



Meaning of the Term “Public College”

This version replaces the one dated March 10, 1999, entitled “Funding for Public Colleges”.

Legislative references: *Excise Tax Act*: subsection 123(1) – definition of “public college”, as amended by S.C. 1997, c.10, s.1(7); subsection 259(1) as amended by S.C. 1997, c.10, s.69(4); subsection 259(1) – definition of “specified provincial percentage” as amended by S.C. 2009, c. 32, s. 29(1); subsection 259(3) as amended by S.C. 2009, c 32, s. 29(2); Part III and Part VI of Schedule V

National coding system file number: 11910-5

Effective date: January 1, 1991

All legislative references in this policy statement refer to the *Excise Tax Act* (“the ETA”), unless otherwise indicated.

Please note that the following policy statement, although correct at the time of issue, may not have been updated to reflect any subsequent legislative changes.

Issue

Meaning of “public college” for GST/HST purposes.

Decision

Subsection 123(1) defines a “public college” to mean “an organization that operates a post-secondary college or post-secondary technical institute:

- (a) that receives from a government or a municipality funds that are paid for the purpose of assisting the organization in the ongoing provision of educational services to the general public, and
- (b) the primary purpose of which is to provide programs of instruction in one or more fields of vocational, technical or general education.”

Included in that definition are several requirements that an organization must meet in order to be considered a “public college”.

First, the organization must operate a “post-secondary college” or a “post-secondary technical institute”. In order for a college or technical institute to qualify as *post-secondary*, it must have as part of its normal admission standards the requirement that the prospective student have either a secondary school diploma or equivalency, or mature student status.

Generally, all post-secondary colleges or post-secondary technical institutes, whether private or public, are required to operate pursuant to the relevant governing federal or provincial legislation. There are a few exceptions to this requirement.

La version française de la présente publication est intitulée *Sens de l'expression « collège public »*.



Second, the organization must receive funding from a government or a municipality for the purpose of assisting the organization in the ongoing provision of educational services to the general public. An organization that is a post-secondary college or post-secondary technical institute but is not funded by a government or a municipality is not a public college for purposes of the ETA.

The requirement that the government funding be for the purpose of “assisting...in the ongoing provision of educational services” contrasts with monies that are provided to an organization under special agreements between the organization and a government or municipality in respect of the provision of training to a particular group of students (e.g., income assistance recipients and employment assistance recipients). Funding under federal or provincial programs to support job training activities generally involves the organization using the monies to provide specific educational services over a limited time period, and therefore the funding does not relate to the ongoing provision of educational services. However, where the Ministry of Education of a province provides regular operating grants in the form of transfer payments to community colleges or technical institutes, such organizations will be considered to be receiving funding from a government for the purpose of assisting them in the ongoing provision of educational services to the general public.

For this purpose, the term “general public” is interpreted to mean “a significant segment of the general public”. An institution may have certain reasonable admissions standards, such as educational prerequisites, and still be considered to be providing educational services to the general public. Further, as long as an organization offers a variety of courses to the general public, it may be acceptable that a portion of the courses or programs offered may be limited to a very narrow segment of the public.

Third, the organization’s primary purpose must be to provide programs of instruction in one or more fields of vocational, technical or general education. To determine the primary purpose of the organization, the CRA will normally look to the instruments by which the organization was created. These instruments may include letters patent or articles of incorporation. As well, other documentation such as the organization’s course calendar or promotional material, financial statements, or information on the organization’s website, may assist in determining the primary purpose of the organization.

An organization that qualifies as a “public college” may make exempt supplies pursuant to Parts III and VI of Schedule V.

Where an organization meets the definition of a “public college” and it is also established and operated otherwise than for profit, it is considered a “selected public service body” as defined in subsection 259(1) and may therefore be entitled to rebates under section 259. An organization that meets all of the requirements of a public college, but operates on a for-profit basis is not a “selected public service body”, and therefore will not qualify for the rebates under section 259.

Examples

Example 1

Facts

1. XYZ is a post-secondary educational institution.
2. XYZ has been designated as a college under provincial legislation governing colleges.
3. XYZ's primary purpose is to provide computer related technical courses to students who have graduated from high school having acquired credits in specific courses that are identified as prerequisites to the desired programs.
4. XYZ receives funding from the provincial Ministry of Education to finance the ongoing operations of the college.

-
5. The provincial funding is tied to the number of students the college is expected to enrol, based on the previous year's enrolment. However, the funding is not restricted to the education of any particular group of students, and XYZ decides whether to accept or refuse admission to students, based on a set of admission standards set by the Province.

Issue

Does XYZ qualify as a "public college" as defined in subsection 123(1)?

Comments

XYZ qualifies as a "public college" as defined in subsection 123(1), since it meets the requirements of this definition, as follows:

- i) XYZ is an organization that operates a post-secondary college as designated under provincial legislation governing colleges;
- ii) XYZ receives funds from the Ministry of Education to support the ongoing delivery of educational programs to the general public. The funds are not provided to support training to students who qualify under an agreement with the government for an educational program provided by the organization; and
- iii) XYZ's primary purpose is to provide a program of instruction in the field of technical education.

Example 2

Facts

1. Institute ABC is registered as a technical institute under provincial legislation governing technical institutes.
2. ABC offers a variety of technical programs for which the normal admission requirements are either high school graduation or equivalency, or mature student status.
3. The only government funding that ABC receives is from a federal government department as part of an employment assistance program.
4. ABC enters into an agreement with the federal government department who will provide the funding in return for training to applicants who are identified by virtue of that agreement.

Issue

Does ABC qualify as a "public college" as defined in subsection 123(1)?

Comments

ABC does not qualify as a "public college" as defined in subsection 123(1), since the funds that ABC receives from the federal government department are provided to support training provided to students who qualify for training or employment assistance as a result of a particular agreement with the federal government department. As such, the funds do not support the ongoing delivery of educational programs by the institute to the general public.

Example 3

Facts

1. DEF is a corporation established by a union and is registered as a post-secondary technical institute under provincial legislation.

-
2. DEF offers a variety of labour law and management training programs for which the normal admission requirements are either high school graduation or equivalency, or mature student status. All of the training offered by DEF is available to the union's members exclusively.
 3. DEF receives funding from the province to finance the ongoing operations of the educational programs.

Issue

Does DEF qualify as a "public college" as defined in subsection 123(1)?

Comments

DEF does not qualify as a "public college" as defined in subsection 123(1). Since the training it offers is available only to union members and not to the general public, the funds provided by the government do not support the ongoing delivery of educational programs by the institution to the general public.

Example 4

Facts

1. GHI is an educational institution.
2. GHI was established by the Ministry of Education of a province and operated by the Ministry of Labour of that province.
3. GHI is funded by the Ministry of Labour so that it may fulfil its mandate of providing pre-employment fire protection, rescue and dangerous goods training in the province.
4. In fulfilment of its mandate, GHI provides a variety of certificate programs to members of the provincial fire commission and other organizations. Some certificate programs are offered to members of the general public.
5. Candidates accepted into the certificate programs must have a secondary school diploma or equivalency. They must also successfully complete a three step selection process consisting of paper writing, examinations and an interview.

Issue

Does GHI qualify as a "public college" as defined in subsection 123(1)?

Comments

GHI qualifies as a "public college" as defined in subsection 123(1), since it meets the requirements of this definition, as follows:

- i) GHI operates a post-secondary technical institute established by the Ministry of Education;
- ii) GHI receives funds from the Ministry of Labour to support the ongoing delivery of educational programs to the general public. The funds are not provided to support training to students who qualify under an agreement with the government for an educational program provided by the organization; and
- iii) GHI's primary purpose is to provide a program of instruction in the field of technical education.

Example 5

Facts

1. JKL is an organization that offers post-secondary certificate programs to the general public in several vocational fields such as: Business Administrative Assistant, Bookkeeper, and Resident Care Worker.
2. Candidates must have a secondary school diploma or equivalency to apply for admission to a certificate program.
3. JKL is a non-profit organization that has entered into a *Memorandum of Understanding* with the province in which it operates under which the province recognizes JKL as a technical institute providing post-secondary education, and provides funding to JKL in support of the ongoing delivery of educational programs offered by JKL to the general public.

Issue

Does JKL qualify as a “public college” as defined in subsection 123(1)?

Comments

JKL qualifies as a “public college” as defined in subsection 123(1), since it meets the requirements of the definition, as follows:

- i) JKL operates a post-secondary technical institute as accepted by the province in the *Memorandum of Understanding*, and has as a requirement that candidates must have a secondary school diploma or equivalency to apply for admission;
- ii) JKL receives funds from the province to support the ongoing delivery of educational programs by JKL to the general public. The funds are not provided to support training to students who qualify under an agreement with the government for an educational program provided by JKL; and
- iii) JKL’s primary purpose is to provide a program of instruction in the field of vocational education.