

GST/HST News #42

Fall 2001

Standard Disclaimer

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 Customs and Revenue Agency (CCRA) 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 Legislation Branch, CCRA, Ottawa, Ontario K1A 0L5.
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Bills C-13 and C-26 Receive Royal Assent

Bills C-13 and C-26 received Royal Assent on June 14, 2001 and are now law.

Bill C-13 enacts measures relating mainly to the GST/HST, including initiatives announced in the February 28, 2000 federal budget and the October 4, 2000, Department of Finance Press Release. Included are measures relating to the Export Distribution Centre Program, the New Residential Rental Property Rebate, vocational training, electronic filing of GST/HST returns, non-residents and cross-border transactions. The Winter 2000-2001 edition of the *GST/HST News* (#39) discusses these amendments in more detail at: <http://www.ccra-adrc.gc.ca/E/pub/gr/news39em/news39-e.html>

Bill C-26 enacts tobacco tax measures announced in the February 2000 federal budget and the April 5, 2001 Department of Finance press release.

Tax Myth - Individual GST/HST Exemptions

Myth

Individuals have a right or a moral obligation not to pay GST/HST and some carry a card to “prove” their claim.

The Facts

GST/HST legislation does **not** provide relief for **any** individual except for an Indian, as defined in the Indian Act, who acquires goods or services on a reserve.

GST/HST registrants are reminded that they must account for the GST/HST collectible on all taxable transactions. **The tax must be accounted for and any positive amount of net tax must be remitted even if the tax was not collected from a purchaser who falsely claimed an exemption.**

If you have questions about Canada’s tax laws, please call 1-800-959-5525, or for more information on tax myths, visit our program site at: www.ccra-adrc.gc.ca/myths

Allowances paid to employees for the use of a motor vehicle for employment purposes

Starting January 1, 2001, where an allowance that is paid by an employer is a combination of a flat-rate and a reasonable per-kilometre rate that covers the same use for the vehicle, the total combined allowance must be included in the employee's income for income tax purposes. For more information, employers may refer to the *Employers' Guide: Taxable Benefits 2000-2001 (T4130)* at: <http://www.ccra-adrc.gc.ca/E/pub/tg/t4130eq/t4130eq.html>

As a result of this change, for GST/HST purposes, as of January 1, 2001, a person cannot claim an ITC or a rebate for such combined allowances paid to their employees, paid to partners where the person is a partnership, or paid to volunteers where the person is a charity or public institution. In such cases, an employee or partner may be able to deduct certain motor vehicle expenses for income tax purposes and therefore, may be entitled to claim the Employee and Partner GST/HST Rebate.

Policy P-113, *Claiming a GST Rebate for Automobile Expenses where an Individual has Received a Reasonable Allowance* will be amended to reflect this change. It can be found at: <http://www.ccra-adrc.gc.ca/E/pub/gl/p-113em/README.html>

Reminder for Builders Filing GST/HST New Housing Rebates

If you are a qualified builder, you may pay or credit new housing rebates to eligible purchasers when you receive a signed form GST 190(E), *GST/HST New Housing Rebate Application* from your purchaser/client.

If you pay or credit rebates to eligible purchasers and submit their rebate applications to the CCRA, you can claim corresponding deductions **on line 107 of your GST/HST return** when you calculate your net tax for the reporting period in which you pay or credit the rebates.

You must file the signed and properly completed rebate applications together with the regular GST/HST return for the reporting period in which you pay or credit the rebates. Otherwise, we may disallow the deduction and apply penalty and interest on the difference between the net tax owing and the net tax actually remitted.

For more information on the GST/HST New Housing Rebate please refer to the guide RC4028, *GST/HST New Housing Rebate* at: <http://www.ccra-adrc.gc.ca/E/pub/gp/rc4028eq/rc4028eq.html>

New Residential Rental Property Rebate

If you are a GST/HST registrant qualifying for the New Residential Rental Property Rebate you may be entitled to claim this rebate directly on your GST/HST return. The rebate can be claimed as a deduction **on line 111 of the GST/HST return**. In order to claim this deduction, the completed GST/HST New Residential Rental Property Rebate Application form and supplement form (if applicable) which support the rebate claim, must accompany the return.

For more information please refer to the guide RC4231, *GST/HST New Residential Rental Property Rebate*. To apply for the rebate, use forms GST524, *New Residential Rental Property Rebate Application*, and where required, GST525, *Supplement to the New Residential Rental Property Rebate Application – Multiple Units*. The guide and forms are available on the CCRA Internet site at: <http://www.ccra-adrc.gc.ca/E/pub/gp/rc4231eq/README.html>

Self-supply Rules for Residential Complex Builders

Builders who rent or occupy a residential property which they have constructed, must generally pay the GST/HST on the fair market value of the residential property.

Builders

For purposes of the *Excise Tax Act*, a builder is generally a person who is in the business of constructing or substantially renovating housing on land owned or leased by that person. A builder also includes a supplier of a previously unoccupied mobile home or floating home, a person who acquires an interest in unoccupied new housing for resale purposes, or for certain lease purposes, or a person who acquires an interest in a residential complex while it is under construction or substantial renovation. An individual is not considered to be a builder based on any of the foregoing unless their actions are done in the course of a business or an adventure or concern in the nature of trade.

Self-supply Rules

The purpose of the self-supply rules is to remove a potential tax advantage to a person constructing or substantially renovating a residential complex, compared to a person purchasing the complex in a completed state from a builder. The self-supply rules ensure that the value added to the complex is subject to the GST (or HST, if the complex is situated in a participating province, i.e., Nova Scotia, New Brunswick, or Newfoundland). If a builder has paid GST/HST under these self-supply rules, any subsequent resale of the complex is generally exempt.

"Self-supply" means that the builder of the residential complex is deemed to have sold and repurchased the complex. The deemed sale triggers a liability for tax. The result is that the builder is required to account for and remit the GST/HST on the fair market value of the complex at the time of self-supply.

A builder who is registered for the GST/HST will generally be entitled to claim full input tax credits on costs incurred relating to the construction of the complex. If the builder is not a registrant, a rebate of GST or HST related to the acquisition of the land and improvements to the land (e.g., construction services and building materials) may be claimed once the self-supply has occurred.

Self-supply rules apply where a builder:

- constructs or substantially renovates a residential complex that is subsequently leased as a place of residence before being sold (e.g., rented); or
- constructs or substantially renovates a residential building that is situated on leased land, where the builder is selling the building and leasing the land to the purchaser, or selling the building and assigning the leasehold interest in the underlying land to the purchaser.

The following builders are generally *excluded* from the application of the self-supply rules:

- individuals who occupy a residential complex primarily as their place of residence (provided that they have not used the complex primarily for any other purpose and that they have not claimed any input tax credits in respect of acquisition of, or improvements to the complex);
- universities, public colleges and school authorities in respect of the construction of student residences;
- certain religious communal organizations; and
- registrants who construct residential complexes at remote work sites for individuals (or persons related to those individuals) who are employees or contractors (including the contractor's subcontractors) of the registrant, if the registrant elects not to have the rules apply.

Special rules also apply to certain builders who receive government funding.

For more information on this topic please refer to the GST/HST guide RC4052(e), *GST/HST Information for the Construction Industry* at:
<http://www.ccra-adrc.gc.ca/E/pub/gp/rc4052eq/rc4052eq.html>

Multi-Employer Pension Plan Trust Rebate

The Form GST521, *GST/HST Multi Employer Pension Plan Trust Rebate Application* is now available on the CCRA Internet site at:
<http://www.ccra-adrc.gc.ca/E/pbg/gf/gst521eq/README.html>

The *Excise Tax Act* provides for a rebate to a trust governed by a multi-employer pension plan. The rebate is in respect of property and services that are acquired, imported or brought into an HST-participating province for consumption, use or supply in relation to the plan.

The rebate is intended to place trustee multi-employer pension plans on a comparable footing with registered plans of a single employer with respect to the overall amount of tax borne on expenses relating to the plan.

The rebate is equal to 33% of the otherwise unrecoverable tax incurred by the trust in respect of expenses relating to the pension plan. To qualify, the plan has to be registered for income tax purposes and satisfy the definition of “multi-employer plan” in the *Income Tax Regulations*. Plans in which 10% or more of the employer contributions were made or expected to be made by listed financial institutions such as banks, trust companies and insurance companies, are not eligible.

Filing Deadline

The rebate applies to GST/HST that becomes payable by a trust after 1998. The trust will have up to two years from October 20, 2000, or two years after the end of the claim period in which the tax became payable, to file an application for the rebate.

Should you wish to find out more on the Multi-Employer Pension Plan Trust Rebate contact our Business Enquiries line at 1-800-959-5525.

Specially Equipped Motor Vehicle Rebate

Form GST518, *Specially Equipped Motor Vehicle Rebate Application* is now available on the CCRA Internet site at: <http://www.ccra-adrc.gc.ca/E/pbg/gf/gst518eq/README.html>

The purchaser of a specially equipped motor vehicle may be entitled to this rebate. This rebate allows a GST/HST registrant supplier to pay or credit the purchaser the amount of the rebate directly to the purchaser, eliminating the requirement for the purchaser to pay the GST/HST attributable to the vehicle’s special features or adaptations at the point of sale and then apply for a rebate at a later date.

A partial rebate of the 7% GST, the 8% provincial component of the HST, or the 15% HST may be claimed on the purchase of specially-equipped motor vehicles that are used by or to transport individuals using wheelchairs without having to collapse the wheelchair, and vehicles equipped with auxiliary driving controls for individuals with disabilities (referred to as qualifying vehicles). The rebate applies to new vehicles and used vehicles which have not been used since being specially equipped, as well as the purchase of a qualifying motor vehicle by the first lessee upon the exercise of an option under that lease. The tax relief applies only to the portion of the purchase price of the vehicle that can reasonably be attributed to its special features, not to the vehicle itself. The portion of the purchase price of the vehicle related to the vehicle’s special features must be certified in writing by the supplier.

For more information on the Specially-Equipped Motor Vehicle Rebate, please refer to the GST/HST Technical Interpretation Bulletin B-086, *Rebate for Specially-Equipped Vehicles for Persons with Disabilities* at: <http://www.ccra-adrc.gc.ca/E/pub/gm/b-086em/b-086-e.html> or contact the Business Enquiries Line at 1-800-959-5525.

Tzeachten First Nation Tax

Following recent legislation, the Council of the Tzeachten First Nation has passed a by-law that imposes a 7% tax on the supply of tobacco products, fuel, and alcoholic beverages sold on the Tzeachten First Nation reserve in British Columbia. The Council of the Tzeachten First Nation has approved this tax as the Tzeachten Sales Tax. The effective date of the tax was July 1, 2001. The CCRA is administering this tax on behalf of the Tzeachten First Nation.

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

Please refer to the publication RC4072 Rev. 01, *First Nations Tax (FNT)* <http://www.ccradrc.gc.ca/E/pub/cp/rc4072eq/rc4072eq.html> which provides more details about these First Nations Taxes, including the definition of the products subject to FNT. Please note that this publication will be updated to reflect the above noted changes. The publication is available from any CCRA tax services office. If you need more information about FNT, please call Business Enquiries at 1-800-959-5525.

Long-term Care Facilities

Long-term care facilities, such as nursing homes and residential care facilities, are not eligible for the hospital authority GST/HST rebate at the rate of 83%.

However, a long-term care facility operated by either a hospital authority, a charity, or a non-profit organization without certification as a public hospital, may qualify for a rebate as a non-profit organization or charity at the rate of 50%. For example, if a hospital authority operates a hospital *and* a nursing home, the hospital authority may claim a rebate at the rate of 50% for any goods or services purchased for the operation of the nursing home.

To claim a rebate at the rate of 50% a long-term care facility must be registered as a charity for income tax purposes, be a non-profit organization, receiving at least 40% government funding, or be a non-profit organization operating a health care facility for the purpose of providing intermediate care service or residential care service to individuals with limited physical or mental capacity for self-supervision and self-care.

A facility is considered to be operated for the purpose of providing intermediate care service if it provides residents of the facility with:

- meals and accommodation,
- nursing and personal care under the direction or supervision of qualified medical and nursing staff, and
- assistance with the activities of daily living and social, recreational and other related services to meet the psycho-social needs of residents.

Similarly, a facility is considered to be operated for the purpose of providing residential care service if it provides residents with

- meals and accommodation,
- personal and supervisory care according to the residents' requirements, and
- assistance with the activities of daily living and social, recreational and other related services to meet the psycho-social needs of residents.

Designated Hospital Authority

An organization may be designated as a hospital authority if it operates a public hospital. A facility is a public hospital for GST/HST purposes where it is:

- recognized as a public hospital by the government of the province in which it is located;
- established and operated otherwise than for profit;
- operated for the medical or surgical treatment of the sick or injured; and
- provides and maintains in-patient beds and services.

Only an organization designated as a hospital authority is entitled to a claim rebate of 83% of the GST/HST paid on property and services acquired by it for use in the operation of a public hospital facility.

When a facility no longer meets all four of the requisite criteria to be considered a public hospital, the facility is no longer considered to be a public hospital at that time. The hospital authority would therefore no longer be entitled to claim a GST/HST rebate at the 83% rate for this facility from the day the facility no longer qualified as a public hospital.

The hospital authority designation may not permit an organization to claim an 83% GST/HST rebate for the tax it incurred for all of its activities. For example, if a designated hospital authority also operates a long-term care facility such as a nursing home, the authority cannot claim the GST/HST rebate at the rate of 83% for purchases acquired for use in the operation of the long-term care facility as this facility does not satisfy all four criteria noted above. However, in these circumstances, the hospital authority may be entitled to a rebate at the rate of 50%.

For information on claiming a rebate at the rate of 50% for a long-term care facility, please refer to the previous article “*Long-term Care Facilities*” in this edition of the newsletter.

An organization must apply in writing to the CCRA for a designation and must provide acceptable evidence to support each of the criteria. When the operation of a public hospital is transferred to a new organization, the new operator of the facility must apply for designation as a hospital authority for purposes of the GST/HST. The designation of the previous operator does not carry over to the new operator.

For more information please refer to GST/HST Memorandum 25.2, *Designation of Hospital Authorities* at: <http://www.ccra-adrc.gc.ca/menu/EmenuKSZ.html> , or for information regarding rebates and public service bodies please see GST/HST Guide RC4034, *GST/HST Public Service Bodies' Rebate* at: <http://www.ccra-adrc.gc.ca/E/pub/gp/rc4034eq/rc4034eq.html>

Tangible Personal Property Delivered Outside Canada

A supply of tangible personal property made by a supplier to a recipient is zero-rated if the supplier delivers the property to a common carrier under certain conditions or mails the property for export and delivery to a place outside Canada.

For example, a car dealer in Winnipeg, Manitoba can arrange for, or take part in, the shipping of an automobile (sold in Winnipeg) to any place outside Canada such as the United States or Europe. For the transaction to be zero-rated, the car must be shipped directly from the supplier to a place outside Canada.

The dealer who supplies a vehicle to a recipient in Canada and zero-rates that supply must arrange for the delivery of the vehicle to a common carrier who will deliver the vehicle to a destination outside Canada. A common carrier generally refers to a person engaged in the business of transporting property from place to place for compensation, and who offers services to the public.

Possession of the vehicle must pass from the dealer to the carrier for direct shipment outside Canada. The dealer must maintain sufficient evidence (bill of lading, customs documentation for the country of destination, etc.) that the property has been sent outside of Canada.

For an outline of the export documentation which would be acceptable to the CCRA as proof that the property has been exported, please see GST/HST Memoranda 4.5.2, *Exports – Tangible Personal Property* at: <http://www.ccra-adrc.gc.ca/E/pub/gm/4-5-2em/README.html>

Visitor Rebate Program and Quebec Sales Tax (QST) – Reminder

The province of Quebec will no longer offer a provincial tax rebate to non-resident visitors to Canada for QST paid on accommodation purchased on or after November 1, 2001. Claimants who purchased accommodation and paid QST prior to this date have one year from the date of purchase to apply for their rebate.

For more information please see the article in the Winter 2000 edition of the *GST/HST News* #39 at this address: <http://www.ccra-adrc.gc.ca/E/pub/gr/news39em/news39-e.html>

For information on how GST/HST applies to tourism, conventions, and the Visitor Rebate Program:

- access the Visitor Rebate Program web page on the CCRA Internet site at www.ccra-adrc.gc.ca/visitors;
- refer to the CCRA booklet, RC4031 *Tax Refund for Visitors to Canada*, available from any tax services office or the Visitor Rebate Program Internet site;
- write to: Visitor Rebate Program, Summerside Tax Centre, Summerside PEI, C1N 6C6; or
- e-mail your questions to the Visitor Rebate Program at visitors@ccra-adrc.gc.ca.

Excise Duty Corner

The *Excise Act* imposes excise duties on spirits, beer and tobacco products when manufactured in Canada and includes extensive control provisions relating to their production and distribution. Our clients include distillers, brewers, the tobacco industry and many other companies dealing with excisable goods.

Regional Duty Operations offices located in Halifax, Quebec, Montreal, Ottawa, Toronto, Calgary and Vancouver. Regional Excise Duty Officers deliver the full Excise Duty Program including licensing and audit and ensure business clients understand their entitlements and obligations. The assessing function for the program has been consolidated within the Summerside Tax Centre. The Summerside Tax Centre is responsible for the issuance and assessing of returns and the allocation of funds received from clients

Excise Duty Operations is progressive in developing program delivery options in response to industry needs and new technologies. Consistent with this approach, the *Excise Act* is currently the subject of a comprehensive review undertaken jointly by the Department of Finance and the CCRA. The mandate of the Excise Act Review is:

- to provide a modern legislative framework for delivery of a simpler and more certain administrative function that recognizes current industry practices;
- to facilitate greater efficiency and fairness for all parties, leading to reduced administrative and compliance costs; and
- to ensure the continued protection of federal excise revenues.

Following the release of legislative proposals and draft regulations for a new framework for the taxation of spirits, wine and tobacco products in 1999, extensive consultations were held with industry associations and members, provincial liquor boards, federal and provincial enforcement agencies and other stakeholders. On the basis of these consultations, proposed legislation to implement a new *Excise Act* is currently being finalized for tabling in Parliament.

What's new in publications

GST/HST Guides

RC4231	GST/HST New Residential Rental Property Rebate
GST524	GST/HST New Residential Rental Property Rebate Application
GST525	Supplement to the New Residential Rental Property Rebate Application - Multiple Units

Current publications can be found on the CCRA Internet site at the following address: www.cca-adrc.gc.ca/tax/business/gsthst/menu-e.html for guides, pamphlets, forms, and the *GST/HST News*, or at www.cca-adrc.gc.ca/menu/EmenuKZW.html for GST/HST Memoranda, Technical Information Bulletins, Policy Papers and Notices.

Prescribed rates of interest

GST/HST interest and penalty compound daily. Income tax interest also compounds daily. For excise duty, penalty compounds monthly, and interest compounds daily. For excise tax, penalties and interest are calculated monthly for each month or part-month in which a balance remains. The total amount payable is based on the total tax, penalties, and interest outstanding. Prescribed interest rates are adjusted every calendar quarter.

These rates of interest are also available on the CCRA Internet site at:

<http://www.ccra-adrc.gc.ca/E/pub/gi/priereq/prier-e.html>

	GST/HST, Excise Tax (annualized rates)		Excise Duty (annual rates)		Income Tax (annual rates)	
	Interest % *	Penalty %	Interest %	Penalty %	Refund Interest %	Arrears and Instalment Interest %
2001						
January 1 - March 31	6.0833	6.0	8.0	6.0	8.0	10.0
April 1 - June 30	4.8132	6.0	8.0	6.0	8.0	10.0
July 1 - September 30	4.7609	6.0	8.0	6.0	7.0	9.0
October 1 – December 31	4.7609	6.0	7.0	6.0	7.0	9.0

* To calculate interest for GST/HST purposes only, divide the adjusted annual interest rate by 365 and apply it daily.

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