



Sharecropping

Legislative references	Section 9 of Part IV of Schedule VI to the <i>Excise Tax Act</i> (the Act)
National coding system file numbers	11845-2
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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

Sharecropping is a system of agricultural production in which farmland is supplied by way of lease, licence, or similar arrangement to a tenant who farms the land, in return for a portion of the crops grown on the property.

This policy explains the application of section 9 of Part IV of Schedule VI to the Act, which zero-rates the supply of farmland under sharecropping (also known as crop-sharing) arrangements. Section 9 provides that the following is zero rated:

A supply made to a registrant of farmland by way of lease, licence or similar arrangement, to the extent that the consideration for the supply is a share of the production from the farmland of property the supply of which is a zero-rated supply.

Decision

In order to zero-rate the supply of farmland under a sharecropping arrangement, each of the following criteria must be met:

- a supply of farmland is made by way of lease, licence, or similar arrangement;
- the recipient of the supply is a GST/HST registrant;
- the consideration, or a portion thereof, for the supply is a share of the production from the property; and
- the supply of the crop produced is itself zero-rated.

Discussion

There must be a supply of farmland made by way of lease, licence, or similar arrangement

Where a supply of farmland is not made by way of lease, licence, or similar arrangement, the supply will not be zero-rated as a sharecropping arrangement. Please refer to GST/HST Memorandum 19.1, *Real Property and the GST/HST*, for information on what constitutes a supply of real property made by way of lease, licence, or similar arrangement.

A farmer/landowner may choose to contract out a part or all of the tasks associated with the operation of a farm. Custom farming work occurs when a farmer engages the services of another person to undertake all or part of the work associated with the farming activity. The farmer maintains control over the land and the person performing the service does not own the crop. This is not a supply of farmland by way of lease, licence, or similar arrangement. The performance of custom farming services, while they are provided to and consumed by

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the farmer in the course of the farmer's farming activities, does not constitute farming for the person providing the services. Instead, it is more appropriate to view the person doing the work as having supplied services rather than being engaged in farming. The CRA does not consider custom farming services to be sharecropping arrangements.

The recipient of the supply must be a registrant for GST/HST purposes

Where the recipient of the supply is not registered for GST/HST purposes and is not required to be registered, the supply of the farmland under a sharecropping arrangement by way of lease, licence, or similar arrangement will not be zero-rated. For more information on GST/HST registration, please refer to Chapter 2 of the GST/HST Memoranda Series (www.cra-arc.gc.ca/menu/GTMS_2-e.html).

The consideration for the supply must be a share of the production from the property

A "share" of the crop means a percentage or fraction of the crop, for example, 25% or one-third. A fixed payment, for example, \$10,000 is not a share of the crop for GST/HST purposes.

Farmland rented under a sharecropping arrangement is zero-rated to the extent that the consideration for the supply is a share of production of zero-rated crops. If, for example, a farmer rents land for \$1,000 plus one-third of the production from the farmland, GST at 5% or HST at 13% is charged only on the \$1,000 paid.

While a sharecropping arrangement requires that a share of the production from property belongs to the landowner, the landowner may wish to receive his/her share in either the actual crop, or in cash based on the fair market value of the crop or the proceeds resulting from the sale of the crop. A farmer/landowner could be paid in the actual crop with the farmer/landowner picking up his/her share of the crop in the field or with the tenant delivering the crop to the farmer/landowner. Another arrangement could have the tenant delivering the farmer's/landowner's share of the crop to market, in which case the farmer/landowner would accept receiving his/her share in the form of sale proceeds. Also, an arrangement could have the tenant using the farmer's/landowner's share of the crop, in which case the farmer/landowner would accept receiving his/her share in the form of cash based on the fair market value of the crop at the time of harvest. In any of these cases, and if the other conditions are also satisfied, the supply of farmland is zero-rated to the extent that the consideration for the supply is a share of the production of zero-rated crops.

The supply of the crop produced must itself be zero-rated

Where the supply of the crop is not zero-rated, the supply of farmland in a sharecropping arrangement will not be zero-rated. It does not matter that the supply of farmland is made by way of lease, licence, or similar arrangement to a person who is a GST/HST registrant. For example, the supply of lawn seed and flower seed is taxable at GST at 5% or HST at 13% because these seeds are not used to produce food for human consumption, or livestock or poultry feed. Please refer to GST/HST memorandum 4.4, *Agriculture and Fishing*, for more information on the tax status of the supply of various crops.

Examples

Example 1

Facts

A farmer who is registered for GST/HST purposes enters into an agreement to rent farmland. The farmer grows corn on the land and agrees to pay the owner 25% of the production from the property. The landowner receives payment in the form of 25% of the actual corn produced.

Decision and rationale

The supply of the land is zero-rated. The conditions under section 9 of Part IV to Schedule VI to the Act have been met.

Example 2

Facts

A farmer who is registered for GST/HST purposes enters into an agreement for the lease of farmland. The farmer grows wheat on the land and agrees to pay the landowner 20% of the crop plus a fixed fee of \$4,000. The farmer/tenant delivers the landowner's share of the wheat crop to market and pays the landowner his/her share of the wheat crop in the form of sale proceeds plus a fixed fee of \$4,000. The landowner receives a cheque for the total amount from the farmer.

Decision and Rationale

The 20% of the production of wheat paid qualifies as a share of the production of a zero-rated crop. However, the fixed fee does not represent a share of the production of the wheat and as a result, 5% GST or 13% HST is charged on the \$4,000 paid. Farmland rented under a sharecropping arrangement is zero-rated to the extent that the consideration for the supply is a share of production of zero-rated crops.

Example 3

Facts

A farmer who is registered for GST/HST purposes leases 100 acres of land for \$50 an acre and grows wheat on the land. No other consideration is paid in respect of the lease.

Decision and Rationale

The consideration for the supply of the land is a fixed amount per acre and is not a share of the production from the property. As a result, all of the conditions under section 9 of Part IV of Schedule VI to the Act have not been met. The supply of the land is taxable at 5% GST or 13% HST as applicable.

Example 4

Facts

A hobby farmer who is not registered for GST/HST purposes and is not required to be registered (as he is a small supplier with annual revenue of less than \$30,000) enters into an agreement to rent farmland. The farmer grows corn on the land and agrees to pay the owner 25% of the production from the property. The landowner receives payment in the form of 25% of the actual corn produced.

Decision and Rationale

The farmer who rents the land is not a GST/HST registrant. The condition that the recipient of the supply is a GST/HST registrant is not met. As a result, the supply of the land is taxable at 5% GST or 13% HST as not all of the conditions under section 9 of Part IV of Schedule VI to the Act have been met.

Example 5

Facts

A farmer who is registered for GST/HST purposes, enters into an agreement for the lease of farmland in Saskatchewan. The landowner is listed in the farmer/tenant's permit book issued by a wheat board. The farmer grows wheat on the land and agrees to pay the owner 20% of the wheat crop. The farmer/tenant delivers the landowner's share of the wheat crop to a wheat board and pays the landowner his/her 20% share of the wheat crop in the form of a cheque issued by the wheat board.

Decision and Rationale

Where a wheat board makes a payment of a percentage of the revenue from the sale of a crop directly to a landlord under a sharecropping agreement and the landlord is listed in the farmer/tenant's permit book issued by a wheat board, the condition that the consideration for the supply is a share of the production from the property is met. The supply of the land is zero-rated as the conditions under section 9 of Part IV of Schedule VI to the Act have been met.

Example 6

Facts

A farmer who is registered for GST/HST purposes makes an agreement to perform services in respect of farmland. The landowner, who will own the crop, specifies which fields will be seeded, the types of crops to be seeded as well as when to spray and harvest.

Decision and Rationale

The agreement is for a custom farming service and is not a sharecropping arrangement. The landowner maintains control over the land and owns the crop. A supply of farmland is not being made by way of lease, license, or similar arrangement. Section 9 of Part IV of Schedule VI to the Act does not apply to the supply of custom farming services. The services are taxable at 5% GST or 13% HST.

Example 7

Facts

A farmer who is registered for GST/HST purposes enters into an agreement for the use of farmland and agrees to pay the owner 30% of the crop grown on the land. The farmer grows lawn seed.

Decision and Rationale

The supply of lawn seed is not zero-rated. The supply of the land is taxable at 5% GST or 13% HST as applicable as not all of the conditions under section 9 of Part IV of Schedule VI to the Act have been met.

Example 8

Facts

A farmer who is a GST/HST registrant enters into an agreement for the use of farmland and agrees to pay the landowner 25% of the barley crop harvested from the farmland. The farmer grows barley on the land but does not sell it and does not deliver the crop to the landowner. Instead, the farmer/tenant uses the entire barley crop to feed to his hogs. The landowner accepts to receive his/her 25% share of the barley crop in the form of cash based on its fair market value at the time of harvest.

Decision and Rationale

This is a sharecropping arrangement for purposes of the Act. Although the landowner did not actually receive a percentage of the physical crop nor is the crop sold, the consideration paid is based on share of the total fair market value of the crop produced. As a result, the conditions under section 9 of Part IV of Schedule VI to the Act have been met and the supply of the farmland is zero-rated.