

Table of Contents

100% GST rebate for municipalities.....	1
Driving services	2
Services supplied by auto auctioneers	2
Fraud case involving GST refunds	3
Whitecap Dakota First Nation Tax (Whitecap Dakota Community Improvement Fee).....	4
Services acquired off reserve by Indian bands and band-empowered entities.....	4
CRA and BC offer expanded business services.....	5
Rate reductions for the Air Travellers Security Charge (ATSC).....	5
Excise Rulings and Interpretations Service	6
What's new in publications.....	7
Prescribed rates of interest	7

100% GST rebate for municipalities

As noted in the spring edition of the *GST/HST News* (No. 52), the Minister of Finance, on February 3, 2004, confirmed that municipalities would be eligible for a 100% rebate of the GST and the federal portion of the HST. The 100% rebate applies to goods and services acquired by municipalities in respect of which the GST became payable on or after February 1, 2004. The municipalities that are eligible to claim the 100% rebate include:

- incorporated municipal bodies (e.g., cities, towns and villages),
- entities determined by the Minister of National Revenue to be municipalities (e.g., transit commissions and public libraries), and
- entities designated by the Minister of National Revenue to be municipalities in respect of their delivery of municipal services (e.g., some non-profit social housing corporations or cooperatives).

Further details on this rebate were announced in the Notice of Ways and Means Motion of March 9, 2004, and in the federal budget of March 23, 2004. After the federal budget, the *Budget Implementation Act, 2004* was introduced to give legislative effect to these proposals. This Act received Royal Assent on May 14, 2004.



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Canada Revenue
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Canada

Driving services

Drive-away companies arrange for the delivery of vehicles from one place to another by supplying a person to drive the vehicles between those places. These services are known as driving services and may be supplied in respect of vehicles moved domestically within Canada or internationally between Canada and the United States.

Driving services are not considered to be freight transportation services for GST/HST purposes. As a result, the supply of a driving service cannot be zero-rated pursuant to Part VII of Schedule VI to the *Excise Tax Act*. Supplies of driving services performed in whole or in part in Canada are subject to GST/HST at a rate of 7% or 15%.

Drive-away companies supplying driving services may also stack one or more vehicles on the deck of the vehicle being driven. The stacked vehicles are not necessarily owned by the person whose vehicle is being driven, and may be delivered to the same place as the vehicle being driven or to other places. The service of moving the stacked vehicles is referred to as decking and may qualify as a freight transportation service for GST/HST purposes, depending on the situation. For example, where a drive-away company moves a vehicle with a stacked vehicle from a place in Canada to a place outside Canada, and the driving and decking services are supplied to different persons, the supply of the decking service may qualify as a freight transportation service. The supply of the freight transportation service will be zero-rated for GST/HST purposes where the value of the consideration for the supply is \$5 or more. If you have any questions regarding whether a particular decking service qualifies as a freight transportation service, contact your nearest CRA tax services office.

Finally, some drive-away companies supplying driving services will tow another vehicle behind the vehicle being driven. Typically, the driver uses the towed vehicle for his or her personal transportation once the vehicle being driven is delivered to its destination. In these circumstances, the drive-away company is not considered to be making a supply of towing that second vehicle to a recipient.

For more information on freight transportation services and towing, refer to GST/HST Memorandum 28.2, *Freight Transportation Services* (<http://www.cra.gc.ca/E/pub/gm/28-2r/README.html>).

Services supplied by auto auctioneers

The Fall 2003 *GST/HST News* (No. 50) contained an article about supplies by auctioneers. The article outlined two conditions for determining whether services supplied by an auctioneer to a principal relate to the supply of tangible personal property to the recipient. Generally, an auctioneer is not required to collect the GST/HST on services supplied to a principal that relate to the supply of the tangible personal property to the recipient.

The following are examples of services supplied by an auto auctioneer to the principal that are considered to relate to the supply of the tangible personal property to the recipient. Generally, supplies of these services are not subject to the GST/HST:

- decal removal;
- engine cleaning, wax and polish, and steam cleaning;
- maintaining customer profile or account information;
- removal and transportation of vehicles from the principal's premises to the auctioneer's premises;
- standardized sales and financial reports;
- towing vehicles through the sale lane where the vehicles do not have the power to be driven;

- valuation and price estimating services; and
- washing and vacuuming.

However, an auctioneer and a principal may jointly elect for the principal to account for tax on the supply of motor vehicles designed for highway use (e.g., cars, vans, trucks) in which case the auctioneer is required to collect the GST/HST on the above-related services.

Fraud case involving GST refunds

A recent CRA investigation uncovered a fraudulent GST refund scheme involving ten registrants who purported to be in the trucking business. The investigation revealed that, in all cases except one, there was no business activity and therefore no entitlement to any GST refunds. Correspondence, GST/HST returns, invoices, a typewriter, and a computer and floppy disks were used for forensic analysis and evidence for the prosecution in a subsequent trial.

As a result of the trial, one person was found guilty of 37 counts of filing fraudulent GST/HST returns and 26 counts of receiving false refunds to which the person was not entitled. This person was sentenced to five years in jail and was fined over \$147,000. A co-accused person was found guilty of eight counts of filing fraudulent GST/HST returns, four counts of receiving false refunds and six counts of being a party to three other persons wilfully obtaining false refunds. This person was fined over \$18,000. A trucking company of which the first person was sole shareholder and director was found guilty of one count of filing a fraudulent GST/HST return and was fined over \$14,000.

In addition to the above sentences, there were two earlier convictions in the same case. One person pleaded guilty to two counts of wilfully obtaining false refunds and two counts of being a party to another accused wilfully obtaining false refunds. This person was fined over \$8,000. Another person pleaded guilty to one count of wilfully obtaining a false refund. This person was sentenced to 30 days in jail and was fined over \$7,000.

When individuals or corporations are convicted of GST fraud, in addition to any fines and jail terms imposed by the courts, they are still obligated to repay the GST/HST amount that they fraudulently obtained, plus interest, as well as any civil penalties that may be assessed by the CRA. The same applies for convictions that relate to excise taxes or duties.

Individuals or corporations that have not filed returns for previous years, that have not reported all of their income, GST/HST collected or collectible or excise taxes or duties, or that have claimed refunds on a fraudulent basis can still voluntarily correct their tax affairs. They will not be penalized or prosecuted if they make a full disclosure before the CRA starts any action or investigation against them, but will only have to pay the taxes owing, plus interest. To take advantage of the voluntary disclosure policy, visit the CRA web site at http://www.cra-arc.gc.ca/agency/programs_services/disagree/fairness-e.html for more information.

Whitecap Dakota First Nation Tax (Whitecap Dakota Community Improvement Fee)

Under the authority provided by Part 4 of the *Budget Implementation Act, 2000*, the Council of the Whitecap Dakota First Nation has passed a by-law that imposes a 7% tax on tobacco products, fuel and alcoholic beverages sold on the Whitecap Dakota reserve in Saskatchewan, effective June 1, 2004. This tax is called the Whitecap Dakota Community Improvement Fee. The GST is not levied on supplies where the Whitecap Dakota Community Improvement Fee applies, ensuring that a single 7% tax is applicable. The CRA administers this tax on behalf of the Whitecap Dakota First Nation.

The Whitecap Dakota First Nation Tax (FNT) is similar to the Shuswap FNT, Tzeachten FNT, Westbank FNT, Kamloops FNT, Sliammon FNT, Chemainus FNT, Buffalo Point FNT, Adams Lake FNT and the Cowichan Tribes FNT that are currently in place.

The publication, *First Nations Tax (FNT)*, provides more details about these First Nations taxes, including the definition of the products subject to FNT. The publication is available from any CRA tax services office and on the CRA web site at <http://www.cra-adrc.gc.ca/E/pub/gp/rc4072/README.html>. If you need more information about FNT, please call Business Enquiries at 1-800-959-5525.

Services acquired off reserve by Indian bands and band-empowered entities

Technical Information Bulletin B-039R, *GST Administrative Policy - Application of GST to Indians*, states that services acquired on or off reserve by a band or a band-empowered entity (BEE) for band-management activities or for real property on reserve are not subject to the GST/HST. These services may be acquired on or off reserve by a band or a BEE tax relieved at the time of purchase provided the other conditions for relief under Technical Information Bulletin B-039R have been met. The phrase “for band-management activities or for real property on reserve” is read as one. Therefore, services acquired for real property off reserve cannot be acquired tax relieved nor can a rebate be filed for the tax paid. For example, construction services acquired by a band to build a friendship centre off reserve would be subject to the GST/HST.

With respect to purchases of transportation, entertainment, short-term accommodation, and meals (referred to as “eligible travel expenses”) acquired off reserve by a band or a BEE, the GST/HST applies at the time of acquisition. So, tax is always payable on supplies of eligible travel expenses acquired off reserve by a band or a BEE. However, a band or a BEE may apply for a rebate. The rebate may be claimed under code 8 of the *General Application for Rebate of GST/HST* (form GST189) to recover the GST/HST paid on eligible travel expenses acquired off reserve if they are for band-management activities or for real property on reserve.

The CRA’s administrative position is to treat a band or a BEE as the recipient that paid tax in order to claim a code 8 rebate where the band or BEE reimburses or pays a reasonable allowance to their employees or band officials for eligible travel expenses incurred on behalf of the band or BEE for band management activities or for real property on reserve.

Off-reserve travel expenditures and other expenses to attend medical appointments are normally considered personal expenditures of the patient or guardian when they pay for them. Generally, the costs associated with travel for personal medical appointments are reimbursed to the patient or guardian directly by Health Canada or by the First Nation who has a contribution agreement with Health Canada.

Even if a band reimburses the patient or guardian, or pays an allowance, the GST/HST portion of the payment will not qualify for the code 8 rebate because the band has not acquired the services.

The code 8 rebate is intended to cover the GST/HST on services for eligible travel expenses incurred by a band or BEE where band employees or officials travel off reserve for band management activities.

Following the regular GST/HST rules, the rental of a meeting or conference room is defined as a supply of real property. However, for purposes of Technical Information Bulletin B-039R, the short-term rental of a meeting or conference room off reserve will be treated the same as a supply of short-term accommodation (e.g., hotel room). This means that a code 8 rebate will be available to bands and BEEs for the short-term rental of a meeting or conference room acquired off reserve for band-management activities where the remaining conditions under Technical Information Bulletin B-039R have been met.

GST/HST general rebate claims for bands and band-empowered entities must be filed within two years of paying the tax in accordance with subsection 261(3) of the *Excise Tax Act*.

CRA and BC offer expanded business services

British Columbia (BC) has adopted the CRA's Business Number (BN) to identify its business accounts. It is now possible for businesses to register for their BC Hotel Room Tax, Social Service Tax, or Workers' Compensation Board of BC accounts via the CRA's Business Registration On-line (BRO) Internet site at <http://www.businessregistration-inscriptionentreprise.gc.ca>

After completing CRA registrations, businesses can transfer to BC's OneStop Internet site for BC registrations. With their consent, basic information such as business name or address keyed into the BRO system will be copied automatically into the appropriate area of the OneStop site.

BC's newly redesigned OneStop Business Services Internet site at www.onestopbc.ca works the same way. It provides a new channel for obtaining information relating to the four major CRA business programs (GST/HST, payroll deductions, corporate income tax account and import/export) without the necessity of re-keying tombstone information. In addition, the BC OneStop site offers a wide range of provincial and municipal registrations as well as a service that allows users to notify simultaneously federal, provincial and municipal organizations of changes of business address and closures.

Rate reductions for the Air Travellers Security Charge (ATSC)

As announced by the Minister of Finance in the Budget tabled on March 23, 2004, the new reduced rates for the ATSC are as follows:

- For domestic air travel acquired in Canada, where the GST/HST applies at the rate of 7% or 15% for the air transportation service, the ATSC is \$5.61 for each chargeable emplanement to a maximum of \$11.22. Where the GST/HST does not apply, the ATSC is \$6 for each chargeable emplanement to a maximum of \$12.
- For air travel to a destination outside Canada but within the continental zone (i.e., Canada, the United States except Hawaii and the Islands of St. Pierre and Miquelon), where the GST/HST applies at the rate of 7% or 15%, the ATSC is \$9.35 for each chargeable emplanement to a maximum of \$18.69. Where the GST/HST does not apply, the ATSC is \$10 for each chargeable emplanement to a maximum of \$20.

- For air travel to destinations outside the continental zone, the ATSC is \$20 where there is a chargeable emplanement.

These reduced ATSC rates apply to air travel purchased on or after April 1, 2004, that includes a chargeable emplanement on or after April 1, 2004. There will be no refunds for the ATSC amounts paid before April 1, 2004, even if the air travel takes place on or after April 1, 2004.

For any questions about these new rate reductions, contact one of the following CRA offices:

Excise and Other Levies Unit at the Summerside Tax Centre

Individuals in Canada or the United States may call toll-free at (877) 432-5472. Individuals outside these countries may call (902) 432-5472. Service is available in both English and French.

Montreal tax services office

1-800-877-9277

Toronto West tax services office

(905) 277-6475

Burnaby-Fraser tax services office

(604) 587-2611

Excise Rulings and Interpretations Service

Excise tax licensees, excise duty licensees and registrants, and other interested parties may request a ruling or interpretation on how excise duties, excise taxes, the tax on insurance premiums or the air travellers security charge applies to their operations or transactions in which they are involved. The purpose of the Excise Rulings and Interpretations Service is to help clients (e.g., excise tax licensees, excise duty licensees and registrants, and other interested parties) comply voluntarily with the law by giving them as much certainty as possible about how the relevant provisions of the applicable legislation apply to their transactions or proposed transactions. This service is available free of charge. For more information on obtaining a ruling or an interpretation, please call,

- for excise taxes and the tax on insurance premiums, 1-866-330-3304,
- for excise duty, one of the Regional Excise Duty offices listed in Excise Duty Memorandum 1.1.2, *Regional Excise Duty Offices* (<http://www.cra-arc.gc.ca/E/pub/em/edm1-1-2/README.html>),
- for the air travellers security charge, one of the telephone numbers listed in the article “Rate reductions for the Air Travellers Security Charge (ATSC)”.

What's new in publications

GST/HST Memoranda Series

Memorandum 17.2.3 *Products and Services of Life and Health Insurance Companies*

GST/HST Forms

Form GST531 *Return for Self-Assessment of the First Nations Goods and Services Tax (FNGST)*

GST/HST Policy Statements

Policy statement P-077R2 *Single and Multiple Supplies*

Policy statement P-243 *Section 232.1 – Promotional Allowances*

Excise Duty Memoranda Series

Memorandum 1.1.6 *Formulation Approval Process*

Memorandum 3.4.1 *Losses of Spirits*

Memorandum 4.4.1 *Losses of Wines*

Memorandum 4.1.2 *Small Producers of Wine*

Current [GST/HST](#), [Excise Duty](#) and [Excise Taxes and Special Levies](#) publications can be found on the Internet on the CRA web site.

Prescribed rates of interest

The prescribed annual rate of interest in effect from July 1, 2004, to September 30, 2004, with respect to the GST/HST and the air travellers security charge (ATSC) is set at 2.3870% commencing July 1, 2004. Interest and penalty compound daily.

The prescribed annual rate of interest on 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 6%. The prescribed interest rate on amounts owed by the Minister (i.e., refunds) is established at 4%. These rates compound daily.

The prescribed annual rate of interest respecting excise duty on beer accounts is set at 4% commencing July 1, 2004. Penalty compounds monthly and interest compounds daily.

Prescribed interest rates are adjusted every calendar quarter. The [rates of interest](#) for previous periods are available on the CRA web site.

Period	GST/HST ATSC		Income Tax, Excise Tax, Excise Duty (wine, spirits, tobacco)		Excise Duty (beer)	
	Interest	Penalty	Refund Interest	Arrears and Instalment Interest	Interest	Penalty
2004						
January 1 – March 31	2.4132 %	6.0 %	5.0 %	7.0 %	5.0 %	6.0 %
April 1 – June 30	2.4132 %	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 %

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 the Province of Québec, please call the following toll-free number:
1-800-567-4692 (Ministère du Revenu du Québec)

The *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, *GST/HST News*, Policy and Planning Branch, CRA, Ottawa, Ontario K1A 0L5. ISSN 1183-689X