Prescribed rates of interest

The prescribed annual rate of interest in effect from October 1, 2008 to December 30, 2008 on overdue amounts payable to the Minister is 7%. The prescribed annual rate of interest on amounts owed by the Minister (i.e., rebates or refunds) is 5%. These rates are applicable to income tax, excise tax, the softwood lumber products export charge, GST/HST and the air travellers security charge (ATSC). These rates are also applicable to excise duty (except excise duty on beer).

The prescribed annual rate of interest respecting excise duty on beer, on amounts payable for the indicated period, is set at 5%.

		Income Tax, Excise Tax, Softwood Lumber Products Export Charge, GST/HST and ATSC, Excise Duty (wine, spirits, tobacco)	Excise Duty (beer)
Period	Refund Interest	Arrears and Instalment Interest	Arrears Interest
2008			
October 1 – December 31	5%	7%	5%
July 1 – September 30	5%	7%	5%
April 1 – June 30	6%	8%	6%
January 1 – March 31	6%	8%	6%

Penalties

A failure to file penalty is charged on a return that is filed late with an unremitted or unpaid amount. This 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 these interest rates and penalties see GST/HST Info Sheet GI-024, *Harmonizing the Administrative Provisions Respecting Standardized Accounting*. Prescribed interest rates for previous years are available on the CRA Web site.

What's new in publications

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

GST/HST forms

GST370 *Employee and Partner GST/HST Rebate Application*

GST/HST info sheets

GI-044 *Foreign Convention and Tour Incentive Program – Tour Packages: What Is an Eligible Tour Package*

GST/HST notices

Notice143 *Application of GST/HST to Yukon First Nations and their Members*

Notice236 *Draft GST/HST Technical Information Bulletin on the ITC Allocation Methods for Financial Institutions – For Discussion Purposes Only*

Notice237 *Implementation of the Nisga'a First Nations Goods and Services Tax (FNGST)*

Notice 238 *First Nations Having a Self-Government Agreement Ending Indian Act Tax Relief – Determining Tax Relief for Indian Members who are not Citizens*

Excise duty notices

EDN22 *Excise Duty Returns and Refunds – Additional Instructions*

Excise duty forms

B268 *Notification of Fiscal Months*

B269	<i>Application or Revocation of the Authorization to File Separate Excise Duty Returns and Refund Applications for Branches or Divisions</i>
E110	<i>Description of Premises to Accompany Application for Licence</i>
E111	<i>Description for Vessels and Utensils</i>
E146	<i>Amended Plans and Specifications</i>
L1	<i>Application for Excise Duty Licence / Notice of Change of Name or Location</i>

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.

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.