

GST/HST Info Sheet

Exports of Intangible Personal Property

April 2007

This info sheet explains the application of a new GST/HST provision proposed in Budget 2007 that will zero-rate supplies of intangible personal property (IPP) made to non-registered non-residents.

Zero-rating under the proposed provision will apply to eligible supplies of IPP made after March 19, 2007, and to eligible supplies of IPP made on or before March 19, 2007, in respect of which GST/HST was neither charged nor collected.

In this publication, “geo-location software” means software that can be used by persons who make supplies by electronic means over the Internet to determine the geographic location of their customers. The software makes this determination based on a comparison of the Internet Protocol (IP) addresses of the customers to various information sources such as databases of geographically known IP addresses.

An “IP address” is a unique number used to identify a device (such as a computer) connected to the Internet to other devices connected to the Internet.

This info sheet reflects a proposed amendment to the *Excise Tax Act* (the Act) announced by the Minister of Finance in the Budget of March 19, 2007. Any commentary in this info sheet should not be taken as a statement by the Canada Revenue Agency (CRA) that the amendment will be enacted in its current form.

Background

Taxable (other than zero-rated) supplies made in Canada are subject to GST at a rate of 6%, or HST at a rate of 14% if they are made in the participating provinces of Nova Scotia, New Brunswick, and Newfoundland and Labrador. A “zero-rated supply” is a taxable supply that is subject to GST/HST at a rate of 0%.

Supplies of IPP that may not be used in Canada are considered to be made outside Canada and are therefore not subject to the GST/HST. Also, supplies of intellectual property (such as a patent or trademark) and rights to use such property are zero-rated if they are made to non-registered non-residents.

Technological change, such as the widespread use of the Internet, has greatly increased the variety and economic significance of products that can be supplied in intangible form.

New zero-rating rule for exported IPP

The proposed provision will zero-rate all supplies of IPP made to persons who are non-registered non-residents when the supplies are made, except for the following supplies:

- a supply made to an individual unless the individual is outside Canada when the supply is made;

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- a supply of IPP that relates to real property that is situated in Canada or to tangible personal property that is ordinarily situated in Canada;
- a supply of IPP that relates to a supply of a service that is made in Canada and is not zero-rated as an export, a transportation service or a financial service;
- a supply of IPP that may only be used in Canada; or
- a supply of making a telecommunications facility that is IPP available for use in providing a telecommunication service.

Examples of supplies of IPP to which the new rule applies

Examples of supplies of IPP that will now be eligible for zero-rating under the proposed provision include:

- subscriptions to Web sites that provide subscribers with a right to access and use digitized content on the site, such as information in a database or images, and that may also include a right to download a copy of the digitized content;
- subscriptions to interactive Web sites that provide subscribers with a right to access and use digitized content, such as games, music and videos, on the sites while they are online;
- digitized information, such as news items or stock market data, that is delivered electronically on a periodic basis to subscribers based on their personal preferences;
- digitized products, such as music, images, and books, that are downloaded from Web sites and paid for individually.

Verification of registration status of customers

In order to support the zero-rating of supplies of IPP under the proposed provision, suppliers must verify and maintain satisfactory evidence that the supplies are made to customers who are not registered when the supplies are made.

For purposes of zero-rating supplies of IPP made over the Internet under the proposed provision, the CRA will generally accept an online self-declaration by customers that they are not registered as proof that the customers are not registered.

Verification of residency status of customers

To support the zero-rating of supplies of IPP under the proposed provision, suppliers must further verify and maintain satisfactory evidence that the supplies are made to non-residents of Canada when the supplies are made.

The CRA will generally accept an online self-declaration by customers that they are not residents of Canada along with their complete home address as proof of residency, provided it is supported by another satisfactory verification method of residency such as:

- if customers pay for the supplies of IPP by credit card or debit card, either a comparison of the customer's declared home address with the billing address, or a comparison of the customer's declared home address with the location of the financial institution that issued the card; or
- the use of geo-location software.

Verification of physical location of non-resident customers who are individuals

A supply of IPP made to a non-resident individual will not qualify for zero-rating under the proposed provision if the individual is physically present in Canada when the supply is made. To support the zero-rating of supplies of IPP made to non-registered non-resident individuals under the proposed provision, suppliers must therefore verify and maintain satisfactory evidence that the individuals are physically outside Canada when the supplies are made.

For purposes of zero-rating supplies of IPP made over the Internet to non-resident individuals under the proposed provision, the CRA will accept the use of geo-location software as a method of verifying

that the individual is physically outside Canada when the supply is made.

When a supply is considered to be made

As explained above, for supplies of IPP to qualify for zero-rating under the proposed provision, suppliers must verify the registration, residency and physical location of their customers at the time the supply is made.

Generally, for GST/HST purposes, a supply is deemed to be made when the agreement for the supply is entered into.

However, in the case of a supply of IPP made by way of licence for which a payment is attributable to a period during which use of the IPP is provided, such as a monthly subscription to a Web site, a separate supply of IPP is deemed to be made for each such period. Each supply of the IPP for which a payment is attributable to a period is deemed to be made on the earliest of:

- the first day of the period,
- the day on which the payment becomes due, and
- the day on which the payment is made.

Recovery of net tax overpayments in relation to supplies made on or before March 19, 2007

Zero-rating under the proposed provision applies to eligible supplies of IPP made on or before March 19, 2007, in respect of which GST/HST was neither charged nor collected.

If you are a registrant who has made such supplies and the CRA has taken an amount into account in assessing your net tax for a reporting period as GST/HST that became collectible in respect of such supplies, you may obtain a refund of any resulting overpayment of net tax, penalty or interest by requesting that a reassessment be made to take into account that no tax was collectible by you in respect of the supplies.

You must make the request in writing to the CRA tax services office that issued the initial assessment within two years after the day the proposed provision becomes law. The normal four-year time limit for making a reassessment of the net tax for the reporting period during which the supplies were made will not apply. The amount of any resulting overpayment will be refunded to you along with interest at the prescribed rate for the period beginning on the day that the amount was paid by you and ending on the day that the refund is paid to you.

This info sheet does not replace the law found in the *Excise Tax Act* (the Act) and its Regulations. It is provided for your reference. As it may not completely address your particular operation, you may wish to refer to the Act or appropriate regulation, or contact any CRA GST/HST Rulings Centre for additional information. These centres are listed in GST/HST Memorandum 1.2, [Canada Revenue Agency GST/HST Rulings Centres](#). If you wish to make a technical enquiry on the GST/HST by telephone, please call the toll-free number 1-800-959 8287. A ruling should be requested for certainty in respect of any particular GST/HST matter.

If you are located in Quebec and wish to make a technical enquiry or request a ruling related to the GST/HST, please contact Revenue Québec by calling the toll-free number 1-800-567-4692.

All GST/HST publications are available on the CRA web site at www.cra-arc.gc.ca/tax/technical/gsthst-e.html.

Reference in CRA publications is made to the harmonized sales tax (HST) that applies to property and services provided in Nova Scotia, New Brunswick, and Newfoundland and Labrador (the “participating provinces”) at a rate of 14%. The goods and services tax rate is 6%.