



## Direct Selling Industry – The Network Sellers Method for Network Sellers and Sales Representatives

This info sheet replaces the version dated January 2010.

This info sheet reflects tax changes included in Bill C-9, the *Jobs and Economic Growth Act* which included the proposed amendments to the *Excise Tax Act* announced on January 27, 2009 and March 4, 2010. Bill C-9 received Royal Assent on July 12, 2010.

Businesses in the direct selling industry usually sell their products either:

- to independent sales contractors (ISCs) who, in turn, sell the products to purchasers; or.
- directly to consumers through sales representatives.

In either case, direct selling businesses may apply for approval to use a method that simplifies the operation of the GST/HST:

- Direct selling businesses that sell their products to ISCs may apply to use the Alternate Collection Method.
- Direct selling businesses that sell their products to consumers through commission-based sales representatives may apply to use the Network Sellers Method.

Depending on their business structure, they may qualify to use one or both methods.

The Alternate Collection Method (ACM) is available to businesses in the direct selling industry that sell their products to distributors or ISCs who, in turn, sell the products to other ISCs or to purchasers. The ACM rules are explained in GST/HST Info Sheet GI-125, *Direct Selling Industry – The Alternate Collection Method for Approved Direct Sellers and Approved Distributors*.

The Network Sellers Method (NSM) is available to businesses in the direct selling industry that sell their products to consumers through sales representatives who charge a commission for arranging for the sales of the products. In this info sheet, these businesses are called network sellers.

This info sheet explains the approval process, the NSM rules that apply to network sellers and sales representatives and the documentary evidence that they have to keep. It also explains what happens when a network seller fails to meet the eligibility requirements during a fiscal year.

### Meaning of significant terms used in this info sheet

“All or substantially all” means 90% or more.

“Consumer” means an individual who purchases a select product of a network seller for the individual’s personal consumption or use, or for the personal consumption or use of another individual.

“Fiscal year” means the taxation year of a network seller unless it has elected to use a calendar year.

“Network commission” means an amount payable by a network seller to a sales representative under an agreement:

- as payment for the sales representative’s service of arranging for the sale of select products or sales aids of the network seller; or
- solely because another sales representative of the network seller arranged for a sale of a select product or sales aid.

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“Sales aid” is a customized business form or a sample, demonstration kit, promotional or instructional item, catalogue or similar personal property acquired, manufactured or produced by a network seller or a sales representative for sale to assist in the promotion, sale or distribution of select products. A sales aid does not include a select product or property that a sales representative will be using as capital property. For more information on sales aids, refer to Appendix C to this info sheet.

“Sales representative” of a network seller is a person that has an agreement with the network seller:

- to arrange for the sale of select products of the network seller, but does not arrange for those sales primarily (more than 50%) at a fixed place of business, except if it is the person’s home; or
- to be paid an amount by the network seller solely because another sales representative of the network seller arranged for a sale of a select product or sales aid.

Sales representatives do not purchase products for resale. They receive a commission as payment for their services of arranging for the sale of a network seller’s products or solely because another sales representative arranged for a sale of a product or a sales aid.

An employee of the network seller or an agent who sells products on behalf of the network seller is not a sales representative for the purposes of the NSM. For more information on agents, see GST/HST Info Sheet GI-012, *Agents*.

“Select products” are goods acquired, manufactured or produced by a network seller for sale in the ordinary course of its business and that are ordinarily purchased by a consumer. Used goods are not select products.

“Taxable” means subject to the 5% GST or to the HST rate in effect in a particular province. “Zero-rated” means subject to the GST/HST at 0%.

## **The NSM**

Network sellers usually sell their select products to consumers through sales representatives who charge a network commission for their services of arranging for the sale. Registrant sales representatives are required to charge and account for the GST/HST on their network commissions.

A network seller may apply for approval to use the NSM. The main effect of the NSM for network sellers is that, when an approval is in effect, the network commissions charged by a sales representative to a network seller are not subject to GST/HST.

## **Application to use the NSM**

A registered network seller must apply and receive approval from the CRA before using the NSM. The application must be filed before:

- the first day of a fiscal year, if the network seller is already in the business of selling select products; or
- the day the network seller sells a select product for the first time, if the network seller has never sold a select product.

In both cases, the NSM would be in effect beginning on the first day of the network seller’s fiscal year.

### **Application to use the NSM – Exception for 2010:**

A network seller that missed the filing deadline could still apply for an approval to be in effect in 2010 if the application is filed before the first day of a reporting period that begins during the 2010 fiscal year. The NSM would then be in effect beginning on the first day of that reporting period.

The application must be sent to the Assistant Director of Audit at the tax services office closest to the network seller. No special form has to be completed, but the application must contain the information set out in the Appendix B to this info sheet.

Appendix B is an example of an application acceptable to the CRA that could be used when a network seller applies to use the NSM.

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## Eligibility requirements

A registered network seller may apply to the CRA for approval to use the NSM if, throughout the fiscal year, the network seller reasonably expects that:

- (a) all or substantially all of its total revenues for the fiscal year for sales made in Canada from a business will be for sales of select products arranged for by sales representatives, or if the network seller is an approved direct seller for the ACM, for sales of exclusive products to ISCs;
- (b) all or substantially all of its total revenues from a business for sales of select products arranged by sales representatives for the fiscal year will be for sales of select products to consumers;
- (c) all or substantially all of the sales representatives to whom it pays network commissions during the fiscal year will receive \$30,000 or less in network commissions. If the fiscal year has less than 365 days, the \$30,000 has to be prorated as follows:

$$\frac{\text{Number of days in the fiscal year} \times \$30,000}{365 \text{ days}}$$

and

- (d) it will be engaged exclusively in commercial activities throughout the fiscal year.

### Eligibility requirements – Exception for 2010:

If a network seller files an application for approval under the exception for 2010, all references to “fiscal year” in paragraphs a) to d) above should be read as “qualifying period”. A “qualifying period” is the period that:

- begins on the day specified by the network seller in the application as the effective date; and
- ends on the last day of the network seller’s fiscal year.

In addition, the network seller must have made a joint election with each of its sales representatives to have the NSM apply at all times when an approval is in effect.

### Joint election

The joint election between a network seller and each of its sales representatives must be made before the network seller applies for approval to use the NSM. The election must be made with all sales representatives, including those who receive a

network commission solely because another sales representative arranged for a sale of a select product or sales aid. It must also be made with persons who become sales representatives while an approval to use the NSM is in effect.

The joint election must be made in writing, but it does not have to be filed with the CRA. No special form has to be completed, but the election must include the information set out in Appendix A to this info sheet. Appendix A is an example of a joint election acceptable to the CRA that could be used when a network seller elects with its sales representatives.

As an alternative, the CRA would also accept a joint election that forms part of the agreement that a network seller enters into with its sales representatives. To be an election, the agreement must specify that the sales representative jointly elects with the network seller to have the NSM rules apply to network commissions at all times when an approval granted to the network seller is in effect.

### Keeping records

Network sellers and sales representatives must keep in their records evidence of their joint elections. In addition, a network seller must keep and maintain an up-to-date list or database containing the names of each sales representative with whom it has made an election, including the beginning and end dates of each election (i.e., the date the election was made and the date the sales representative ceased its activities as a sales representative, if applicable). Detailed information on books and records is available in GST/HST Memoranda 15.1, *General Requirements for Books and Records*, and 15.2, *Computerized Records*.

### Notification of approval or refusal

The CRA will notify the network seller in writing of the approval or refusal to use the NSM.

If the approval is granted, the network seller must inform its sales representatives that it has been approved by the CRA to use the NSM and indicate the effective date of that approval. This could be done by providing current and future sales representatives with a copy of the approval letter or by uploading a scanned copy of the approval on the

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organization's Web site. The scanned document should be capable of being printed. The network seller may also provide current and future sales representatives with a document indicating that the network seller has been approved by the CRA and indicating the effective date of the approval.

If the application is refused, the network seller must immediately notify all its sales representatives. The notification may be made in writing or electronically if the electronic document can be printed.

### **Approval required when purchasing a network seller's business**

Depending on the circumstances, when a network seller sells its business or part of its business, the approval to use the NSM does not necessarily pass to the new owner of the business or part of the business. If the new owner wants to use the NSM, it should contact the CRA to determine if it has to apply for approval.

### **Revocation of the approval**

The Minister may revoke an approval to use the NSM if the network seller fails to comply with any GST/HST provision. The Minister may also revoke an approval at the network seller's written request. If the CRA revokes an approval, the network seller is required to immediately notify all of its sales representatives.

Call GST/HST Rulings at 1-800-959-8287 for information on the impact of a revocation on sales representatives and the adjustment that the network seller is required to make to its net tax if it fails to notify its sales representatives when an approval is revoked.

### **The NSM rules**

When approval to use the NSM is granted to a network seller, the NSM rules apply to all sales representatives within the organization, whether or not they are registrants. This includes those who receive a network commission solely because another sales representative arranged for a sale of a select product or a sales aid.

The following rules apply when an approval to use the NSM is in effect.

### ***Network commissions***

GST/HST does not apply to a taxable service provided by a sales representative for which the sales representative receives a network commission from a network seller.

#### **Example 1**

A network seller that uses the NSM sells a variety of food products to consumers in Alberta. Some of the products are taxable while others such as spices and condiments are zero-rated.

A sales representative receives a commission for each sale of products arranged for the network seller. The sales representative's commissions are not subject to tax regardless of whether the commissions relate to taxable or zero-rated products.

### ***Sales aids***

Sales aids sold in Canada by a network seller or one of its sales representatives to another sales representative of the network seller are not subject to tax. In other words, GST/HST does not apply to sales aids sold to a sales representative.

This rule does not apply to sales aids sold to any other purchaser by either a network seller or a sales representative.

For more information on sales aids, refer to Appendix C to this info sheet.

#### **Example 2**

A network seller that uses the NSM sells cosmetics and beauty products to consumers. A sales representative receives a commission for each sale arranged for the network seller. The network seller sold the sales representative a demonstration kit that is a sales aid. Later, the sales representative sold the kit to a consumer.

The NSM rules apply to sales aids sold by a network seller to a sales representative. Therefore, GST/HST did not apply when the network seller sold the demonstration kit to the sales representative. However, the NSM rules do not apply to sales of sales aids to consumers. Therefore, the sales representative, if a registrant, has to charge and account for the tax on that sale.

### ***Host gifts***

Host gifts given by a network seller or a sales representative to an individual for acting as a host at an occasion that is organized for the purposes of allowing the sales representative to promote the sale of select products or to arrange for such sales are not subject to tax.

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Therefore, GST/HST does not apply when a network seller or a sales representative gives a host gift to a host.

However, GST/HST applies to the sale of a host gift to a sales representative.

### **Example 3**

A network seller that uses the NSM sells pet food to consumers. A sales representative arranges for the sale of the pet food through demonstrations in private houses and receives a commission for each sale he arranges for the network seller. For hosting a demonstration, an individual receives a gift. GST/HST does not apply to the host gift that the sales representative gives to the host.

### **Other rules**

The NSM includes other rules that may have an impact on the network seller's business. Call GST/HST Rulings at 1-800-959-8287 for more information on:

- the network seller's entitlement to claim input tax credits when the network seller provides property (other than a select product) or a service to a sales representative or a sales representative's relative; and
- the network seller's obligation to charge and account for GST/HST on the fair market value of some property and services appropriated by the network seller for the benefit of a sales representative or a sales representative's relative.

Sales of select products by network sellers to consumers and others continue to be subject to the general GST/HST rules. Therefore, GST/HST applies to sales of select products (other than zero-rated select products).

### **Effects of the NSM on the business of a sales representative**

As a result of the NSM rules, sales representatives do not include their network commissions and revenues from their sales of sales aids to other representatives in their calculation to determine whether they are small suppliers. Consequently, most sales representatives do not need to register for GST/HST purposes.

### ***Sales representatives engaged in other activities***

Sales representatives may be engaged in other activities. They may, for example, be a sales representative for a particular direct selling business and an ISC for another. For each activity, they have to determine separately how GST/HST applies, keeping in mind that the NSM rules apply solely to their activities as a sales representative.

### **Example 4**

An individual proprietor works from her home for two direct selling businesses. The first business, a network seller that uses the NSM, sells women's clothing to consumers. The individual, as a sales representative, receives a commission for each sale that she arranges for the network seller.

The second business, a direct seller that does not use the ACM, sells children's toys to purchasers. The individual, as an ISC, purchases the products from the direct seller and sells them to purchasers.

For each activity, the individual has to determine how GST/HST applies. With respect to her activities as a sales representative, she determines that, because the network seller uses the NSM, GST/HST does not apply to the commissions that she receives from the network seller. Because GST/HST does not apply to her commissions, she does not include them in her calculation to determine if she has to register for GST/HST purposes.

For her activity of buying and selling the children's toys, she determines that, because the direct seller does not use the ACM, the sales are subject to the normal GST/HST rules. She includes the revenues from those sales to purchasers in her calculation to determine if she has to register for GST/HST purposes.

### **Failure to meet certain eligibility requirements**

There may be consequences when a network seller fails to meet certain eligibility requirements for a fiscal year while an approval to use the NSM is in effect. These eligibility requirements are:

- (a) all or substantially all of the network seller's total revenues for the fiscal year for sales made in Canada from a business are for sales of select products arranged for by sales representatives, or if the network seller is an approved direct seller for the ACM, for sales of exclusive products to ISCs;

- (b) all or substantially all of the network seller's total revenues from a business for sales of select products arranged by sales representatives for the fiscal year are for sales of select products to consumers;
- (c) all or substantially all of the sales representatives to whom the network seller pays network commissions during the fiscal year receive \$30,000 or less in network commissions during the year.

### ***Failure to meet Requirement (a), (b) or (c)***

The following rule applies when a network seller fails to meet Requirement (a), (b) or (c) for a fiscal year and, at any time during that year, a network commission is payable to a sales representative (other than a commission for a zero-rated supply made by the sales representative).

Special rules apply when only Requirement (c) is not met. For details, see the heading "Failure to meet Requirement (c) only".

If a network seller fails to meet Requirement (a), (b) or (c) for a fiscal year, the network seller must, in determining its net tax for its first reporting period following the fiscal year, add an amount equal to interest at the prescribed rate, on the total amount of tax that would have been payable on the network commissions, computed for the period:

- beginning on the earliest day on which the commission is paid or becomes due; and
- ending on the day on or before which the network seller is required to file a return for the reporting period that includes that earliest day.

The prescribed interest rates on overdue amounts can be found at [www.cra.gc.ca/interestrates](http://www.cra.gc.ca/interestrates).

The amount equal to interest has to be included on line 104 of the network seller's GST/HST return.

### ***Failure to meet Requirement (c) only***

When only Requirement (c) is not met, a network seller is not required, under certain conditions, to add an amount equal to interest in determining its net tax. However, before explaining those rules, the following definitions need to be explained.

"First variant year" means the fiscal year where the network seller fails to meet Requirement (c) but had met Requirement (c) for each of its preceding fiscal years where an approval to use the NSM is in effect.

"Second variant year" means the fiscal year after the "first variant year" where the network seller fails to meet Requirement (c) but had met Requirement (c) for each of its preceding fiscal years (except for the first variant year) where an approval to use the NSM is in effect.

### **Failure to meet Requirement (c) during the first variant year**

A network seller does not have to add an amount equal to interest to its net tax when it fails to meet Requirement (c) for a fiscal year and, at any time during that year a network commission is payable to a sales representative, if:

- the network seller meets Requirements (a) and (b) for the first variant year and for each preceding fiscal year where an approval to use the NSM is in effect; and
- the network seller would have met Requirement (c) for the first variant year if the reference to "all or substantially all" were read as a reference to "at least 80%".

### **Example 5**

A network seller receives approval to use the NSM effective January 1, 2012. Its fiscal year is a calendar year. Throughout 2012, the network seller meets all eligibility requirements. In 2013, the network seller still meets Requirements (a) and (b) but only 83% of its sales representatives are small suppliers.

2013 is the network seller's first variant year. The network seller does not have to add an amount equal to interest in calculating its net tax for the first reporting period in 2014 because:

- he has met Requirements (a) and (b) for 2012 and the first variant year; and
- he would have met Requirement (c) because at least 80% of its sales representatives are small suppliers.

### **Failure to meet Requirement (c) during the second variant year**

A network seller does not have to add an amount equal to interest to its net tax when it fails to meet Requirement (c) for the second variant year and,

at any time during that year a network commission is payable to a sales representative if:

- the network seller meets Requirements (a) and (b) for the second variant year and for each preceding fiscal year where an approval to use the NSM is in effect;
- the network seller would have met Requirement (c) for the first variant year and the second variant year if the reference to “all or substantially all” were read as a reference to “at least 80%”; and
- within 180 days after the beginning of the second variant year, the network seller requests in writing that the CRA revoke the network seller’s approval to use the NSM.

#### Example 6

The network seller in example 5 still meets Requirements (a) and (b) in 2014. However, 85% of its sales representatives are small suppliers. The network seller requests revocation of its approval to use the NSM on May 15, 2014.

2014 is the network seller’s second variant year. The network seller does not have to add an amount equal to interest in calculating its net tax for the first reporting period in 2015 because:

- it has met Requirements (a) and (b) for 2012, the first variant year and the second variant year;
- it would have met Requirement (c) because at least 80% of its sales representatives are small suppliers; and
- it requested the revocation of its approval to use the NSM within 180 days after the beginning of the second variant year.

#### Failure to meet eligibility requirements – Exception for the 2010 fiscal year:

If a network seller had filed an application for approval to use the NSM under the exception for 2010, the reference to “fiscal year” in this section should be read as “qualifying period” but only for the fiscal year that begins in 2010.

A “qualifying period” is the period that:

- begins on the day specified by the network seller in the application as the effective date; and
- ends on the last day of the network seller’s fiscal year.

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 office for additional information. A ruling should be requested for certainty in respect of any particular GST/HST matter. Pamphlet RC4405, *GST/HST Rulings – Experts in GST/HST Legislation* explains how to obtain a ruling and lists the GST/HST rulings offices. If you wish to make a technical enquiry on the GST/HST by telephone, please call 1-800-959-8287.

Reference in this publication is made to supplies that are subject to the GST or the HST. The HST applies in the participating provinces at the following rates: 13% in Ontario, New Brunswick and Newfoundland and Labrador, 15% in Nova Scotia, and 12% in British Columbia. The GST applies in the rest of Canada at the rate of 5%. If you are uncertain as to whether a supply is made in a participating province, you may refer to GST/HST Technical Information Bulletin B-103, *Harmonized Sales Tax – Place of Supply Rules for Determining Whether a Supply is Made in a Province*.

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 1-800-567-4692. You may also visit their Web site at [www.revenu.gouv.qc.ca](http://www.revenu.gouv.qc.ca) to obtain general information.

All technical publications related to GST/HST are available on the CRA Web site at [www.cra.gc.ca/gsthstech](http://www.cra.gc.ca/gsthstech).

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## Appendix A

The following is the information that network sellers and their sales representatives must provide when they make a joint election to have the NSM apply at all times when an approval granted to the network seller is in effect.

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### JOINT ELECTION TO USE THE NETWORK SELLERS METHOD (NSM)

#### Information on network seller

Business Number \_\_\_\_\_ RT \_\_\_\_\_  
Legal Name \_\_\_\_\_  
Contact Person \_\_\_\_\_  
Title \_\_\_\_\_

#### Information on sales representative

Business Number (if applicable) \_\_\_\_\_ RT \_\_\_\_\_  
Complete Name (if individual) \_\_\_\_\_  
Legal Name (if business) \_\_\_\_\_  
Telephone Number \_\_\_\_\_  
Contact Person \_\_\_\_\_

By signing this document, we jointly elect to have the NSM rules apply to network commissions at all times when an approval granted to the network seller is in effect.

We understand that this election is not valid if the application by the network seller to use the NSM is refused.

#### Certification – Network seller

I hereby certify that the information given in this election, and any document attached, is true, correct and complete to the best of my knowledge and that I am authorized to sign on behalf of the network seller.

Signature of authorized representative of network seller	Title of authorized representative
_____	_____
Printed name	Date (YYYY-MM-DD)
_____	_____

#### Certification – Sales representative

I hereby certify that the information given in this election, and any document attached, is true, correct and complete to the best of my knowledge and that I am the sales representative or I am authorized to sign on behalf of the sales representative.

Signature of sales representative or of a person authorized to sign on behalf of sales representative	Title (if signed by authorized person)
_____	_____
Printed name	Date (YYYY-MM-DD)
_____	_____



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## Appendix B

The following is the information that a network seller must provide when applying for approval to use the NSM.

**Exception for 2010:** The eligibility requirements listed below are slightly different for a network seller that files the application to use the NSM under the exception for 2010. For details, see “Application to use the NSM – Exception for 2010” of this info sheet. In that case, all references to “fiscal year” should be read as “qualifying period”. A “qualifying period” is the period that:

- begins on the day specified by the network seller in the application as the effective date; and
- ends on the last day of the network seller’s fiscal year.

### APPLICATION TO USE THE NETWORK SELLERS METHOD (NSM)

#### Information on network seller’s business

Business Number \_\_\_\_\_ RT \_\_\_\_\_

Legal Name \_\_\_\_\_

Trading Name (if different) \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone Number \_\_\_\_\_

Contact Person \_\_\_\_\_

Title \_\_\_\_\_

We would like this approval to be effective on \_\_\_\_\_  
(YYYY-MM-DD)

Number (or estimated number) of sales representatives marketing our select products: \_\_\_\_\_

#### Eligibility requirements (check the box if the condition has been met)

On behalf of the registered network seller, we certify that:

- ☐ the requested effective date of the approval is either:
- the first day of our fiscal year; or
  - the first day of a reporting period that begins in the 2010 fiscal year, if we apply for an approval under the exception for 2010;
- ☐ we reasonably expect that we will be engaged exclusively in commercial activities throughout the fiscal year;
- ☐ we reasonably expect that all or substantially all of our total revenues for the fiscal year for sales made in Canada will be for sales of select products arranged for by sales representatives, or if we are an approved direct seller for the purposes of the Alternate Collection Method, for sales of exclusive products made to independent sales contractors;
- ☐ we reasonably expect that all or substantially all of our total revenues for sales of select products for the fiscal year will be for sales of select products made to consumers;
- ☐ we reasonably expect that all or substantially all of our sales representatives to whom we pay network commissions during the fiscal year will receive \$30,000 or less in network commissions;
- ☐ we have jointly elected with each of our current sales representatives.

We undertake to immediately enter into joint elections with any future sales representatives if approval to use the NSM is granted.

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## APPLICATION TO USE THE NETWORK SELLERS METHOD (NSM) (continued)

On behalf of the network seller, we confirm that we will:

- give our current and future sales representatives evidence that the CRA granted the network seller the approval to use the NSM and the effective date of that approval. We will either provide a copy of the CRA's approval letter or upload a scanned copy of the approval on our Web site, or we will provide a document indicating that the network seller has been approved by the CRA and indicating the effective date for the approval;
- provide written notification to our sales representatives if this application is refused. We will only notify our sales representatives electronically if the electronic document can be printed;
- keep evidence of the elections made jointly with each of our sales representatives; and
- keep and maintain an up-to-date list or database containing the names of each sales representative with whom we made a joint election, including the beginning and end dates of each election (i.e., the date the election was made and the date the sales representative ceases its activities as a sales representative, if applicable).

In addition, we are aware that there may be consequences if, at any time during a fiscal year, a commission is payable to a sales representative and if, throughout the fiscal year, we do not satisfy the following conditions:

- all or substantially all of our total revenues for the fiscal year for sales made in Canada are for sales of select products arranged for by sales representatives, or if we are an approved direct seller for the ACM, for sales of exclusive products to independent sales contractors;
- all or substantially all of our total revenues for sales of select products arranged by sales representatives for the fiscal year are for sales of select products to consumers; and
- all or substantially all of our sales representatives to whom we pay network commissions during the fiscal year receive \$30,000 or less in network commissions (prorated if the fiscal year does not have 365 days).

We understand that any approval to use the NSM may be later revoked if:

- we fail to comply with any GST/HST provision;
- we request cancellation of our registration or receive notification of the cancellation of our registration; or
- it is reasonably expected that throughout the fiscal year:
  - we will no longer be engaged exclusively in commercial activities; or
  - we will no longer meet the eligibility requirements for approval.

We also understand that, if the approval is later revoked and we fail to notify our sales representatives, we will have to add an amount as an adjustment to our net tax calculation.

### Certification

I hereby certify that the network seller has met the eligibility requirements for the application to use the NSM as provided in section 178 of the *Excise Tax Act*. I also certify that the information given on this application, and any document attached, is true, correct and complete to the best of my knowledge and that I am authorized to sign on behalf of the network seller.

Signature of authorized representative of network seller

Title

\_\_\_\_\_ | \_\_\_\_\_

Printed name

Date (YYYY-MM-DD)

\_\_\_\_\_ | \_\_\_\_\_

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## **Appendix C – Sales aids**

The following information explains what is and what is not a sales aid for network sellers and sales representatives.

“Sales aid” is a customized business form or a sample, demonstration kit, promotional or instructional item, catalogue or similar personal property acquired, manufactured or produced by a network seller or a sales representative for sale to assist in the promotion, sale or distribution of select products. A sales aid does not include a select product or property that a sales representative will be using as capital property.

It is a question of fact whether a particular property is a sales aid. Network sellers or sales representatives must be able to demonstrate that the property is acquired, manufactured or produced for sale to assist in the promotion, sale or distribution of the select products of the network seller.

Sales aids may include:

- sample-sized goods in demonstration kits;
- property that would otherwise be a select product, but which is identified as not intended for resale such as property labelled as a “tester”, “sample” or “not for resale”;
- advertising material such as flyers;
- business cards;
- pamphlets relating to a product;
- books, tapes, videos and CDs on how to be a better salesperson;
- books, tapes, videos and CDs providing information on select products; and
- monogrammed items such as clothing and towels with the logo of the network seller.

### **Example 1**

A network seller sells cosmetics. A sales representative buys a demonstration kit containing small samples of cosmetics as well as disposable applicators. From time to time, she must replenish her kit by buying more samples. Consumers are able to try the products and learn about their benefits before purchasing them. The demonstration kit, the replacement samples and the applicators are all sales aids. They assist the sales representative in the promotion and sale of the select products of the network seller.

### **Example 2**

A network seller sells home care products. A sales representative buys door tags listing his name, telephone number, address, the name of the network seller and the type of select products. He leaves these tags on the door handles of homes in his area. These door tags are sales aids. They assist the sales representative in promoting and selling the network seller's select products by giving potential clients information on how to contact him for more details or to place an order.

### **Example 3**

A network seller sells specialized dog food. A sales representative buys pamphlets that describe the benefits of the food and that provide instructions on how much of it to give to various-sized dogs. These pamphlets are sales aids. They assist in the sale of the product by explaining its benefits.

### **Example 4**

A network seller sells ornamental items. A sales representative purchases several books and CDs that provide information on how to improve her selling technique and how to present herself with confidence. These books and CDs are sales aids. They assist in the sale of the ornamental items.

### **Example 5**

A sales representative purchases a polo shirt monogrammed with the logo of its network seller. This shirt is a sales aid. It assists in the promotion of the select products of the network seller.

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## What is not a sales aid

The following items are not sales aids:

- a select product of a network seller unless it is identified as not intended for resale such as property labelled as a “tester”, “sample” or “not for resale”;
- property that a sales representative purchases for use as capital property. Capital property is property for which a person cannot deduct its full purchase price for income tax purposes for the year in which the person purchased it;
- books, CDs, tapes and videos that deal with general business topics;
- clothing or merchandise that does not have the logo of the network seller on the item;
- services; and
- admission to conferences, seminars or other activities such as admission to attend a conference on motivation and leadership.

### Example 6

A network seller sells candles. A sales representative burns some of the candles during her home parties so that customers can experience the aroma of the candles. The candles she burns during the home parties are select products of the network seller and are not marked as “testers”, “samples” or “not for resale”. The candles are not sales aids because they are select products of the network seller and they are not identified as not intended for resale.

### Example 7

A network seller sells skin care products. A sales representative buys a machine that identifies skin problems. Based on the machine's results, she is able to identify which products would be most suitable for a customer's skin type. She may deduct only a part of the machine's cost for income tax purposes each year. The machine is not a sales aid because it is capital property.

### Example 8

A network seller charges its sales representatives a fee for training on new products. The training is not a sales aid because it is a service.

### Example 9

A sales representative sells T-shirts with different designs in a choice of six colours that change every year. The T-shirts come in three sizes. At the beginning of a season, he buys six T-shirts to use as samples, one in each colour and each with a different design. He makes sure that he has at least one T-shirt in each size. At the end of the season, he sells these T-shirts at a reduced price. The T-shirts that he uses as samples are select products of the network seller and are not marked as “testers”, “samples” or “not for resale”. Consequently, they are not sales aids.

## Additional information

If you are not sure whether an item is a sales aid, call GST/HST Rulings at 1-800-959-8287. You may also ask for a written ruling or interpretation. See GST/HST Memorandum 1.4, *Excise and GST/HST Rulings and Interpretations Service* for more information.