



## Applying the 2008 GST/HST Rate Reduction to Prepaid Funeral and Cemetery Arrangements

On October 30, 2007, the Government of Canada announced in its Economic Statement that it proposes to reduce the GST rate by one percentage point from 6% to 5%, effective January 1, 2008. To facilitate the transition to the lower rate, the Economic Statement also proposes transitional rules for determining the GST/HST rates applicable to transactions that straddle the January 1, 2008 implementation date.

This info sheet reflects the proposed amendments to the *Excise Tax Act*. Any commentary in this publication should not be taken as a statement by the Canada Revenue Agency (CRA) that these amendments will be enacted in their current form.

Effective January 1, 2008, the rates of the goods and services tax/harmonized sales tax (GST/HST) will be reduced. The rate of the GST will be reduced from 6% to 5%. The rate of the HST will be reduced from 14% to 13%. The Minister of Finance is introducing legislative amendments to implement these changes (see Bill C-28, *Budget and Economic Statement Implementation Act, 2007*).

This info sheet explains how to determine the rate of the GST/HST that applies to products or services sold under prepaid funeral and cemetery arrangements and to taxable interment rights.

In this info sheet, “arrangement” means a prepaid funeral or cemetery arrangement. “Operator” means the operator of a funeral home and/or cemetery.

The HST applies only to supplies made in or imported into a participating province (i.e., Nova Scotia, New Brunswick, and Newfoundland and Labrador). The GST applies to supplies made in or imported into the rest of Canada. If you are uncertain as to whether a supply is made in a participating province, refer to Technical Information Bulletin B-078, *Place of Supply Rules Under the HST*.

This info sheet provides general information on the application of the GST/HST to arrangements. Operators can get additional information by referring to the GST/HST Technical Information Bulletins listed below:

- B-091, *Timing of the Application of the GST/HST to Prepaid Funeral Arrangements*
- B-093, *Application of the GST/HST to Cemetery Products and Services*

Information on the application of the 2006 GST/HST rate reduction to arrangements can be found in GST/HST Info Sheet GI-016, *Applying the GST/HST Rate Reduction to Prepaid Funeral and Cemetery Arrangements*.

### The GST/HST becomes due when amounts are withdrawn from trust (“new rules”)

#### Amounts in trust

Operators do not account for the GST/HST when contributions under an arrangement are placed in trust. Operators account for the GST/HST on all amounts withdrawn from trust when these amounts are distributed to the operator. The contributions made under an arrangement are based on an estimate of the amount that will be payable for the products or services and the GST/HST that will eventually apply.

Where these rules apply to an arrangement entered into between October 31, 2007, and December 31, 2007, operators may use the rate of 5% or 13% to estimate the GST/HST that will eventually apply. For arrangements entered into on or after January 1, 2008, operators should use the



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rate of 5% GST or 13% HST to estimate the tax that will eventually apply.

#### **Example**

ABC Funeral Home (ABC) entered into an arrangement on November 9, 2007, with Mrs. D to provide funeral services on her death. The services will be provided in a non-participating province. ABC will hold all of the contributions in trust for Mrs. D. ABC may estimate the eventual GST that will apply at the rate of 5%.

Where all of the contributions under an arrangement are payable and paid before January 1, 2008, operators need not adjust the estimate of the GST/HST that will eventually apply, even if the purchaser asks for a refund.

However, where some of the contributions under the arrangement are payable on or after January 1, 2008, operators should adjust the rates used to estimate the GST/HST included in those contributions payable and paid on or after January 1, 2008, to 5% or 13%.

If an operator does not adjust the estimate of the GST/HST included in contributions payable and paid before January 1, 2008, the purchaser cannot recover the amount from the CRA because the amount paid to the operator is not tax, but rather an estimate of the GST/HST that will eventually apply.

Similarly, where an operator does adjust the estimate of the GST/HST included in contributions payable and paid before January 1, 2008, and refunds that part of the contributions to the purchaser, the operator cannot recover the amount refunded from the CRA since the amount refunded was not tax, but rather an estimate of the GST/HST that will eventually apply.

#### **Amounts not in trust**

Any contributions paid or payable under an arrangement in 2007, and not placed in trust (e.g., administrative fees) are subject to the GST/HST at the rate of 6% or 14%. Similarly, any amounts that are withdrawn from trust in 2007 are subject to GST/HST at the rate of 6% or 14%.

Conversely, any contributions payable under an arrangement on or after January 1, 2008, which were not paid in 2007, and which were not placed in trust are subject to the GST/HST at the rate of 5% or 13%. Similarly, any amounts withdrawn from trust on or after January 1, 2008, are subject to the GST/HST at the rate of 5% or 13%.

#### **Example**

XYZ Cemeteries (XYZ) entered into an arrangement with Mr. W to provide cemetery products and services on his death. The products and services will be provided in a participating province.

Under the arrangement, Mr. W paid an initial amount on October 15, 2007, and the first quarterly instalment on January 2, 2008. XYZ withheld \$10 from each payment as an administrative fee.

The HST at the rate of 14% applied to the administrative fee paid in 2007. The HST at the rate of 13% applies to the administrative fee paid on January 2, 2008, and to all subsequent administrative fees.

#### **GST/HST charged and accounted for when the arrangement was entered into ("old rules")**

Some operators charged an amount as GST/HST when the contributions were paid or payable under the arrangement, even where the contributions were placed in trust. These operators accounted for the amount charged as GST/HST in their net tax calculation for the period in which the contributions were paid or payable, whichever was earlier.

Where this was the case, operators cannot adjust the amounts charged as GST/HST for the contributions under the arrangement that were payable and/or paid before January 1, 2008. Operators cannot adjust these amounts even if the products or services are provided on or after January 1, 2008.

Where any of the contributions under the arrangement are payable on or after January 1, 2008, and not paid before that date, the operator charges an amount as GST/HST at the rate of 5% or 13%.

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### Example 1

EFG Funeral Home (EFG) entered into an arrangement with Mrs. H to provide funeral services on her death. The services will be provided in a non-participating province.

Mrs. H made all the required payments in 2007. EFG charges an amount as GST on each payment. The GST at the rate of 6% applies to these payments.

### Example 2

TUV Cemeteries (TUV) entered into an arrangement with Mr. S to provide cemetery products and services on his death. The products and services will be provided in a non-participating province.

Under the arrangement, Mr. S pays an initial amount and quarterly instalments. The final instalment is payable and paid on January 14, 2008.

TUV charges an amount as GST at the rate of 6% for the payments payable and paid in 2007. TUV charges the GST at the rate of 5% on the final instalment payable and paid on January 14, 2008.

### Adding products or services

When an arrangement is amended to add products or services, the rate to be charged as GST/HST depends on the date when the consideration charged for the products or services is paid or becomes due. Where the contributions for the products or services are paid in 2007, the operator charges an amount as GST/HST at the rate of 6% or 14%. Where the contributions for the products or services become due on or after January 1, 2008, the operator charges an amount as GST/HST at the rate of 5% or 13%, provided the amount was not paid in 2007.

### Example

PQR Cemeteries (PQR) entered into an arrangement with Mr. N to provide cemetery products and services on his death. The products and services will be provided in a participating province.

PQR charged Mr. N an amount as HST at the rate of 14% when the payments were payable and paid under the arrangement. All the required payments under the arrangement were in 2007 and PQR has accounted for these amounts in its net tax calculation.

On February 1, 2008, Mr. N asked PQR to add a service to the arrangement. The rate of 13% applies to the amount charged as HST for the additional service.

### Cancelling products or services

Sometimes arrangements are amended to cancel products or services that were to have been provided. Where an amount was charged and accounted for as GST/HST at the rate of 6% or 14% by the operator, the amount can be refunded to the customer and a deduction taken from the operator's net tax calculation, provided the usual requirements are met (i.e., that an acceptable credit/debit note is issued within the applicable time limits).

### Example

IJK Cemeteries (IJK) entered into an arrangement with Mrs. L to provide cemetery products and services on her death. The products and services will be provided in a non-participating province.

IJK charged Mrs. L an amount as GST at the rate of 6% on each payment under the arrangement. All the required payments were paid in 2007, and IJK has accounted for these amounts in its net tax calculation.

On February 15, 2008, Mrs. L asked IJK to cancel one of the services included in the arrangement. IJK refunds the cost of the service to Mrs. L, plus the amount she paid as GST at the rate of 6%.

IJK may take a deduction for the amount refunded as GST, provided an acceptable credit/debit note is issued within the appropriate time limit.

Further information is available in GST/HST Info Sheet GI-042, *Applying the 2008 GST/HST Rate Reduction to Price Adjustments, Adjustments for GST/HST Overcharged and Returned Goods*.

### Cancelling arrangements

Sometimes an arrangement is cancelled before the products or services are provided. Normally, the operator charges a cancellation fee that is withdrawn from trust.

In these situations, the operator must account for the GST/HST on a tax-included basis with respect to the amount charged as a cancellation fee. Any cancellation fees withdrawn from trust before in 2007 are GST/HST included at 6/106 or 14/114.

Conversely, any cancellation fees withdrawn from trust on or after January 1, 2008, are GST/HST included at 5/105 or 13/113.

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## Transitional measures

Some operators were unable to comply with the “new rules” by the dates established by the CRA. In these cases the operators were able to use transitional rules.

Under the transitional rules, the operators must:

- charge an amount as GST/HST when the contributions are paid or payable under the arrangement, whichever is earlier, and must account for these amounts in their net tax calculations;
- charge and account for the GST/HST on the amount equal to any interest that accumulates in the trust when the amount is withdrawn from trust and disbursed to the operator; and
- account for the GST/HST on any increase in the amount payable to the operator for the products or services supplied, if applicable.

Where these rules apply, operators must charge an amount as GST/HST at the rate of 6% or 14% on any contributions paid or payable in 2007. Where the contributions are payable on or after January 1, 2008, the operator must charge an amount as GST/HST at the rate of 5% or 13%, provided that the amount was not paid in 2007.

Operators will charge and account for the GST/HST on the amount equal to any interest that accumulates in the trust and that is withdrawn from trust on or after January 1, 2008, at the rate of 5% or 13%.

Finally, where products or services are provided on or after January 1, 2008, the operator multiplies the new amount payable by the rate of 5% or 13% and subtracts the original amount charged as GST/HST for the products or services and accounts for the difference.

## Grandfathered arrangements

Written arrangements entered into before September 1990 are not subject to the GST/HST. Similarly, arrangements entered into before April 1, 1997, in a participating province are not subject to the provincial component of the HST, but are subject to the GST if entered into after

August 1990. The CRA refers to these arrangements as grandfathered arrangements.

Arrangements that were grandfathered during the period when the rates of the GST/HST were 7%/6% and 15%/14% will continue to be grandfathered under the new 2008 reduced rates, provided the conditions for grandfathering the arrangement are still valid.

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### Example

LMN Funeral Homes (LMN) entered into an arrangement on January 3, 1997, with Mr. K to provide cemetery products and services on his death. The products and services will be provided in a participating province.

Under the arrangement, Mr. K paid an initial amount and quarterly instalments with the last instalment paid on July 1, 2000.

Mr. K dies on March 3, 2008, and LMN supplies the products and services as set out in the arrangement. However, at the request of Mr. K's family, LMN supplies an additional service.

Since the arrangement was entered into before April 1, 1997, but after August 1990, the contributions were subject to GST at the rate of 7%.

The supply of the additional service made after Mr. K's death is not part of the arrangement and is subject to the HST at the rate of 13%.

## Taxable interment rights

The GST/HST becomes payable on a taxable supply of interment rights on the earlier of the day the payment is made and the day the payment becomes due. Where a supply of interment rights is made under a written agreement that provides for a series of payments, a payment is considered to become due on the day it is required to be paid under the agreement. The GST/HST is payable on the value.

Any payment for a taxable supply of interment rights that becomes due after June 30, 2006 and before January 1, 2008, is subject to the GST/HST at the rate of 6% or 14%, unless the payment was made before July 1, 2006, without having become due. In addition, any payment for a taxable supply of interment rights that is made after June 30, 2006 and before January 1, 2008, without having become due before July 1, 2006, is also subject to the GST/HST at the rate of 6% or 14%.

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Where a payment becomes due on or after January 1, 2008, and has not been paid before that date, the rate of the GST/HST to be charged is 5% or 13%.

If you did not have to charge tax when you provided interment rights before the announcement about the rate reduction, you still do not have to charge tax when you provide these rights.

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#### Example

QRS Funeral Home (QRS) entered into a written agreement on September 4, 2007, with Mrs. U for the supply of interment rights by way of lease, licence or similar arrangement. The interment rights will be supplied in a non-participating province.

Mrs. U made an initial payment when she entered into the agreement and made another payment on October 1, 2007. According to the agreement, her next payment is due on January 2, 2008.

The GST at the rate of 6% applied to the both the initial payment and the October 1, 2007 payment. The GST at the rate of 5% applies to the payment due on January 2, 2008, provided that the payment is not made in 2007.

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 Revenu 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/gsthstech](http://www.cra-arc.gc.ca/gsthstech)