

Ministry of Finance

Tax Information Notice



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HST Notice # 5

www.fin.gov.bc.ca/rev.htm

Notice to Energy Suppliers

Residential Energy Credit Program for British Columbia Harmonized Sales Tax (HST)

As announced in Budget Update 2009, the government is providing a provincially administered rebate of the British Columbia component of the harmonized sales tax (HST) on residential energy.

Under the HST general transitional rules, HST will generally apply to payments that become due, or are paid without having become due, on or after May 1, 2010, for goods and services delivered or performed on or after July 1, 2010. Therefore, effective May 1, 2010, suppliers of energy products for residential use in a residential dwelling, and on which HST applies, will be required to provide a credit of the provincial component of the HST under the Residential Energy Credit and Rebate Program.

The Residential Energy Rebate is available to consumers on application to the Ministry. For more information, please see [HST Notice #10](#), *Residential Energy Credit and Rebate Program-Notice for Consumers*.

This notice provides general information on the Residential Energy Credit Program and outlines the responsibilities of energy suppliers under the program.

Energy Products that Qualify for the Credit

Energy products qualifying for the Residential Energy Credit are electricity, natural gas, propane, heating oil (including biodiesel or similar renewable fuel), kerosene, heat and steam.

Heat includes transferred energy that results in cooling.

Residential Use

Residential use will generally include personal use or consumption of the energy product at a residence by the owner, tenant or other occupant of the residence. Residential use is not limited to energy used for heating a residence; it also includes energy for lighting, cooking and similar residential uses.

Residential use does not include a business, commercial or industrial use.

Residential Dwelling

A residential dwelling is generally any place an individual resides, or ordinarily resides, including:

- a house, cottage or other detached dwelling;
- a duplex;
- an apartment, condominium or townhouse;
- an apartment building, condominium or townhouse complex that is used only for the purpose of single family dwellings;
- an assisted-living residence, as defined in the *Community Care and Assisted Living Act*;
- a long-term residential care facility (e.g. a nursing home or rest home);
- any portion of a multi-use building that is used for residential purposes.

A residential dwelling does NOT include:

- any of the above while under original construction;
- a hotel, motel, lodge, resort, or other building or part of a building providing overnight accommodation;
- a hospital or other institutional building;
- a bunk house or camp building for use in connection with a commercial or construction project; or
- those parts of a building used for a non-residential purpose.

Obligations of Energy Suppliers

The Residential Energy Credit must be provided at the time the tax under section 165(2) of the *Excise Tax Act* (Canada) (i.e. the British Columbia portion of the HST) is payable, in the following circumstances:

- the person selling the energy product is a GST/HST registrant under Subdivision d of Division V of Part IX of the *Excise Tax Act* (Canada) (i.e. Energy Supplier);
- the Energy Supplier is selling an energy product in British Columbia, other than wood or pelletized fuel;
- the purchaser must pay tax under section 165(2) of the *Excise Tax Act* (Canada) on the purchase;

- the purchaser is buying the energy product ONLY for residential use in a residential dwelling; and
 - the Energy Supplier delivers or provides the energy product to the residential dwelling:
 - In the case of propane, heating oil or kerosene, it must be delivered to the residential dwelling
 - on a continuous basis by means of a pipe or other similar conduit, or
 - to a storage tank or facility that is an improvement to real property at the residential dwelling;
 - In the case of delivery or provision of an energy product to a residential dwelling that is part of a multi-use building, it must be delivered to a
 - separate storage tank or facility, or
 - through a separate meter
- that services only the part of the building that is used as a residential dwelling.

Purchasers eligible for the Residential Energy Credit from Energy Suppliers include any person purchasing energy products, other than wood or pelletized fuel, solely for residential use in a residential dwelling including homeowners, residential tenants, landlords, condominium corporations, or operators of residential care facilities.

Persons NOT eligible for the Residential Energy Credit from Energy Suppliers, or for the Residential Energy Rebate, include the following:

- diplomats, members of the consular corps and members of visiting forces; and
- British Columbia government entities (i.e. ministries, agencies, boards, commissions and Crown corporations)¹, including
 - the British Columbia Housing Management Commission (BC Housing),
 - the Provincial Rental Housing Corporation, and
 - the Public Guardian and Trustee.

The above persons are entitled to claim a rebate from the Canada Revenue Agency for any HST paid.

¹For additional information on rebates of HST for British Columbia government entities, see [HST Notice #6](#), *HST Notice for Suppliers of Taxable Property and Services to the BC Government*.

Persons NOT eligible for the Residential Energy Credit from Energy Suppliers, but who may be eligible for the Residential Energy Rebate, on completion of a *Consumer Energy Rebate Application* form ([FIN 322](#)), are those persons

- purchasing any energy product for both residential use in a residential dwelling AND any other purpose, OR
- purchasing wood or pelletized fuel, OR
- purchasing any energy product for a use on which the person may claim an input tax credit or a rebate under section 259 of Part IX of the *Excise Tax Act* (Canada)².

Please note that purchasers have an obligation to advise Energy Suppliers when they cease to be eligible for the credit.

Energy Suppliers must clearly identify the amount of the Residential Energy Credit on the purchaser's invoice as a separate item from the HST shown on that invoice.

As the requirement to provide the credit will not relieve the Energy Supplier from the obligation to account for the full 12% HST on their GST/HST returns, the province will reimburse Energy Suppliers for the total amount of eligible credits they provide.

How the Credit is Calculated

The amount of the credit is determined by the following formula:

Credit Amount = eligible consideration x 7% (i.e. the British Columbia portion of the HST)

Eligible consideration is the value of the consideration for the purchase of an energy product, including the carbon tax payable on the energy product. Eligible consideration does NOT include the value of consideration attributable to:

- Service charges, including charges relating to
 - connection or disconnection of a service or equipment,
 - installations, inspection, testing, maintenance or repairs,
 - relocation or upgrades of a service or equipment,
 - analysis of the use of an energy product;

² Purchasers that are public service bodies may be eligible to receive a rebate under section 259 of the *Excise Tax Act* (Canada). Public service bodies include municipalities and other eligible local government entities, eligible school authorities, universities, public colleges, and hospital authorities, and eligible registered charities and qualifying non-profit organizations.

- Administrative charges, including charges relating to
 - activation or cancellation of an account,
 - late payments,
 - interest,
 - returned or dishonoured payments,
 - method of payment,
 - account adjustments,
 - account information,
 - franchise fees;
- Equipment-related charges, including charges relating to equipment purchased or leased by the person acquiring the energy product;
- The power levy established under section 28 of the *South Coast British Columbia Transportation Authority Act* (relates to electricity provided in the South Coast Transportation Service Region).

Reimbursement of the Energy Credit

Enrolment

To ensure the ministry is able to provide reimbursements of energy credits in a timely manner, energy suppliers first need to enrol in the program by completing an *Application for Enrolment for Reimbursement as an Energy Supplier* form (FIN 320). This form is available from our website at www.sbr.gov.bc.ca/business/Consumer_Taxes/Residential_Energy/residential_energy.htm

Upon receipt and processing of the enrolment application, the ministry will send the energy supplier a letter confirming enrolment and provide an Energy Supplier Number and an access code. The Energy Supplier Number is needed to claim a reimbursement of energy credits provided to eligible customers. The access code is needed to submit a claim for reimbursement online.

While all applications for reimbursement will be processed, the ability for the ministry to verify and process the applications in a timely manner will depend in part on the quality of information included on the enrolment application. Providing complete and accurate sales data in Part B of the enrolment application is of particular importance for ensuring timely reimbursement.

Claiming Reimbursements

Energy suppliers may submit monthly applications to the ministry for reimbursement of energy credits provided to eligible customers with an *Energy Supplier Reimbursement Application* form (**FIN 321**). This application form, which can be filled in online, printed and mailed to the ministry, is available from our website at www.sbr.gov.bc.ca/business/Consumer_Taxes/Residential_Energy/residential_energy.htm There is also an electronic version of the application that can be completed and submitted online.

The amount of reimbursement claimed per application must be at least \$10.

An application must be received by the ministry within 4 years from the date on which the amount claimed was credited.

Reimbursement of energy credits can be deposited directly to a designated bank account. A *Direct Deposit Application* form (**FIN 312**) is available from our website at www.sbr.gov.bc.ca/business/Consumer_Taxes/Residential_Energy/residential_energy.htm The original direct deposit application should be mailed along with the completed *Application for Enrolment for Reimbursement as an Energy Supplier* (**FIN 320**) if you wish to receive energy credit reimbursements via direct deposit.

The following outlines the steps for enrolment and application for reimbursement.

- Step 1:** Compile the required residential energy sales information for the past 12 months.
- Step 2:** Complete the *Application for Enrolment for Reimbursement as an Energy Supplier* (**FIN 320**).
- Step 3:** Complete the *Direct Deposit Application* form (**FIN 312**) if you wish to receive reimbursement by direct deposit.
- Step 4:** Mail the completed **FIN 320** and the original signed **FIN 312** to the address indicated on the enrolment application. Upon receipt and processing of the enrolment application, the ministry will send a confirmation letter including an Energy Supplier Number and an access code.
- Step 5:** Submit an *Application for Reimbursement of Energy Credits* (**FIN 321**) by mail, or online (online application currently under development). Applications cannot be submitted more than once per calendar month and each application must cover a single calendar month. The Energy Supplier Number must be included on the application. Online applications require the access code.

Records

An Energy Supplier providing an energy credit must keep all records relating to the provision of the credit, including records respecting:

- the sale of the energy product,
- the volume of energy product sold,
- all charges relating to the supply of the energy product, and
- the energy credit amount.

Those records must be kept by the Energy Supplier at their principal office or principal place of business in British Columbia.

Records must be retained in British Columbia for a period of 5 years from the date the record is created. An Energy Supplier may apply to the director for permission to destroy a record earlier. However, if a record might be necessary for the purpose of an appeal under the CTRTA, the Energy Supplier must retain the record until all appeals have been exhausted.

Adjustments

The adjustment rule applies when the consideration payable on a purchase of an energy product to an Energy Supplier is reduced (for example, there is a rate reduction for the energy product).

If the consideration is reduced, the Energy Supplier must reduce the amount of the energy credit provided to the purchaser, as well as the resultant reimbursement claim, by the amount attributable to the reduction in consideration while still taking into account the method by which the credit is calculated.

For example:

The total consideration payable is \$100 and the eligible consideration is \$80 (after subtracting the service charges, administrative charges, and equipment-related charges).

If there is a reduction in the service charges, then there is no reduction in the credit or the reimbursement claim.

If there is a 10% reduction in the eligible consideration payable, then there is a 10% reduction in the credit and the reimbursement claim.

Bad Debt / Recoveries

Under section 231 of the *Excise Tax Act* (Canada), Energy Suppliers may deduct from their HST remittances amounts written off as bad debts. Those amounts are calculated in accordance with that section.

When an Energy Supplier writes off the provincial portion of the HST applicable to that bad debt, they must subtract that amount from their reimbursement claim. If the Energy Supplier has already been reimbursed, they must repay that amount to the Ministry.

$$\text{Amount} = \text{reimbursed amount} \times [\text{bad debt}/\text{total due}]$$

Bad debt is the amount used in section 231(1) of the *Excise Tax Act* (Canada) for the description of "B" in determining the deduction under that section in respect of the taxable supply.

Reimbursed amount is the amount reimbursed by the director under section 13(1) of the CTRTA in respect of the taxable supply.

Total due is the total of the consideration and tax imposed under Part IX of the *Excise Tax Act* (Canada) in respect of the taxable supply.

Under section 231 of the *Excise Tax Act* (Canada), suppliers who have made a deduction for a bad debt and subsequently make a recovery of that bad debt, must remit the HST on that recovery. Upon remitting that recovered HST, the supplier may claim reimbursement of that amount from the Ministry.

$$\text{Amount} = \text{recovered amount} \times [\text{tax rate} \times \text{eligible consideration}/\text{total due}]$$

Eligible consideration is the value of the consideration for the purchase of an energy product except service charges, administrative charges, equipment-related charges and the power levy.

Recovered amount is the amount recovered by the Energy Supplier in respect of the energy supply to which section 231 of the *Excise Tax Act* (Canada) applies.

Tax rate is 7% (i.e. the British Columbia portion of the HST).

Total due is the total of the consideration and tax imposed under Part IX of the *Excise Tax Act* (Canada) in respect of the taxable supply.

Repayment of Reimbursement

In addition to bad debt write-offs, Energy Suppliers are required to re-pay reimbursements in the following circumstances:

- The amount reimbursed exceeds the amount of the credit provided;
- The Energy Supplier was reimbursed for a credit that was provided to a person not entitled to the credit.

Repayment to the Ministry is required by the 23rd day of the calendar month following the calendar month in which the overpayment occurred. Repayments can be made through an adjustment on the subsequent month's reimbursement claim IF that claim is submitted no later than the 23rd day of the following month. Late repayments are subject to interest charges.

Supplier Remedies

If an Energy Supplier provides a credit to person not entitled to that credit and is required to repay an over-reimbursement, it is expected that in most cases the supplier will adjust the person's account.

Energy Suppliers will also have a statutory cause of action against a person.

Penalties

Energy Suppliers may be subject to the following penalties:

- a 10% penalty for failing to pay amounts required (i.e. repayments/ assessments);
- a penalty equal to the amount credited if
 - a. the supplier provided a credit to a person not entitled, OR
 - b. the supplier failed to provide a credit to a person entitled

AND, in either case, the supplier did not exercise the care, due diligence and skill that a reasonably prudent person would have exercised in comparable circumstances.

Appeals

Energy Suppliers can appeal

- if a claim for reimbursement is denied in whole or in part,
- an assessment, or
- a penalty.

The appeal mechanism will be similar to that under the consumption tax Acts (see [Bulletin GEN 003](#), *Appeals of Tax Assessments, Disallowed Refunds, or Other Determinations*).

Further Information

General information about the introduction of the HST in British Columbia can be found at www.gov.bc.ca/hst

For information on the application of the HST, please visit the Canada Revenue Agency website at www.cra-arc.gc.ca/harmonization

For questions about the HST general transitional rules, or if you wish to make a technical enquiry on the GST/HST by telephone, please contact the Canada Revenue Agency at 1 800 959-5525.