

Ontario First Nations Point-of-Sale Exemptions

The contents of this guide do not affect, or interfere with, the application of the exemption under section 87 of the Indian Act and its effect on the Goods and Services Tax/Harmonized Sales Tax (GST/HST).

About this Guide

This guide provides information about the point-of-sale exemption for the Ontario portion of the Harmonized Sales Tax (HST) as well as the Ontario Retail Sales Tax (RST) exemptions available to Ontario First Nations people.

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HST Point-of-Sale Exemption

Effective
September 1,
2010

On June 17, 2010, the Government of Ontario announced that its existing RST exemption for Status Indians, Indian bands and councils of an Indian band will continue for qualifying off-reserve property or services (including sales and leases) as Ontario moves to the HST.

Effective September 1, 2010, Status Indians, Indian bands and councils of an Indian band are entitled to an exemption from paying the eight per cent Ontario component of the HST on qualifying property or services at point-of-sale.

The point-of-sale exemption for Status Indians, Indian bands and councils of an Indian band will apply only to qualifying off-reserve acquisitions or importations of property or services that are for the personal consumption of the Status Indian or exclusively for consumption or use by the band or the council of the band.

The Status Indian point-of-sale exemption will not apply where any other relief is available, such as:

- when the purchaser is eligible for input tax credits for the Harmonized Sales Tax (HST) payable (e.g., because the purchase is for use in the purchaser's commercial activities);
- in cases where the supply is already relieved of the HST because it is zero-rated (e.g., basic groceries) or exempt (e.g., certain health care services); or
- when the property is a designated item that qualifies for an Ontario point-of-sale rebate for the Ontario component of the HST (e.g., children's clothing, printed books).

Effective September 1, 2010, vendors will provide a credit (exemption) at the time of sale of the eight per cent Ontario component of the HST for qualifying off-reserve property or services.

Also effective September 1, 2010, the Canada Border Service Agency (CBSA) will credit the eight per cent Ontario component of the HST on qualifying goods imported by Ontario Status Indians, Indian bands and councils of Indian bands.

Ontario Status Indians will be required to present a valid *Certificate of Indian Status* identity card issued by Indian and Northern Affairs Canada to the vendor at the time of purchase or, in the case of importations, to a border service officer at the time that the goods are imported.

Generally, Status Indian purchasers will not be required to take any additional steps in order to take advantage of this point-of-sale exemption. Where a Status Indian acquires or imports a qualifying property or service, the vendor will provide the Status Indian purchaser with the point-of-sale exemption by crediting the Ontario component of the HST and only collecting the five per cent federal component of the HST on that property or service.

For qualifying imported goods, relief of the eight per cent Ontario component of the HST will be applied as a deduction from the amount that would be required to be collected from Ontario Status Indians, Indian bands or councils of an Indian band upon importation at the port of entry.

In the event that a Status Indian, Indian band or council of an Indian band purchaser does pay the Ontario component of the HST on the purchase or importation of a qualifying item (e.g., the vendor did not credit the Ontario component of the HST to the purchaser), the purchaser will be entitled to apply to the Ontario Ministry of Revenue for a refund of the Ontario component of the HST paid.

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Exemption Scope

The Ontario First Nations Harmonized Sales Tax (HST) point-of-sale exemption will generally follow the practice of the Retail Sales Tax (RST) exemption for property or services purchased off-reserve by Status Indians, Indian bands and councils of an Indian band as it existed prior to July 1, 2010.

This point-of-sale exemption is in addition to the current exemption provided to Status Indians under section 87 of the *Indian Act* (Canada) which is applied to the GST/HST framework. For information on the application of GST/HST to Status Indians, please refer to the Canada Revenue Agency's (CRA) website at cra-arc.gc.ca.

Who is Eligible

The point-of-sale exemption for First Nations people is restricted to:

- Status Indians who are Ontario residents or
- Status Indians who are Canadian residents and resident on the Akwesasne reserve, or
- An Indian band or council of a band of an Ontario First Nations reserve (including the Akwesasne reserve).

Property or Services that Qualify for the HST Point-of-Sale Exemption

The following property or services qualify for the point-of-sale exemption when acquired in or imported into Ontario:

- Tangible personal property (including new and used motor vehicles purchased from a motor vehicle dealer and take-out meals) other than tangible personal property listed below under "Tangible Personal Property that does not Qualify for the Point-of-Sale Exemption";
- An agreement for warranty or maintenance of the qualifying tangible personal property;
- A service of installing, assembling, dismantling, adjusting, repairing or maintaining the qualifying tangible personal property; and
- A telecommunication service (including cable television, telephone, internet) within the meaning of Part IX of the *Excise Tax Act* (Canada).

Generally, services eligible for the point-of-sale exemption are those that were exempt from RST only when purchased by a Status Indian.

Tangible Personal Property that does not Qualify for the HST Point-of-Sale Exemption

The following tangible personal property does not qualify for the point-of-sale exemption and remains subject to the HST:

- Restaurant meals other than take-out meals;
- Tangible personal property supplied under an agreement for catering services;
- Electricity, natural gas or any other form of energy;
- Gasoline within the meaning of the *Gasoline Tax Act* and fuel within the meaning of the *Fuel Tax Act*;
- Liquor, beer, wine and other alcoholic beverages; and
- Tobacco within the meaning of the *Tobacco Tax Act*.

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Other Property and Services that are Excluded from the HST Point-of-Sale Exemption

The following are examples of property and services that do not qualify for the point-of-sale exemption and therefore are subject to the Harmonized Sales Tax (HST):

- Intangible personal property that is not situated on a reserve;
- Real property (e.g., new homes, condos and mobile homes), transient accommodation (i.e., hotel accommodation), and parking, that is not located on a reserve;
- Services that were not taxable under Retail Sales Tax (RST) (e.g., car washing, jewellery engraving); and
- All other services that are not GST/HST relieved to Status Indians will generally remain taxable to Status Indians under HST when they are not performed on a reserve (e.g., haircuts, massage therapy, dry-cleaning, home renovations, funeral services).

Distribution Channels where the HST Point-of-Sale Exemption is not Permitted

Vendors are not allowed to provide the point-of-sale exemption for qualifying property or services when purchased via the Internet or through other distribution channels for which the presentation of a Certificate of Indian Status card to verify eligibility is not possible. In addition, the point-of-sale exemption will not be credited on goods imported by mail or courier.

When Status Indians, Indian bands and councils of an Indian band acquire qualifying property or services through these distribution channels, they may claim a refund from the Ontario Ministry of Revenue of the eight per cent Ontario component of the HST paid.

Purchaser Responsibilities

Status Indians must show a valid Certificate of Indian Status card to claim the exemption on qualifying property or services. Status Indians must be acquiring or importing the eligible property or services exclusively for their personal use or consumption in order to be eligible to claim the point-of-sale exemption. Status Indians are not eligible to claim the point-of-sale exemption in cases where the property or services are not for their personal consumption.

Indian bands and councils of an Indian band must present written certification (e.g., a letter on band letterhead signed by an authorized representative of the band) that the property or services are exclusively for consumption or use by the band or the council of the band. Indian bands and councils of an Indian band are not eligible to claim the point-of-sale exemption in cases where the property or services are not for the use of the band or council of the band.

To view samples of valid Certificate of Indian Status cards, see RST Tax Tip - Certificate of Indian Status Identity Cards on our website at ontario.ca/revenue on page number 2576.

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Vendor Responsibilities

Vendors should visually confirm that the photograph on the status card is that of the purchaser. From the information provided on the card, vendors should record the date, person's name, card number, band registry number, and a brief description of the property or services sold. Where the sale is to an Indian band or council of an Indian band, vendors should retain the certification provided for the exemption. These records should be kept for audit purposes.

HST Refunds

Refunds for Ontario First Nations when Point-of-Sale Exemption is not provided by the Vendor

Status Indians, Indian bands and councils of an Indian band that have paid the eight per cent Ontario component of the Harmonized Sales Tax (HST) on or after September 1, 2010 on acquisitions or importations by mail or courier of qualifying property or services, may claim a refund by submitting an Application for Ontario HST Refund for First Nations form on or after September 1, 2010 to the Ontario Ministry of Revenue.

First Nation individuals, families and Indian bands and councils of an Indian band are encouraged to accumulate receipts and file one application respectively rather than multiple applications for small refund amounts.

Refund applications must include original receipts for qualifying property or services and a photocopy of both sides of the Certificate of Indian Status card, or in the case of Indian bands and councils of an Indian band, a letter from the band or council certifying the qualifying property or services are exclusively for consumption or use by the band or the council of the band.

Applications for refund of HST paid in Ontario, or for qualifying goods imported into Canada must be submitted within four years from the date the tax was paid. Applications for refund of HST paid in another participating province but imported into Ontario within 30 days, must be submitted within one year from the date the qualifying goods were imported into Ontario. All refund applications should be submitted to the:

Refund Unit
2nd floor, 1600 Champlain Avenue
Whitby, ON L1N 9B2

Refunds of all other HST paid in error

In all other circumstances where the Ontario component of the HST is paid in error (including where the supplier failed to grant an Ontario HST point-of-sale rebate on the designated items of print newspapers, qualifying prepared food and beverages, printed books, children's goods and feminine hygiene products), Status Indians, Indian bands and councils of an Indian band must apply to the CRA for a refund.

For instructions on how to claim a rebate of HST paid in error, contact the CRA at 1-800-959-5525.

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More Information

For information on how GST/HST registrant vendors are required to report the Ontario First Nations point-of-sale exemption, please review GST/HST Info Sheet GI-106 - Ontario First Nations Point-of-Sale Relief – Reporting Requirements for GST/HST Registrant Suppliers (cra-arc.gc.ca/E/pub/gi/gi-106/README.html). It should be noted that these reporting requirements relate only to the Ontario First Nations Point-of-Sale Exemption and not to any exemptions under the GST/HST framework by virtue of section 87 of the *Indian Act* (Canada), or to situations where an Ontario Harmonized Sales Tax (HST) point-of-sale rebate on certain designated items applies.

For further information, please contact the CRA directly at 1-800-959-5525.

Interim Measures for July 1, 2010 to August 31, 2010

For the period July 1, 2010 to August 31, 2010 inclusive, Status Indians, Indian bands and councils of an Indian band are required to pay the 13 per cent HST at the point of sale and on importation, unless exempt under section 87 of the *Indian Act* (Canada) which is applied to the GST/HST framework or an Ontario HST point-of-sale rebate on certain designated items applies.

During this July 1, 2010 to August 31, 2010 period of time, the eight per cent Ontario component of the HST paid on qualifying property or services will be refunded by the Ontario government for consideration that is due before September 1, 2010.

Status Indians, Indian bands and councils of an Indian band should retain their receipts for qualifying off-reserve property or services used for the personal consumption of the Status Indian or exclusively for consumption or use by the band or the council of the band. Claimants must complete an Application for Ontario HST Refund for First Nations for the Period July 1, 2010 and August 31, 2010 inclusive form and submit it to the Ontario Ministry of Revenue accompanied by:

- original receipts
- photocopy of both sides of the Certificate of Indian Status card, or in the case of Indian bands and councils, a letter from the band or council certifying the property or services are exclusively for consumption or use by the band or the council of the band.

Applications should be submitted at the end of the interim period (September 1, 2010), with a deadline for submission of November 1, 2010. The ministry will make best efforts to meet its current service standard for refund payments within 40 business days from receipt of a completed application.

RST Point-of-Sale Exemption

Exemption Scope

Retail Sales Tax (RST) continues to apply to a very limited number of items after June 30, 2010.

Private Purchases of Specified Vehicles

Effective July 1, 2010, 13 per cent RST is payable on specified vehicles purchased privately (e.g., from a person that is not a GST/HST registrant).

Specified vehicles are:

- motor vehicles or other vehicles that require a permit under the *Highway Traffic Act* (HTA)
- off-road vehicles or motorized snow vehicles that require a permit under the *Off-Road Vehicles Act* or the *Motorized Snow Vehicles Act*
- boats
- aircraft

Effective September 1, 2010, Status Indians, Indian bands and councils of an Indian band may transfer specified vehicles purchased privately off-reserve exempt from Retail Sales Tax (RST).

Status Indians who purchase specified vehicles privately may claim an exemption from the 13 per cent RST by showing their Certificate of Indian Status card, when registering the vehicle at a Driver and Vehicle Licence Issuing Office or a ServiceOntario Centre.

Indian bands and councils of an Indian band may claim the exemption by providing a letter certifying the vehicle is exclusively for the consumption or use of the band or the council of the band.

Insurance and Benefit Plans

Ontario will continue its application of tax at a rate of eight per cent on the same types of insurance premiums that were taxed under RST before July 1, 2010. Insurance that was exempt from RST prior to July 1, 2010, such as automobile insurance premiums, will continue to be exempt from RST after June 30, 2010. Certain costs and fees, such as administration fees for benefit plans, that are subject to Harmonized Sales Tax (HST) will be exempt from RST.

The eight per cent RST does not apply to contracts of insurance entered into by Status Indians, Indian bands or councils of an Indian band in respect of real or personal property located on a reserve. However, RST of eight per cent will apply to premiums in respect of property located off-reserve as it did prior to July 1, 2010.

If a Status Indian resides on a reserve and works for an employer located off-reserve, the premium payments made by both the Status Indian and the employer for group insurance are exempt from the eight per cent RST as it was prior to July 1, 2010. If the Status Indian resides off-reserve, then RST will apply to both the employer and employee portions of the premiums paid into a benefits plan where applicable.

For more information on tax on insurance premiums see Tax Tip #4 - Prepare for Ontario HST: Insurance Premiums available on our website at ontario.ca/revenue on page number 2948.

Purchaser and Vendor Responsibilities

Status Indians must show a valid Certificate of Indian Status card to claim the exemption on the purchase of specified vehicles or taxable insurance contracts from vendors. Status Indians must acquire or import the vehicle exclusively for their personal use or consumption. The insurance contract must qualify for an RST exemption.

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Indian bands and councils of an Indian band must present written certification (e.g., a letter on band letterhead signed by an authorized representative of the band) that the specified vehicle is exclusively for consumption or use by the band or the council of the band and the insurance contract qualifies for a Retail Sales Tax (RST) exemption.

The point-of-sale exemption should not be claimed when specified vehicles or taxable insurance contracts are acquired for other purposes.

Insurance vendors should visually confirm that the photograph on the status card is that of the purchaser. From the information provided on the card, vendors should record the date, person's name, card number, band registry number, and a brief description of the insurance contract sold. Where the sale is to an Indian band or council of a band, vendors should retain the certification provided for the exemption. These records should be kept for audit purposes.

RST Refunds

Status Indians, Indian bands and councils of an Indian band who have incorrectly paid RST may apply to the Ontario Ministry of Revenue for a refund by completing a General Application for Refund of Retail Sales Tax form.

Refund applications must include original receipts for qualifying purchases and a photocopy of both sides of the Certificate of Indian Status card, or in the case of Indian bands and councils of an Indian band, a letter from the band or council certifying that the specified vehicle or insurance premium are exclusively for consumption or use by the band or the council of the band. Refund applications must be submitted within four years from the date the tax was paid to the Refund Unit, 2nd Floor, 1600 Champlain Ave., Whitby, ON L1N 9B2.

More Information

Telephone

- 1 866 ONT-TAXS (1 866 668-8297)
- Teletypewriter (TTY) 1 800 263-7776

Written Interpretation

To obtain a written interpretation on a specific situation not addressed in this publication, please send your request in writing to:

Ministry of Revenue
Tax Advisory Services Branch, Retail Sales Tax Section
33 King Street West, 3rd Floor
Oshawa ON L1H 8H5

Cette publication est disponible en français sous le titre « Guide des exemptions au point de vente accordées aux Premières nations de l'Ontario ». Vous pouvez en obtenir un exemplaire en appelant le 1 866 ONT-TAXS (1 866 668-8297) ou en visitant ontario.ca/revenu.

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