



Application of the GST/HST to Supplies of Parking by Charities and Public Sector Bodies

In this notice, references to Part V.1 and Part VI are to those parts in Schedule V to the *Excise Tax Act* (the Act) and all legislative references are to the Act unless otherwise noted. References to the legislative amendments are to Bill C-31, *Economic Action Plan 2014, No. 1*, which received Royal Assent on June 19, 2014. While the legislative amendments included a number of GST/HST measures, this notice addresses only those amendments surrounding supplies of parking spaces made by charities and public sector bodies as set out in sections 56 through 60 of Bill C-31.

General

1. What was the nature of the legislative amendments with respect to a supply of a parking space at a public hospital?

The specifics of the exempting provisions for supplies of parking spaces at a public hospital are set out in the section entitled “The legislative amendments relating to supplies of parking”. Generally, the supply of a parking space at a public hospital is exempt where the supply is made by a charity or a public sector body (e.g., a hospital authority) to persons such as patients, visitors and individuals volunteering at the hospital. Parking supplied to hospital staff and medical professionals is generally taxable.

In order for the exemption to apply, either all the parking spaces in the specified parking area¹ must be reserved for individuals accessing a public hospital **or** it must be reasonable to expect that the parking lot will be used, during the calendar year in which the supply of the parking space is made, primarily by individuals accessing a public hospital (e.g., a pay parking lot next to the hospital building). This is the general condition that must be met in order for the exemption to apply.

A supply of a parking space in such a parking lot may be exempt. However, the supply of a parking space is not exempt where **any** of the following apply:

- Substantially all of the parking spaces in the parking lot in which the parking space is situated are reserved for individuals accessing the hospital in a professional capacity (e.g., the supply of a parking space in a parking lot is not exempt where the lot is reserved for hospital staff).
- The parking space, or the amount payable for the parking space, is conditional upon it being used by a person accessing the hospital in a professional capacity (e.g., if only hospital staff are permitted to park in the lot, or hospital staff pay a different amount for parking in the lot than do other persons, the supply would not be exempt).
- The agreement for parking is entered into in advance, the parking space is available for more than 24 hours and the parking space is to be used by a person accessing the hospital in a professional capacity (e.g., if a hospital staff member purchases a monthly parking pass in advance, the supply will not be exempt).

¹ The term “specified parking area” is explained in the answer to question 5. For purposes of this answer, assume that the specified parking area is a parking lot.



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- The supplier of the parking space has filed an election under section 211 of the Act in respect of the real property that includes the parking lot.

In effect, the exemption generally applies to a supply of a parking space to persons accessing the hospital as a patient, visitor or volunteer at the hospital, unless the lot is all or substantially all reserved for hospital staff.

2. (a) What is a charity?

A charity means a registered charity or registered Canadian amateur athletic association as those terms are defined in subsection 248(1) of the *Income Tax Act*, but does not include a public institution. A public institution means a registered charity as defined in subsection 248(1) of the *Income Tax Act* that is a school authority, a public college, a university, a hospital authority or a local authority determined under paragraph (b) of the definition of "municipality" to be a municipality. Therefore, for purposes of this notice, a charity does not include, for example, a hospital authority that is a registered charity as defined in subsection 248(1) of the *Income Tax Act*.

(b) What is a public sector body?

In this notice, a public sector body means a government, a non-profit organization, a municipality, a school authority, a hospital authority, a public college or a university. It does not include a charity.

3. What sections of the Act are affected by the legislative amendments?

The legislative amendments relate to supplies listed in Schedule V to the Act. Specifically, under the legislative amendments:

- Paragraph 1(o) of Part V.1 is added to exclude from the general exemption for charities certain supplies of parking spaces where the charity is affiliated (as described in the answer to question 8) with a municipality, a school authority, a hospital authority, a public college or a university and the parking area in which the parking space is situated can be expected to be used, during the calendar year in which the supply is made, primarily by individuals accessing a property of, or operated by, such persons.
- Section 5 of Part V.1 is amended to expressly exclude from the exemption in that section a supply of a parking space made for consideration by way of lease, licence or similar arrangement where the supply is made in the course of a business carried on by a charity, even if substantially all of the charity's supplies of parking spaces are made for no consideration.
- Section 7 of Part V.1 is added to exempt certain supplies of parking spaces made by a charity at a public hospital.
- Section 25.1 of Part VI, which is similar to section 7 of Part V.1, is added to exempt the supply of certain parking spaces at a public hospital where the supply is made by a public sector body.

Certain other changes are also included in the legislative amendments. For example, the definition of "specified parking area" was added to section 1 of Part VI; the amendments include a provision that may narrow the scope of the exclusion to the exemption provided by paragraph 1(o) of Part V.1 in respect of supplies made after March 21, 2013 and before January 25, 2014; and provisions were added to deal with amounts of GST/HST collected by charities on certain parking supplies made after March 21, 2013 and before January 25, 2014.

4. When did the legislative amendments come into effect?

The changes apply as follows:

- Paragraph 1(o) of Part V.1 generally applies to a supply made after March 21, 2013. (Certain supplies made after that date and before January 25, 2014, which would be taxable supplies because of the exclusion in paragraph 1(o), remain exempt. See the answers to questions 8 and 9.)
- Sections 5 and 7, both of Part V.1, apply to a supply made after March 21, 2013.
- The definition of “specified parking area” came into effect on March 21, 2013.
- Section 25.1 of Part VI applies to a supply made after January 24, 2014.

The legislative amendments relating to supplies of parking

5. What is a “specified parking area”? If a property contains more than one parking lot, is each parking lot considered to be a “specified parking area”, or are the parking lots collectively considered to be a specified parking area?

Section 1 of Part VI defines a “specified parking area” in relation to a supply of a parking space to mean all of the parking spaces that could be chosen for use in parking under the agreement for the supply of the parking space if all of those parking spaces were vacant and none were reserved for specific users.

Generally, the agreement for the supply of a parking space (e.g., a ticket dispensed upon entry into a particular parking lot) limits the person to parking in that parking lot. If that is the case, the specified parking area would be the particular parking lot. Similarly, where an agreement for the supply of a parking space allows access into an otherwise restricted parking area (e.g., with a parking pass) and only that area, the specified parking area would be that particular parking area.

However, if a ticket or parking pass allows a person to park in more than one parking area, all the areas in which the person is permitted to park under the agreement would form the specified parking area. For example, if a person holding a parking pass is entitled to park in either of two parking lots, the two lots together would form the specified parking area.

6. With respect to the legislative amendments, what do the terms “professional capacity” and “otherwise than in a professional capacity” mean?

The term “professional capacity” is not defined in the Act, nor is a definition included in the legislative amendments; however, it generally refers to the purpose a person has for accessing a public hospital.

In the context of accessing a public hospital, “professional capacity” is interpreted to include a work-related purpose for which a person is accessing the hospital, such as hospital staff (both medical and support staff), contract workers (medical and otherwise) and other persons who may access the public hospital for work purposes (e.g., delivery persons).

Accordingly, the term “otherwise than in a professional capacity” is interpreted to mean accessing a public hospital for a non-work-related purpose. For example, patients, visitors and persons who volunteer at a public hospital typically access the hospital otherwise than in a professional capacity.

7. The legislative amendments apply in respect of a specified parking area at a public hospital. What is a public hospital?

Policy Statement P-245, *Determination of “...activities engaged in by the person in the course of operating a public hospital” for purposes of the 83% public service body rebate for hospital authorities*, provides information on public hospitals. For the purposes of the Act, a public hospital is a building, or a group of buildings under a common corporate structure, operated by the hospital authority to provide medical or surgical treatment for the sick or injured, including acute, chronic or rehabilitative care. A public hospital encompasses **all** of the following characteristics:

- The services of medical practitioners, nursing staff and allied health professionals are available at all times to carry out the examination and diagnosis of patients and the provision of treatment and care.
- The services of health care personnel and health care equipment are utilized for the provision of health care services to the general public. This includes accommodation for laboratory, radiological and other diagnostic services, the administration of drugs, the use of operating rooms, case rooms, medical or surgical supplies and equipment.
- Inpatient beds and services are provided. Patients are assigned a bed in order to receive diagnostic services, medical treatment and care. Inpatient services are also provided in the public hospital to ensure the patient’s necessities of life and comfort, such as nursing services on a 24-hour basis, food services and laundry services.
- Operational and capital funding is received from provincial or territorial governments for the provision of publicly insured inpatient and outpatient hospital services.
- The hospital authority operates the public hospital under the laws of provincial or territorial governments respecting hospitals.

A facility that does not have all the above characteristics is not a public hospital for purposes of the Act.

8. Paragraph 1(o) of Part V.1 excludes from exemption a supply of a parking space made by a charity where certain conditions apply. What are those conditions?

In order for a supply of a parking space to be excluded from the exemption in section 1 of Part V.1, the following conditions have to be met:

- (i) the supply of the parking space must be made for consideration and supplied by way of lease, licence or similar arrangement in the course of a business carried on by the charity;
- (ii) at the time the parking space is supplied, it has to be reasonable to expect that, during the calendar year in which the supply is made, the specified parking area in relation to the parking space will be used primarily by individuals accessing a property of, or operated by, a municipality, school authority, hospital authority, public college or university;
- (iii) the charity must be “affiliated” with one or more of the persons listed in paragraph (ii) (see below for a discussion on the meaning of affiliated); and
- (iv) the supply is made after March 21, 2013.

Even where the supply by a charity meets these conditions, it is possible that a supply made after March 21, 2013 and before January 25, 2014, is not excluded from the exemption in section 1 of Part V.1. This is by virtue of a coming-into-force provision in the legislative amendments.² A supply made during this period remains exempt where the circumstances described in the answer to question 9 apply. For a supply made after January 24, 2014, the supply is excluded from the exemption in section 1 of Part V.1 where paragraph 1(o) applies, however the supply may be exempt under section 7 of Part V.1.

² See subsection 56(2) of the legislative amendments. It is noted that the wording of that subsection largely mirrors the wording that was proposed for paragraph 1(o) of Part V.1 as set out in the Notice of Ways and Means Motion of March 21, 2013.

A charity is affiliated with a person listed in paragraph (ii) above if **any** of the following are met:

- Under the governing documents of the charity, the charity is expected to use a significant part of its income or assets for the benefit of one or more of the persons listed in paragraph (ii).
- The charity and a person listed in paragraph (ii) have entered into an agreement with each other or with other persons in respect of the use of the parking spaces in the specified parking area.
- A person in paragraph (ii) performs any function or activity in respect of the parking spaces in the specified parking area.

9. As stated in the box in the answer to question 8, a supply of a parking space that is excluded from exemption by virtue of paragraph 1(o) of Part V.1 may still be exempt where the supply is made after March 21, 2013, and before January 25, 2014. Under what circumstances is such a supply not included in paragraph 1(o) of Part V.1 (i.e., it is not excluded from the exemption provided by section 1 of Part V.1)?

With respect to a supply that would otherwise be included in paragraph 1(o), if the supply is made after March 21, 2013 and before January 25, 2014, the supply is only excluded from the exemption in section 1 of Part V.1 if the following conditions are met:

- (i) The parking space is situated at a property for which it is reasonable to expect that, during the calendar year in which the supply is made, the parking spaces at the property will be used primarily by individuals accessing a property of, or operated by, a municipality, school authority, hospital authority, public college or university; and
- (ii) The charity is affiliated with one or more of the persons listed in paragraph (i) with respect to the parking spaces at the particular property.

The following example demonstrates a situation where a supply that would otherwise be excluded from exemption by virtue of paragraph 1(o) of Part V.1 is not excluded from that exemption, and remains exempt under section 1 of Part V.1, due to the coming-into-force provision for that paragraph.

Example

A charity affiliated with a hospital operates two parking lots situated on the grounds of the hospital. The first parking lot, which is maintained by the hospital authority, is for the exclusive use of hospital staff. The second parking lot, which is much larger, is located at some distance from the hospital building and is situated across the street from a building in which a medical research company is located. There is limited parking available at the medical research building and the second parking lot is used exclusively by employees of the research company. These are the only two parking areas on the hospital grounds. All parking spaces are supplied by way of licence, for consideration, in the course of a business carried on by the charity.

In determining whether the parking spaces at a property are used primarily by individuals accessing a property of the hospital authority, the charity will be able to consider the “property” to be either the parking spaces only in the parking area reserved for hospital staff or all of the parking spaces in both parking lots.

If the charity interpreted “the property” to be only the parking area reserved for hospital staff, then the parking spaces at that property will be expected to be used primarily by individuals accessing the hospital, and supplies of parking spaces made after March 21, 2013 and before January 25, 2014 will be excluded from the exemption in section 1 and will be taxable supplies. Supplies of parking spaces in the second parking lot will be exempt as that parking lot is not expected to be used primarily by individuals accessing the hospital. Conversely, if the charity interpreted “the property” to be both parking lots, the parking lots collectively are not expected to be used primarily by individuals accessing the hospital, and supplies of parking spaces in both parking lots will be exempt under section 1 of Part V.1.

10. Section 5 of Part V.1 exempts certain supplies of a charity where all or substantially all of the supplies are made for no consideration. Does this exemption apply to the supply of a parking space made for consideration if all or substantially all of the charity's supplies of parking spaces are made for no consideration?

Where, after March 21, 2013, a charity supplies a parking space, for consideration, by way of lease licence or similar arrangement in the course of a business carried on by the charity, the supply is not exempt under section 5 of Part V.1 even if substantially all of the charity's supplies of parking spaces are made for no consideration. Nonetheless, the supply of a parking space made for consideration may be exempt under section 1 or 7 of Part V.1.

11. Sections 7 of Part V.1 and 25.1 of Part VI each exempt certain supplies of parking spaces made by way of lease, licence or similar arrangement when made by a charity or a public sector body, respectively. What are the specific conditions of those sections?

The supply of a parking space by way of lease, licence or similar arrangement is exempt where **all** the conditions of the applicable section are satisfied. Although section 7 of Part V.1 applies to charities and section 25.1 of Part VI applies to public sector bodies that are not charities, the conditions for the exemptions are the same for both sections.

CONDITION 1 [paragraphs 7(a) and 25.1(a), as the case may be]

Paragraphs 7(a) of Part V.1 and 25.1(a) of Part VI each require that **either**:

- all of the parking spaces in the specified parking area are reserved for use by individuals who are accessing a public hospital; **or**
- at the time the parking space is provided, it is reasonable to expect that, during the calendar year in which the supply is made, the specified parking area will be used primarily by individuals who are accessing a public hospital.

If neither of the above requirements is met, the supply of the parking space will not be exempt under section 7 of Part V.1 or 25.1 of Part VI, as the case may be. If either requirement is met, then it must be determined whether conditions 2 and 3 are met.

CONDITION 2 [paragraphs 7(b) and 25.1(b), as the case may be]

The supply of a parking space in a specified parking area meets the condition of paragraph 7(b) or 25.1(b), as the case may be, only **if it is not the case** that any of subparagraphs (b)(i), (ii) or (iii) in the applicable sections describes the conditions under which the parking is provided.

Consider the following:

- (i) *Are all or substantially all the parking spaces in the specified parking area reserved for persons other than individuals accessing the public hospital otherwise than in a professional capacity?*

Where all or substantially all parking spaces are reserved for hospital staff or other persons accessing a public hospital in a professional capacity, **it is the case** that subparagraph (b)(i) describes the conditions under which the parking is provided. Such a supply is not exempt under section 7 of Part V.1 or 25.1 of Part VI. Where all or substantially all of the parking spaces are **not** reserved for individuals who are accessing the public hospital in a professional capacity (e.g., the parking lot is available to the general public), subparagraph (b)(i) of either section, as the case may be, does not describe the conditions under which the parking is provided. It must be determined whether subparagraphs (b)(ii) and (iii) of either section are met.

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- (ii) *Is the supply, or the consideration for the supply, of the parking space conditional on the parking space being used by a person other than an individual accessing the public hospital otherwise than in a professional capacity?*

Where the supply of a parking space is available only to persons accessing a public hospital in a professional capacity or where special parking rates apply because the person is accessing the hospital in a professional capacity, then **it is the case** that subparagraph (b)(ii) of either section, as the case may be, describes the conditions under which the parking is provided. Similarly, where the supply of a parking space is available only to persons who are not accessing a public hospital, or special parking rates apply when the person is accessing a facility other than a public hospital, then it is the case that subparagraph (b)(ii) of either section describes the conditions under which the parking is provided. For example, if a certain number of parking spaces at a public hospital are supplied to students of a faculty on a campus on which the hospital is located, the supplies of these parking spaces would be described in subparagraph (b)(ii). Such supplies of a parking space are not exempt under section 7 of Part V.1 or 25.1 of Part VI.

Where a supply of a parking space is **not** conditional on the parking space being used either by an individual not accessing a public hospital or accessing a public hospital in a professional capacity, or where the amount charged for the parking does not depend on whether the person is accessing a facility other than a public hospital or the person is accessing the public hospital in a professional capacity, subparagraph (b)(ii) of either section, as the case may be, does not describe the conditions under which the parking is provided and the supply may be exempt. It must be determined whether subparagraph (b)(iii) of either section is met.

- (iii) *Is the agreement for parking entered into in advance and, under that agreement, is the use of a parking space made available for a total period that is more than 24 hours, by a person other than an individual accessing the public hospital otherwise than in a professional capacity?*

Where **it is the case** that a person accessing a public hospital in a professional capacity enters into an advance agreement for parking for a total period of more than 24 hours (e.g., a weekly or monthly parking pass for hospital staff), the condition in subparagraph (b)(iii) of either section, as the case may be, is not met. Similarly, where a person who is not accessing a public hospital enters into an advance agreement for parking for a total period of more than 24 hours (e.g., a weekly or monthly parking pass for an individual accessing a faculty at a university, but not the public hospital situated on the campus on which the hospital is located), subparagraph (b)(iii) of either section describes the conditions under which the parking is provided. The supply of such parking is not exempt under section 7 of Part V.1 or 25.1 of Part VI.

If an individual is accessing the hospital otherwise than in a professional capacity (e.g., a hospital visitor) and enters into an agreement in advance for use of a parking space for more than 24 hours, the condition in subparagraph (iii) is met and the supply may be exempt.

In summary, if:

- all or substantially all parking spaces in the specified parking area **are not reserved for individuals** accessing the public hospital in a professional capacity or for individuals not accessing the public hospital;
- the supply or the consideration for the supply of the parking space **is not conditional** on an individual accessing a facility other than a public hospital or accessing a public hospital in a professional capacity; and
- an individual enters into an agreement in advance and, under that agreement, use of a parking space in the specified parking area is made available for a total period of time that is more than 24 hours and the use **is not** by a person who is accessing the public hospital in a professional capacity or by a person not accessing the public hospital,

the conditions in paragraph 7(b) of Part V.1 or 25.1(b) of Part VI, as the case may be, are met and it must be determined whether condition 3 is met. If any of subparagraphs (b)(i) through (iii) in section 7 of Part V.1 or 25.1 of Part VI, as the case may be, apply, then the supply is not exempt.

CONDITION 3 [paragraphs 7(c) and 25.1(c), as the case may be]

Paragraphs 7(c) of Part V.1 and 25.1(c) of Part VI each provide that an election under section 211 cannot be in effect in respect of the real property that includes the parking space if the supply of the parking space is to be exempt under the applicable section. Accordingly, if an election under section 211 is in effect in respect of the property in which the parking space is situated, the condition in paragraph 7(c) or 25.1(c), as the case may be, is not met and the supply is not exempt under either of these paragraphs.

Examples

12. When is it reasonable to expect that a specified parking area will be used primarily by individuals accessing a public hospital?

The term “primarily” generally means more than 50%.

The location of the parking lot may provide an indication as to whether it is reasonable to expect that the specified parking area will be used primarily by individuals who are accessing a public hospital. For example, if a parking lot is situated on a public hospital property, and there are few other office buildings or businesses in the vicinity for which parking would be required, it may be reasonable to expect that the parking lot will be used primarily by individuals accessing the public hospital.

Other factors that may indicate the specified parking area will be used primarily by individuals accessing a public hospital include the following:

- the parking rates at the public hospital are higher than parking rates at other similar parking lots near the hospital, i.e., individuals are willing to pay more because the parking spaces are closer to the hospital the individuals will be accessing; and
- signage in the specified parking area indicates that the area is for the use of individuals accessing the hospital.

No single factor is determinative of whether a specified parking area will be used primarily by an individual accessing a public hospital, and all the facts of a particular situation should be taken into account in making the determination.

It may not be reasonable to expect that a specified parking area will be used primarily by individuals accessing a public hospital where the specified parking area is located at some distance from a hospital and is used by persons who work near the parking area, but not at the hospital. For example, suppose a specified parking area is located at some distance from the hospital building and is situated across the street from a building in which a medical research company is located. There is limited parking available at the medical research building and the parking lot is used by employees of the research company. In such a case, it would generally not be reasonable to expect the parking lot to be used primarily by individuals accessing the hospital.

In other situations, a supplier may sell monthly parking passes to persons who it knows are not expected to be accessing a public hospital (e.g., employees of a business located near the hospital). Such a factor should be taken into consideration when determining whether a specified parking area is expected to be used primarily by persons accessing a public hospital.

13. The hospital building on the grounds of a public hospital is demolished. The existing parking area will continue to be used to supply parking spaces until construction of a new hospital is complete. There are no restrictions as to who may park in the area, i.e., the parking will be available to the public. Is the supply of parking spaces exempt if made by a charity or a hospital authority?

The parking spaces in the parking lot are not reserved for use by individuals who are accessing a public hospital. Depending on when the original hospital is demolished and construction of the new hospital is complete, it may not be reasonable to expect that, during a particular calendar year, the parking lot will be used primarily by individuals accessing a public hospital. If the expectation is not met for a particular calendar year, the supply of parking spaces is excluded from exemption under either section 7 of Part V.1 or section 25.1 of Part VI.

14. Would a supplier that is a charity or a hospital authority need to know whether an individual parking in a specified parking area is accessing a public hospital and whether the individual is there in a professional capacity before the supplier can determine whether the supply of the parking space to the individual is exempt?

The supply of parking is exempt where **all** conditions of the applicable exemption are satisfied. Paragraphs 7(a) of Part V.1 and 25.1(a) of Part VI each require that **either** all of the parking spaces in the specified parking area are reserved for use by individuals who are accessing a public hospital, **or** that it is reasonable to expect that the specified parking area will be used, during the calendar year in which the supply is made, primarily by individuals who are accessing a public hospital. If neither condition is met, the supply of the parking will not be exempt under section 7 of Part V.1 or 25.1 of Part VI, as the case may be.

For certain specified parking lots, it is not necessary for the supplier to know whether the individual using the parking space will access a public hospital in a professional capacity or otherwise. Consider the following example.

An individual parks in a public hospital parking lot that is a specified parking area and that is not reserved for use by individuals accessing the hospital. All individuals pay the same fee for parking in the lot; a ticket is dispensed when the person enters the lot and payment is required when the individual exits the lot. The individual does not access the hospital and instead visits an establishment across the street from the hospital. Provided it is reasonable to expect that, for the calendar year in which the supply is made, the parking lot will be used primarily by individuals accessing a public hospital, the supply will be exempt provided an election under section 211 is not in effect in respect of the property that includes the parking lot. In this situation, even though the individual is not accessing the hospital, the supply is exempt. Similarly, if a parking space in this parking lot were supplied to an individual accessing the hospital in a professional capacity, the supply would be exempt.

15. Are there any circumstances in which the supply of a parking space made by a charity or other public sector body (e.g., a hospital authority) is subject to the GST/HST when made to a patient or visitor at a public hospital? Assume that the parking space is in a specified parking area and it is reasonable to expect that the area will be used primarily by individuals accessing the public hospital.

Yes. If the supplier has filed an election under section 211 in respect of the real property that includes the specified parking area, the supply of the parking space would be excluded from the exemption in sections 7 of Part V.1 and 25.1 of Part VI. The supply of the parking space would be taxable for GST/HST purposes.

16. (a) If a charity collected an amount as or on account of GST/HST on its supplies of parking spaces made after March 21, 2013 and before January 25, 2014 and, based on section 7 of Part V.1, the supplies of the parking spaces are exempt, is the charity required to account for the GST/HST it collected in its net tax calculation?

No. The charity is considered to not have collected the GST/HST on the supplies and does not need to include the amount in its net tax calculation. If an amount has been included in the charity's net tax calculation and the GST/HST return in which that amount was reported has been assessed, the charity can request in writing that the Minister reassess its net tax to take into account the amount the charity would not be required to include in its net tax calculation. The written request would have to be made within one year after June 19, 2014. If the amount was included in its net tax calculation and the GST/HST return in which the amount was reported has not been assessed, the charity would generally be eligible to claim a rebate for the amount.

The written request for an adjustment to a GST/HST return would be sent to the charity's tax centre and must include all the details of the proposed adjustment. Information on adjusting previously filed GST/HST returns is available at www.cra-arc.gc.ca/tx/bsnss/tpcs/gst-tps/bspsbch/rtrns/djstmnts/prvs-eng.html.

Note that if a charity collects an amount as or on account of GST/HST in respect of an exempt supply of a parking space made after January 24, 2014, that amount must be included in its net tax calculation.

(b) If a person paid the GST/HST in respect of the supply of a parking space made by the charity after March 21, 2013 and before January 25, 2014, and the supply is exempt under section 7 of Part V.1, can the person receive a refund of the amount paid as GST/HST?

Yes. The person can request a refund or credit of the amount from the charity. This is often the simplest way to recover the amount. If the person cannot obtain a refund or credit from the charity, they can apply for a rebate of the amount on Form GST189, *General Application for rebate of GST/HST*, using reason Code 1. The person will need to attach the receipt for the supply of the parking space to its rebate application. A rebate will not be paid to the person if the total amount of the rebate claimed is \$2.00 or less. For information on claiming a rebate for amounts paid in error, see Guide RC4033, *General Application for GST/HST Rebates*.

17. A charity operates a parking lot in the course of a business carried on by the charity. The parking lot is located at a nursing home. While the parking spaces are not reserved for staff of, or visitors to, the home, it is reasonable to expect that the parking lot will be used primarily by individuals who are accessing the nursing home. The nursing home is operated by a hospital authority.

(a) Is the supply of parking spaces made by the charity exempt under section 7 of Part V.1?

No. As the nursing home is not a public hospital, the exemption in section 7 of Part V.1 does not apply.

(b) Is the supply of parking spaces by the charity exempt under section 1 of Part V.1?

The supply may be exempt under section 1 of Part V.1. However, depending on whether the charity is affiliated with the hospital authority or any other public sector body, if,

- (i) under the governing documents of the charity, it is expected to use a significant part of its income or assets for the benefit of the hospital authority or any other hospital authority, or a municipality, school authority, public college or university,
- (ii) the charity and any person referred to in (i) have entered into an agreement with each other or with other persons in respect of the use of the parking lot, or

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- (iii) any person listed in (i) performs any function in respect of the supplies of parking spaces by the charity,

the supply of the parking spaces by the charity would be excluded from section 1 of Part V.1 by virtue of paragraph 1(o), and the supply would be subject to tax.

(c) If, rather than the charity, the hospital authority itself made supplies of the parking spaces, would the supplies be exempt under section 25.1 of Part VI?

No. As the nursing home is not a public hospital, the exemption in section 25.1 of Part VI does not apply.

18. A charity makes supplies of parking spaces by way of lease, licence or similar arrangement for a consideration at a public hospital. They are made in the course of a business carried on by the charity, which is registered for the GST/HST. The charity has not filed an election under section 211 in respect of the specified parking area in which the parking spaces are situated. The charity is affiliated with the hospital authority in that it uses a significant part of its income for the benefit of the hospital authority. Prior to March 22, 2013, the charity's supplies of parking spaces were exempt from GST/HST under section 1 of Part V.1.

Based on the information in the Notice of Ways and Means Motion of March 21, 2013, the charity began charging the GST/HST on supplies of parking spaces in the specified parking area made after that date. In its GST/HST return for the reporting period that includes March 22, 2013, the charity claimed amounts as input tax credits (ITCs) under the change-in-use rule in subsection 199(3). The charity also claimed ITCs in respect of the GST/HST payable on an improvement made to the parking lot in June 2013. Based on the legislative amendments, the charity's supplies of parking spaces made before, on and after March 21, 2013 are exempt. Is the charity required to repay the amounts it claimed as ITCs in respect of the change in use of the property, i.e., the improvement made to the property?

Yes. Since the charity never began to use the property primarily in its commercial activities (under the legislative amendments, the supplies remain exempt at all times), there is no basis to claim an ITC for a change in use of the property. Similarly, no ITC is allowed under paragraph (b) of the description of element B in subsection 169(1) in respect of the improvement made to the property.

Information on adjusting previously filed returns, e.g., to decrease amounts claimed as ITCs, can be found at www.cra-arc.gc.ca/tx/bsnss/tpcs/gst-tps/bspsbch/rtrns/djstmnts/prvs-eng.html. While such adjustments to ITCs may ordinarily give rise to penalty and interest, the CRA has the authority to waive penalties and interest in certain circumstances. For more information, see GST/HST Memorandum 16.3, *Cancellation or Waiver of Penalties and/or Interest*.

19. A charity is engaged solely in making exempt supplies and is not registered for the GST/HST. Based on the information in the Notice of Ways and Means Motion of March 21, 2013, the charity will be making taxable supplies of parking spaces. The charity registered for the GST/HST effective July 1, 2013 (it was a small supplier before that time) and began charging the GST/HST on supplies of parking spaces in the specified parking area made on or after that date. The charity is an annual filer for GST/HST purposes and has a December 31 fiscal year end. If the charity's supplies of parking spaces are exempt under section 7 of Part V.1 and it makes no other taxable supplies, is the charity eligible to cancel its GST/HST registration?

The GST/HST registration of a person may be cancelled if the CRA is satisfied that registration is not required. A charity that wishes to cancel its registration may contact their local CRA tax services office in writing to request cancellation of registration. See GST/HST Memoranda 2.7, *Cancellation of Registration*, for further information on cancelling GST/HST registration.

20. Is a supply of a parking space made before January 25, 2014 by a public sector body taxable for GST/HST purposes?

Yes. Prior to January 25, 2014, the supply of a parking space made by way of lease, licence or similar arrangement in the course of a business carried on by a hospital authority, non-profit organization, school authority, university or public college was excluded from the exemption in section 25 of Part VI and was a taxable supply for GST/HST purposes.

21. If a public sector body (e.g., a hospital authority) collected the GST/HST on its supplies of parking spaces made after March 21, 2013 and before January 25, 2014, and based on the legislative amendments that the supply of a parking space is exempt under section 25.1 of Part VI, is the public sector body required to remit the GST/HST it collected?

Yes. Prior to January 25, 2014, the supply of a parking space made by a public sector body was excluded from the exemption in section 25 of Part VI. In this situation, the public sector body correctly collected the GST/HST, and the body must remit the GST/HST collected. The exemption in section 25.1 of Part VI applies to the supply of certain parking spaces made after January 24, 2014.

22. A hospital authority operates a public hospital at which is located a parking lot that is a specified parking area. The parking lot is used exclusively to supply parking spaces to staff of the hospital. Are the supplies of the parking spaces exempt under section 25.1 of Part VI?

No. In order for the exemption in section 25.1 of Part VI to apply, the three conditions set out in that section must be met (see the answer to question 11). While the first condition for exemption is met (i.e., all of the parking spaces in the specified parking area are reserved for use by individuals accessing a public hospital), the second condition is not met. That is, all of the parking spaces are for use by persons accessing the hospital in a professional capacity. As such, the exemption in section 25.1 of Part VI does not apply and the supply is taxable for GST/HST purposes.

23. A hospital authority has a specified parking area that is generally reserved for use by staff of the hospital. It can reasonably be expected that the specified parking area will be used primarily by individuals accessing the public hospital operated by the hospital authority. The hospital authority also allows individual family members of palliative care patients to purchase a parking pass that allows the individual to park in this otherwise restricted area. Such individuals pay the same amount for the parking space as the hospital staff. An election under section 211 is not in effect in respect of the specified parking area. Is the sale of a parking pass to such individuals exempt under section 25.1 of Part VI?

Provided that less than substantially all (i.e., less than 90%) of the parking spaces in the specified parking area are reserved for hospital staff, the supply of a parking space to an individual family member of a palliative care patient would be exempt under section 25.1 of Part VI. If all or substantially all of the parking spaces are reserved for staff of the hospital, the supply of the parking pass to such individuals is taxable for GST/HST purposes.

24. A hospital authority sells parking passes, in advance, for the right to use a parking space in a specified parking area. The passes entitle an individual to the use of a parking space for different periods of time all of which are for more than 24 hours. The parking passes are dispensed from a machine, sold through a cashier at the hospital or can be purchased on-line. The hospital authority does not know whether the individual purchasing such a pass is accessing the public hospital in a professional capacity. The consideration payable for the parking pass is the same for all purchasers. It is reasonable to expect that the specified parking area will be used primarily by individuals accessing the hospital. An election under section 211 is not in effect in respect of the real property that includes the specified parking area. Is the hospital authority required to charge GST/HST on the sale of the parking passes?

If the hospital authority does not charge tax on the sale of the parking pass and it cannot be verified that the supply is exempt, the hospital authority may be liable for tax on the supply. If an individual who purchases such a pass pays GST/HST and is not accessing the hospital in a professional capacity, the individual may request a refund or credit of the amount from the hospital authority.

25. A hospital authority makes supplies of parking spaces by way of lease, licence or similar arrangement in the course of a business carried on by the hospital authority. The parking spaces are in a specified parking area at a public hospital, and the property is owned by the hospital authority. An election under section 211 is not in effect in respect of the property that includes the parking spaces. The exemption in section 25.1 of Part VI applies to the hospital authority's supplies of parking spaces made after January 24, 2014. Prior to January 25, 2014, the hospital authority's supplies of parking spaces were excluded from exemption by virtue of paragraph 25(g) of Part VI.

(a) Does the hospital authority have to account for the GST/HST on a change in use of the property under the provisions of subsection 200(2)?

The hospital authority would have to account for tax under subsection 200(2) only if the property ceases to be used primarily in commercial activities and begins to be used primarily for other purposes. For this purpose, "the property" is generally the legally described parcel of land that includes the specified parking area. If "the property" were the specified parking area only, e.g., the specified parking area is itself a legally described parcel of land, then the change in use rules would apply when the hospital authority ceased using the property in commercial activities and began using it to make exempt supplies. However, if "the property" is the entire hospital grounds (e.g., the hospital, the parking lot and all the grounds are on one legally described parcel of land), it would generally not be the case that the property was used primarily in commercial activities before the supply of parking spaces became exempt. If that is the case, the hospital authority would not have to account for tax under subsection 200(2).

Under subsection 200(2), as it applies to a hospital authority that has not made an election under section 211 in respect of capital real property, where the hospital authority was using the capital real property primarily in commercial activities and begins to use the property primarily for other purposes, the hospital authority is deemed to have made a taxable sale of the property and to have collected tax on the sale equal to the basic tax content of the property at the time of the change in use. The hospital authority is also deemed to have purchased the property and paid tax equal to the basic tax content.

(b) If the hospital authority in this example has to account for tax under subsection 200(2) in respect of a change in use of the property, would paragraph (iii) of the description of element B in paragraph (a) of the definition of basic tax content be calculated on the basis that the hospital authority would have been entitled to a rebate at the specified percentage and the specified provincial percentage?

Yes. Had the hospital authority acquired the property and improvements thereto for use exclusively in non-commercial activities, it would be eligible for a public service bodies' rebate for the tax payable on the last acquisition of the property and on any improvements made to the property since it was last acquired.

(c) If the hospital authority in this example has to account for tax under subsection 200(2) in respect of a change in use of the property, is it entitled to claim a hospital authority rebate in respect of the tax it is deemed to have paid under that subsection?

No. The definition of “non-creditable tax charged” in subsection 259(1) excludes most amounts of deemed tax paid, including any tax deemed to have been paid under subsection 200(2).

(d) If an election under section 211 is in effect in respect of the property that includes the specified parking area, would the hospital authority’s supplies of parking spaces be exempt under section 25.1 of Part VI for supplies made after January 24, 2014?

No, the supplies of parking spaces would continue to be taxable for GST/HST purposes. If an election under section 211 is in effect in respect of the property that includes the specified parking area, the exemption under section 25.1 does not apply and the supplies of the parking spaces are taxable for GST/HST purposes.

26. A hospital authority leases a specified parking area to an arm’s length, for-profit corporation (i.e., the corporation is not a charity or a public sector body) for a term of three years. The specified parking area consists of buildings, structures and other improvements that are clearly intended to be used for the activity of supplying parking spaces. The specified parking area lies within a single parcel of land that the hospital authority uses primarily in making exempt supplies. The corporation will make supplies of parking spaces to individuals. It is reasonable to expect that the specified parking area will be used primarily by individuals accessing a public hospital.

(a) Is the lease of the specified parking area from the hospital authority to the corporation subject to the GST/HST?

The lease of an entire parking facility is generally not exempt under section 25.1 of Part VI. That exemption applies to certain supplies of individual parking spaces, whereas the supply by the hospital authority in this example is a supply of an entire parking facility, i.e., more than merely a supply of parking spaces. If the hospital authority has not filed an election under section 211 in respect of the parcel of real property that includes the specified parking area, the supply to the corporation may be exempt under section 25 of Part VI (note that paragraph 25(d) may apply to exclude the supply from the exemption). If an election under section 211 is in effect in respect of that parcel of real property, the supply to the corporation would be subject to the GST/HST.

(b) Are supplies of parking spaces made by the corporation subject to tax, given that it is reasonable to expect that the specified parking area will be used primarily by individuals accessing a public hospital?

The exemption in section 25.1 of Part VI applies only when the supply is made by a public sector body. As the supplies in this example are made by a person that is not a public sector body, the supply is not exempt under section 25.1 of Part VI and is subject to the GST/HST.

27. A university owns a parking lot (i.e., a specified parking area) situated on campus. It is reasonable to expect that the parking lot will be used primarily by students, staff and other persons accessing the university and not used primarily by persons accessing a public hospital. The university enters into an agreement with a charity to lease the parking lot to the charity, which will make supplies of the parking spaces in the parking lot. The charity makes supplies of the parking spaces by way of licence in the course of a business carried on by the charity, which is registered for GST/HST purposes. The charity charges an hourly or daily rate for the parking supplies. The university maintains responsibility for all maintenance and capital costs associated with the parking lot. The charity has not filed an election under section 211 in respect of the property it has leased from the university. In respect of a supply of a parking space made by the charity after January 24, 2014, is the supply exempt?

The charity's supply of the parking spaces is excluded from the exemption in section 1 of Part V.1 by virtue of paragraph 1(o), because: the charity's supplies of parking spaces are made by way of licence in the course of a business carried on by the charity; the specified parking area is expected to be used primarily by individuals accessing the university; and the charity is affiliated with the university (i.e., the two have entered into an agreement in respect of the use of the parking spaces and the university is responsible for the maintenance of the parking lot). As such, the supply is not exempt under section 1 of Part V.1. The exemption in section 7 of Part V.1 does not apply, as that section only applies to certain supplies of public hospital parking. As no other exemptions apply, the charity's supplies of parking spaces are taxable for GST/HST purposes.

28. A charity (a church organization) operates in the downtown area of a city. The parcel of real property that includes the church also contains a parking lot. Persons attending the church park for free in the parking lot when attending the church. At other times, the charity provides parking spaces at an hourly or daily rate in the course of a business carried on by the charity. The charity is not affiliated (as described in the answer to question 8) with a public sector body, and has not filed an election under section 211 in respect of the parcel of real property. Are supplies of parking spaces by the charity excluded from exemption by virtue of paragraph 1(o) of Part V.1?

No. Since the charity is not affiliated with a public sector body, it is irrelevant whether individuals who use the parking space are accessing a property of a public sector body. The exclusion in paragraph 1(o) does not apply, and the supply is exempt under section 1 of Part V.1.

29. A church that is a charity owns a parking lot that is used by parishioners attending services on weekends. On weekdays, the parking lot largely sits empty, though some spaces are used by church staff. The church does not charge parishioners or staff for parking in the lot. It also maintains the parking lot, by clearing snow in the winter and keeping the lot clean at all times throughout the year. A few times during the summer, for weekends or several days, music festivals are held at locations near the church. On these occasions, the church charges individuals to park in the parking lot. An attendant collects the parking fee as vehicles enter the lot. The charity is not affiliated (as described in the answer to question 8) with a public sector body, and has not filed an election under section 211 in respect of the parcel of real property. Are the supplies for which the church charges a parking fee exempt?

Supplies of parking spaces made after March 21, 2013, for consideration, would not be exempt under section 5 of Part V.1. Even though substantially all of the parking spaces made by the charity may be made for no consideration, supplies made after March 21, 2013 for which the church charges a fee would be, if the supplies are made in the course of a business carried on by the church, excluded from the exemption in section 5 of Part V.1 by virtue of paragraph 5(b). However, the supply in this case would be exempt under section 1 of Part V.1, as the charity is not affiliated with a public sector body, and no other exception to the exemption in section 1 applies.

Further information

All GST/HST technical publications are available on the CRA website at www.cra.gc.ca/gsthstech.

To make an enquiry on the GST/HST by telephone, call one of the following numbers:

- for general enquiries, call the Business Enquiries line at 1-800-959-5525,
- for technical enquiries, call 1-800-959-8287.

If you are located in Quebec, contact Revenu Québec at 1-800-567-4692 or visit their website at www.revenuquebec.ca.