



# GST/HST Info Sheet

GI-074

May 2011

## Ontario and British Columbia: Transition to the Harmonized Sales Tax – Prepaid Funeral and Cemetery Arrangements and Interment Property

This info sheet replaces the version dated May 2010. It has been revised to reflect the *Regulations Amending Various GST/HST Regulations, No. 2*.

The Government of Ontario and the Government of British Columbia have each introduced a harmonized sales tax (HST) that came into effect on July 1, 2010. Amendments to facilitate the transition to the HST have been published in the *New Harmonized Value-added Tax System Regulations*.

The HST rate in Ontario is 13% of which 5% represents the federal part and 8% the provincial part.

The HST rate in British Columbia is 12% of which 5% represents the federal part and 7% the provincial part.

### Introduction

This info sheet explains whether the goods and services tax (GST) or the HST applies to funeral or cemetery services supplied under a prepaid arrangement in Ontario or British Columbia. It also explains whether the GST or the HST applies to supplies of interment property in Ontario or British Columbia for periods that include July 1, 2010.

In this info sheet, all operators referred to in the examples are GST/HST registrants.

The information provided in this info sheet applies only to prepaid funeral and cemetery services and to interment property. Information on other property and services is available in the following GST/HST Info Sheets:

- GI-056, *Ontario and British Columbia: Transition to the Harmonized Sales Tax – Services*;
- GI-059, *Ontario and British Columbia: Transition to the Harmonized Sales Tax – Intangible Personal Property*;
- GI-070, *Ontario and British Columbia: Transition to the Harmonized Sales Tax – Goods*; and
- GI-092, *Harmonized Sales Tax: Leases of Real Property in Ontario and British Columbia*.

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

“Cemetery services” means services that are, or are to be, supplied in respect of places of interment. It includes services such as opening a grave, sealing a tomb, and interring human remains. Also, it includes property such as burial vaults, urns, gravestones, grave liners or markers for use in a cemetery, mausoleum or columbarium, but does not include interment property.

See the definitions of “cemetery products” and “cemetery services” in Appendix 1 of GST/HST Technical Information Bulletin B-093, *Application of GST/HST to Interment Rights and Prepaid Cemetery Arrangements*, for more examples of property and services included in the definition of “cemetery services” for purposes of this info sheet.

“Funeral services” means services that are, or are to be, supplied in respect of the funeral or final disposition of a deceased individual. It includes property and services such as those provided for the care and embalming of the deceased individual or in connection with the funeral rite of the deceased individual, and the transportation of the deceased individual. Also, it includes property such as coffins, headstones or any other property (e.g., a casket or monument) relating to the funeral or final disposition of a deceased individual (such as burial or cremation).

“Interment property” means real property supplied for the interment, entombment or inurnment of human remains in any of the following: a lot or plot in a cemetery; a tomb, crypt, compartment or vault in a mausoleum; a niche or compartment in a

La version française du présent document est intitulée *Transition à la taxe de vente harmonisée de l'Ontario et de la Colombie-Britannique – Arrangements de services funéraires payés d'avance, accords de prévoyance pour les services de cimetière et les biens servant à l'inhumation*.



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columbarium; or any similar place used for the interment of human remains.

“Operator” means the operator of a funeral home or a place of interment.

“Place of interment” includes a cemetery, mausoleum, or columbarium.

“Prepaid arrangement” means an arrangement under which an operator contracts with a purchaser to supply certain funeral or cemetery services in respect of one or more named individuals upon the death of the individual(s). For purposes of this info sheet, prepaid arrangements must be in writing and may include electronic documents that can be printed.

### **Funeral and cemetery services**

To determine whether GST or HST applies to funeral or cemetery services supplied under a prepaid arrangement in Ontario or British Columbia, operators must consider the following:

- when the prepaid arrangement was entered into;
- whether it was reasonable, at the time the prepaid arrangement was entered into, to expect that all or at least part of the amount to pay for the funeral or cemetery services would be paid (or put into trust) before the individual’s death; and
- when the funeral or cemetery services under the prepaid arrangement are provided.

For details on how to determine whether GST or HST applies to services (other than funeral or cemetery services) supplied in connection with a prepaid arrangement, see the information under the heading “Other services.”

See the following documents for information relating to the timing of the application of the GST/HST to supplies of funeral or cemetery services made under prepaid arrangements where the amount to pay for the service is put in trust:

- GST/HST Technical Information Bulletin B-091R, *Application of GST/HST to Prepaid Funeral Arrangements*; and
- GST/HST Technical Information Bulletin B-093, *Application of GST/HST to Interment Rights and Prepaid Cemetery Arrangements*.

### ***Prepaid arrangements entered into before September 1990***

Regardless of when the funeral or cemetery services are provided, neither GST nor HST applies to funeral or cemetery services supplied under a prepaid arrangement entered into before September 1990. This rule only applies if it was reasonable, at the time the prepaid arrangement was entered into, to expect that all or at least part of the amount to pay for the funeral or cemetery services would be paid (or put into trust) before the individual’s death.

#### **Example 1**

The operator of a funeral home entered into a prepaid arrangement with a purchaser in August 1990 to supply funeral services upon an individual’s death. It was reasonable, at the time the prepaid arrangement was entered into, to expect that all or at least part of the amount to pay for the funeral services would be paid (or put into trust) before the individual’s death. The individual died in September 2010 and the operator supplied the funeral services pursuant to the prepaid arrangement.

Although the funeral services were provided on or after July 1, 2010 neither GST nor HST applies to the funeral services because they were supplied under a prepaid arrangement entered into before September 1990.

### ***Prepaid arrangements entered into after August 1990 and before July 2010***

GST applies to funeral or cemetery services supplied under a prepaid arrangement entered into after August 1990. Therefore, the federal part of the HST (i.e., the equivalent to the GST) applies to funeral or cemetery services supplied under a prepaid arrangement entered into after August 1990.

Regardless of when the funeral or cemetery services are provided, the provincial part of the HST does not apply to funeral or cemetery services supplied under a prepaid arrangement entered into before July 2010. This rule only applies if it was reasonable, at the time the prepaid arrangement was entered into, to expect that all or at least part of the amount to pay for the funeral or cemetery services would be paid (or put into trust) before the individual’s death.

#### **Example 2**

The operator of a place of interment entered into a prepaid arrangement with a purchaser in June 2010 to supply cemetery services upon an individual’s death. It was reasonable, at the time

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the prepaid arrangement was entered into, to expect that all or at least part of the consideration to pay for the cemetery services would be paid (or put into trust) before the individual's death. The individual dies in February 2015 and the operator supplies the cemetery services pursuant to the prepaid arrangement.

The federal part of the HST (i.e., the equivalent to the GST) applies to the cemetery services because they are supplied under a prepaid arrangement entered into after August 1990.

The provincial part of the HST does not apply to the cemetery services because they are supplied under a prepaid arrangement entered into before July 2010 and it was reasonable, at the time the prepaid arrangement was entered into, to expect that all or at least part of the consideration to pay for the cemetery services would be paid (or put into trust) before the individual's death.

### ***Prepaid arrangements entered into on or after July 1, 2010***

HST applies to funeral or cemetery services supplied under a prepaid arrangement entered into on or after July 1, 2010.

#### **Example 3**

The operator of a funeral home entered into a prepaid arrangement with a purchaser in October 2010 to supply funeral services upon an individual's death. The individual dies in January 2020 and the operator supplies the funeral services pursuant to the prepaid arrangement.

The HST applies to the funeral services because they are supplied under a prepaid arrangement entered into on or after July 1, 2010.

### ***Amounts paid (or put into trust) before the individual's death***

Generally, at the time an operator enters into a prepaid arrangement with a purchaser, the purchaser agrees to either:

- pay all of the amount for the funeral or cemetery services by making a lump sum payment to the operator before the individual's death;
- pay all or at least part of the amount for the funeral or cemetery services by making a series of payments (e.g., instalment payments) to the operator before the individual's death; or
- purchase an insurance policy under which the proceeds from the policy at the time of the individual's death are payable to the operator for the funeral or cemetery services.

If at the time a prepaid arrangement is entered into the purchaser agrees to do any of the above, the

CRA considers it reasonable, at the time the arrangement is entered into, to expect that all or at least part of the amount to pay for the funeral or cemetery services will be paid (or put into trust) before the individual's death.

#### **Example 4**

The operator of a place of interment entered into a prepaid arrangement with a purchaser in June 2010 to supply cemetery services upon an individual's death. At the time the prepaid arrangement was entered into, the purchaser agreed to make a lump sum payment to the operator on July 2, 2010. The purchaser made the lump sum payment to the operator on July 2, 2010, and the individual died in February 2011. The operator supplied the cemetery services pursuant to the prepaid arrangement.

The federal part of the HST (i.e., the equivalent to the GST) applied to the cemetery services because they are supplied under a prepaid arrangement entered into after August 1990.

The provincial part of the HST did not apply to the cemetery services because: (1) they were supplied under a prepaid arrangement entered into before July 2010, and (2) by agreeing to make a lump sum payment to the operator before the individual's death, it was reasonable, at the time the prepaid arrangement was entered into, to expect that all or at least part of the amount to pay for the services would be paid (or put into trust) before the individual's death.

#### **Example 5**

The operator of a funeral home entered into a prepaid arrangement with a purchaser in May 2010 to supply funeral services upon an individual's death. At the time the prepaid arrangement was entered into, the purchaser agreed to make an initial payment to the operator on that day, and to make 15 quarterly instalment payments to the operator starting on July 1, 2010. The purchaser made all of the quarterly instalment payments to the operator on the dates set out in the prepaid arrangement. The individual dies in November 2016 and the operator supplies the funeral services pursuant to the prepaid arrangement.

The federal part of the HST (i.e., the equivalent to the GST) applies to the funeral services because they are supplied under a prepaid arrangement entered into after August 1990.

The provincial part of the HST does not apply to the funeral services because: (1) they are supplied under a prepaid arrangement entered into before July 2010, and (2) by agreeing to make a series of payments to the operator before the individual's death, it is reasonable, at the time the prepaid arrangement is entered into, to expect that all or at least part of the amount to pay for the services will be paid (or put into trust) before the individual's death.

#### **Example 6**

The operator of a place of interment entered into a prepaid arrangement with a purchaser in May 2010 to supply cemetery

services upon an individual's death. At the time the prepaid arrangement was entered into, the purchaser agreed to make an initial payment to the operator on that day, and to make 15 quarterly instalment payments to the operator starting on July 1, 2010. The individual dies in March 2013, and at that time, the purchaser has made only 11 of the 15 quarterly instalment payments to the operator on the dates set out in the prepaid arrangement. The deceased individual's estate pays the remaining amounts for the cemetery services to the operator, and the operator supplies the cemetery services pursuant to the prepaid arrangement.

The federal part of the HST (i.e., the equivalent to the GST) applies to the cemetery services because they are supplied under a prepaid arrangement entered into after August 1990.

The provincial part of the HST does not apply to the cemetery services because: (1) they are supplied under a prepaid arrangement entered into before July 2010, and (2) by agreeing to make a series of payments to the operator before the individual's death, it is reasonable, at the time the prepaid arrangement is entered into, to expect that all or part of the amount to pay for the cemetery services will be paid (or put into trust) before the individual's death.

### **Other services**

Some operators charge fees for other services that are not funeral or cemetery services, but are supplied in connection with prepaid arrangements. Examples of such fees include set-up fees, administration fees, cancellation fees, and instalment payment charges (also known as finance charges or service charges).

These fees are regarded as amounts paid for services (other than funeral or cemetery services) for purposes of determining whether GST or HST applies during the period that includes the July 1, 2010 implementation date of the HST in Ontario and British Columbia.

To determine whether GST or HST applies to such services performed during the period that includes July 1, 2010, operators must consider:

- when the service is performed;
- when an amount for the service becomes due; and
- whether an amount is paid without having become due.

Refer to Appendix A for more information on when an amount becomes due and when an amount is paid without having become due.

### ***When 90% or more of the service is performed before July 2010***

When 90% or more of the service is performed before July 2010, only the GST applies to any amount that becomes due or is paid without having become due for the service.

### ***Where more than 10% of the service is performed on or after July 1, 2010***

When more than 10% of the service is performed on or after July 1, 2010:

- Regardless of when the service is performed, GST applies to any amount that becomes due or is paid without having become due on or before October 14, 2009.
- Regardless of when the service is performed, GST applies to any amount that becomes due or is paid without having become due after October 14, 2009 and before May 2010. However certain purchasers may have to self-assess the provincial part of the HST. For more information, refer to "Self-assessment of the provincial part of the HST" in GST/HST Info Sheet GI-056, *Ontario and British Columbia: Transition to the Harmonized Sales Tax – Services*.
- When an amount becomes due or is paid without having become due on or after May 1, 2010:
  - GST applies to any amount that relates to the portion of the service performed before July 2010; and
  - HST applies to any amount that relates to the portion of the service performed on or after July 1, 2010.

### **Accounting for the GST/HST charged on other services**

The previous rules explain whether GST or HST applies to supplies of services (other than funeral or cemetery services). The following rules explain who accounts for the tax and when it should be accounted for.

### ***When an amount becomes due or is paid after October 14, 2009 and before May 2010***

When an amount becomes due or is paid without having become due after October 14, 2009 and before May 2010, the operator charges the

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purchaser GST and accounts for the tax in its GST/HST return according to the normal rules. Certain purchasers have to self-assess the provincial part of the HST. For more information, refer to “Self-assessment of the provincial part of the HST” in GST/HST Info Sheet GI-056.

***When an amount becomes due or is paid on or after May 1, 2010 and before July 2010***

When GST applies to a service or a portion of a service, the operator accounts for the GST in its GST/HST return according to the normal rules.

When HST applies to a service or a portion of a service, the operator accounts for:

- the 5% federal part of the HST in its GST/HST return according to the normal rules; and
- the provincial part of the HST in the GST/HST return for the reporting period that includes July 1, 2010.

***When an amount becomes due or is paid on or after July 1, 2010***

When an amount becomes due or is paid without having become due on or after July 1, 2010, the operator accounts for the HST in its GST/HST return according to the normal rules.

**Funeral and cemetery services provided at the time of need**

Generally, a prepaid arrangement sets out certain funeral or cemetery services to be supplied by the operator at the time of the individual's death. The relief from the provincial part of the HST, as discussed under the heading, “Prepaid arrangements entered into after August 1990 and before July 2010” in this info sheet, only applies to the funeral or cemetery services included in the prepaid arrangement and not to other funeral or cemetery services provided at the time of need.

***Upgrading or adding services***

It is common for a deceased individual's estate to request that the operator either upgrade some of the funeral or cemetery services included in the prepaid arrangement or supply additional funeral or cemetery services that were not included in the prepaid arrangement.

Regardless of when a prepaid arrangement was entered into, if at the request of a deceased individual's estate the operator:

- substitutes, on or after July 1, 2010, a certain funeral or cemetery service included in the prepaid arrangement with a similar kind or class of funeral or cemetery service, but of an increased value, HST applies to the amount that is the difference between the amounts to pay for those services; or
- adds, on or after July 1, 2010, new funeral or cemetery services that are supplied in connection with the prepaid arrangement, HST applies to any amount to pay for those new services.

In both cases, the HST collectible by the operator is based on the HST rate that applies on the earlier of the date when the amount becomes due or is paid without having become due.

**Example 7**

The operator of a funeral home entered into a prepaid arrangement with a purchaser in July 2004 to supply funeral services upon an individual's death. At the time the prepaid arrangement was entered into, the purchaser agreed to make an initial payment to the operator on that day, and to make 15 quarterly instalment payments to the operator starting on October 1, 2004. The purchaser made all of the quarterly instalment payments to the operator on the dates set out in the prepaid arrangement. The individual died in August 2010 and at the request of the deceased individual's estate, the operator substituted the original casket specified in the prepaid arrangement with one of a higher value and supplied the remaining funeral services pursuant to the prepaid arrangement.

The federal part of the HST (i.e., the equivalent to the GST) applied to the funeral services because they were supplied under a prepaid arrangement entered into after August 1990.

The provincial part of the HST did not apply to the funeral services because: (1) they were supplied under a prepaid arrangement entered into before July 2010, and (2) by agreeing to make a series of payments to the operator before the individual's death, it was reasonable, at the time the prepaid arrangement was entered into, to expect that all or part of the amount to pay for the funeral services would be paid (or put into trust) before the individual's death.

HST applied to the amount that represented the difference between the amount to pay for the new casket and the amount for the original casket that was to be supplied under the prepaid arrangement.

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### ***Cancelling prepaid arrangements***

At the time of an individual's death, some operators cancel the prepaid arrangement and replace it with an at-need arrangement. Where this happens, the funeral or cemetery services are no longer supplied under a prepaid arrangement.

Regardless of when a prepaid arrangement is entered into, if a prepaid arrangement is cancelled on or after July 1, 2010 and replaced with an at-need arrangement, HST applies to any amount to pay for the funeral or cemetery services supplied under the at-need arrangement. The HST collectible by the operator is based on the HST rate that applies on the earlier of the date when the amount becomes due or is paid without having become due.

If an at-need arrangement is entered into on or after July 1, 2010 only for the purpose of fulfilling a prepaid arrangement under which the funeral or cemetery services were not subject to the provincial part of the HST and converting the prepaid prices to prevailing retail prices at the time of the individual's death, the provincial part of the HST does not apply to any amount to pay for the funeral or cemetery services included in the prepaid arrangement. However, if at the request of a deceased individual's estate the at-need arrangement includes:

- a substitution of a certain funeral or cemetery service included in the prepaid arrangement with a similar kind or class of funeral or cemetery service, but of an increased value, HST applies to the amount that is the difference between the amounts to pay for those services; or
- new funeral or cemetery services that are supplied in connection with the prepaid arrangement, HST applies to any amount to pay for those new services.

In both cases, the HST collectible by the operator is based on the HST rate that applies on the earlier of the date when the amount becomes due or is paid without having become due.

#### **Example 8**

The operator of a funeral home entered into a prepaid arrangement with a purchaser in December 2008 to supply funeral services upon an individual's death. At the time the prepaid arrangement was entered into, the purchaser made a lump sum payment to the

operator to pay for the funeral services. At the time of the individual's death in July 2010, the operator cancelled the prepaid arrangement and entered into an at-need arrangement with the deceased individual's estate. The at-need arrangement was not entered into for purposes of fulfilling the prepaid arrangement and converting the prepaid prices to prevailing retail prices at the time of the individual's death.

HST applied to any amount payable for the funeral services supplied under the at-need arrangement.

### **Interment property**

Interment property is a form of real property for GST/HST purposes. Operators of places of interment generally provide interment property by way of lease, licence or similar arrangement. Given the specific use and purpose of the lot, plot, crypt, etc., and the fact that the purchaser may have little or no control over it, supplies of such real property are generally supplies made by way of licence.

GST applies to supplies of interment property made by way of lease, licence or similar arrangement where the written agreement for the supply was entered into before July 2010.

HST applies to supplies of interment property made by way of lease, licence or similar arrangement where the written agreement for the supply is entered into on or after July 1, 2010.

If the operator collects HST in respect of a supply of interment property made by way of lease, licence or similar arrangement under a written agreement entered into before July 2010, the person acquiring the interment property may seek a refund of the provincial part of the HST from the operator. If the operator does not refund the provincial part of the HST, the person may submit a rebate for tax paid in error by filing Form GST189, *General Application for Rebate of GST/HST*, with the CRA.

The tax status of a supply of interment property may differ depending upon the person who is making the supply (such as charities, public institutions or public service bodies). Pages 12 to 14 of GST/HST Technical Information Bulletin B-093, *Application of GST/HST to Interment Rights and Prepaid Cemetery Arrangements*, provide detailed information regarding the supply of interment property and related services provided by such persons.

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### Example 9

The operator of a place of interment that is not a charity, public institution or public service body supplies interment property to a individual by way of licence under an agreement in writing entered into in June 2010. GST applies to the supply of interment property.

If the operator collected the HST on the supply of the interment property, the individual may seek a refund of the provincial part of

the HST from the operator or may file a rebate for tax paid in error, using Form GST189, with the CRA.

If the agreement in writing had instead been entered into on or after July 1, 2010, the HST would have applied to the supply of the interment property.

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 at 1-800-567-4692. You may also visit the Revenu Québec Web site 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 – When an amount becomes due or is paid without having become due**

The following rules explain when an amount becomes due and when an amount is paid without having become due. These rules apply to services and supplies of tangible and intangible personal property.

### ***Amount becomes due***

Generally, an amount for a supply becomes due on the earliest of the following days:

- the date of an invoice for that amount for the supply;
- the day the supplier first issues that invoice for the amount;
- if there is an undue delay in issuing that invoice, the day the supplier would have issued the invoice; and
- the day the client is required to pay that amount under a written agreement (other than a written agreement for the supply of property by way of lease, licence or similar arrangement).

An amount for a supply of property made by way of lease, licence or similar arrangement under a written agreement (e.g., a supply of an interment right by way of licence) becomes due on the day the purchaser is required to pay that amount pursuant to the written agreement.

For information on what is a written agreement for GST/HST purposes, refer to GST Memorandum 300-6-4, *Agreements in Writing*.

#### **Example 1**

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A supplier enters into a written agreement with a client for a service. Under the agreement, the client is required to pay the total amount on April 30. The supplier issues an invoice dated April 15.

The amount becomes due on April 15 because it is the earliest of the date of the invoice, the day the invoice was issued, and the day the client is required to pay an amount under a written agreement.

### ***Amount is paid without having become due***

An amount is paid without having become due when a client pays an amount for a supply:

- before the date of an invoice, or before a supplier issues, or would have issued, the invoice;
- before the client is required to pay the amount under a written agreement (other than a written agreement for the supply of property by way of lease, licence or similar arrangement) and no invoice has been issued; or
- before the client is required to pay the amount under a written agreement for the supply of property by way of lease, licence or similar arrangement.

#### **Example 2**

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A supplier enters into a written agreement with a client for a service to be performed during the year. Under the agreement, the client is required to pay the total amount due on April 30. No invoice is issued. The client pays the amount due on April 15. In this case, April 30 is the day the amount becomes due and April 15 is the day the amount is paid without having become due.

### ***More than one invoice or payment***

Sometimes, more than one amount becomes due or is paid without having become due. This could happen when, for example, a supplier issues more than one invoice or when the client is required to make more than one payment under a written agreement. In this case, for each amount, the supplier must determine whether GST or HST applies. The supplier cannot, for example, just apply the HST on the final amount or on the total amount payable for the service.

#### **Example 3**

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A supplier enters into a written agreement with a client for a service. Under the agreement, the client is required to make two payments. The supplier has to consider each payment separately to determine whether GST or HST applies to the amount paid.

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