

# Tax memo

Canadian tax updates



## Nova Scotia HST: Guidance on sales to Indians

*Considers the application of HST in Nova Scotia on sales to Aboriginals.*

May 1, 2012

The Harmonized Sales Tax (HST) in Nova Scotia applies to most taxpayers. However, certain supplies made to Aboriginal persons in Canada are not subject to HST. It is important for a dealer to understand the circumstances when HST does not apply, to ensure that the proper tax treatment is applied.

This guidance<sup>1</sup> sets out the Canada Revenue Agency's administrative policy guidelines in effect as at the date of this memo. Because tax positions are ever-evolving, dealers should continue to discuss issues with their tax advisers to ensure that their positions remain current.

### *Supplies to an individual that qualifies as an Indian*

For an exemption to apply on a sale to an Indian, the individual must provide a copy of his/her Secure Certificate of Indian Status Card (Card). These Cards are issued to eligible Indians by the Aboriginal Affairs and Northern Development Department Canada (the Department) or, if issued before June 13, 2011, by the Department of Indian and Northern Affairs Development. HST relief may be provided only to the cardholder and not to another party purchasing on his/her behalf. When HST relief is provided, the dealer must make notification on the sales documentation of the registry number or the band name and family number (commonly referred to as the band number/treaty number).

Dealers can also accept a Temporary Confirmation of Registration Document (TCRD). TCRDs are issued by the Department, are valid for a 12-month period and evidence that a registration is pending for a Card. TCRDs contain the name of the individual, a registration number and the expiration date of the TCRD. In these circumstances, the Indian must present the original TCRD and the dealer must make notification on the sales documentation of the registration number and the expiration date of the TCRD.

Samples and additional information are available on the Department's website:

- Card: [www.aadnc-aandc.gc.ca/eng/1100100032405](http://www.aadnc-aandc.gc.ca/eng/1100100032405)
- TCRD: [www.aadnc-aandc.gc.ca/eng/1308145264653](http://www.aadnc-aandc.gc.ca/eng/1308145264653)

1. This *Tax memo* was prepared by PwC, in cooperation with the Nova Scotia Automobile Dealers Association. It addresses only the concerns and issues raised by the Association in respect of its members.

Aboriginal persons such as Metis persons may have other documents, such as Metis Membership Cards. These cards are not acceptable. Only persons with the above Cards or TCRDs can receive the exemptions.

No other such HST exemptions are available. The Cards and TCRDs are the dealer's principal evidence that a supply should not be subject to HST, and therefore diligence must be exercised to minimize any potential compliance risks.

### ***Sales of vehicles or parts to an Indian***

The following rules apply to sales of vehicles or parts:

- If the property is delivered to a reserve by the dealer (or the dealer's agent) and the dealer maintains proof of delivery to the reserve (such as a freight bill or when delivered by the dealer, any other document that substantiates delivery to the Indian on a reserve), the sale is not subject to HST.
- A dealer's agent must be a person that is under contract with the dealer for the purposes of making deliveries and for whom the dealer normally bears all risk during the course of delivery (this cannot be the purchaser or the purchaser's agent).

An Indian is not required to actually live on the reserve where the delivery takes place in respect of a sale of a vehicle or parts. The exemption applies if the sale is made to an Indian and the property is delivered to a reserve.

If an Indian purchases a vehicle or parts other than on a reserve or no delivery takes place to a reserve, the sale is subject to HST.

### ***Leases of vehicles to an Indian***

The following rules apply to leases:

- If, at the inception of the lease, the vehicle is delivered to a reserve by the dealer or the dealer's agent and the dealer maintains proof of delivery to a reserve, the entire lease is not subject to HST.

Any subsequent exercising of an option to purchase the vehicle is also not subject to HST if the dealer is provided acceptable evidence (purchaser's Card and copy of the purchaser's driver's licence showing an address on the reserve) that the vehicle was on a reserve at the time that the option is exercised.

- If, at the inception of the lease, the vehicle is not delivered to a reserve, the lease payments are subject to HST until the Indian can substantiate to the dealer that the vehicle is now located on a reserve (acceptable evidence would be the lessee's Card and copy of the lessee's driver's licence showing an address on the reserve).

Any lease payments subsequent to the provision of that documentation are not subject to HST and any option to purchase the vehicle that is exercised is also not subject to HST if the dealer is provided acceptable evidence (purchaser's Card and copy of the purchaser's driver's licence showing an address on the reserve) that the vehicle was on a reserve at the time that the option was exercised.

### ***Services provided to an Indian***

No HST relief applies to services physically performed off-reserve for an Indian even if the vehicle is for use on a reserve. However, if a supply of a repair service involves the provision of parts that are invoiced separately on the invoice and the vehicle (with the installed parts) is delivered by the dealer to a reserve after the service is performed, the supply of the parts is not subject to HST (assuming that proper documentation as noted above is maintained). Any repair services physically provided on a reserve in respect of an Indian's vehicle are not subject to HST.

### ***Supplies to Indian bands or band-empowered entities***

There are also certain HST exemptions for purchases made by an Indian Band (Band) or a Band-Empowered Entity (Band Entity); these are entities that are situated on a reserve and controlled

or owned by a Band. The HST exemptions in respect of sales and leases of property to Indians also apply when similar supplies are made to Bands or Band Entities. Services (such as repair services) performed for band management activities (for example, vehicles owned and used by the Band on reserve) are also not subject to HST regardless of whether the service is performed on or off reserve. For any supplies made to a Band or Band Entity, the dealer must be provided with a certificate, as set out below, to apply any HST relief:

*This is to certify that the property or service being acquired by [insert the name of band or band-empowered entity] is for band management activities (if applicable) or for real property on the reserve. This supply will not be subject to the goods and services tax/harmonized sales tax (GST/HST).*

The certificate must include the title and signature of an authorized officer of the Band or Band Entity as well as the date of the certificate. A certificate must be obtained at the time that each invoice is issued (avoid blanket certificates).

## **Need more help?**

For more information, please contact any of the following individuals:

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