



Documentary Evidence when Making Tax-Relieved Sales to Indians and Indian Bands over the Telephone, Internet or Other Electronic Means

The Canada Revenue Agency's (CRA) policy on making tax-relieved sales to Indians¹, as well as Indian bands and band-empowered entities (both are referred to as bands in this publication) is found in GST/HST Technical Information Bulletin B-039, *GST/HST Administrative Policy – Application of the GST/HST to Indians* (TIB B-039).

When sales are made to Indians or bands, the conditions in TIB B-039 must be met in order to provide tax relief at the time of sale. Of particular note, the vendor is required to maintain documentary evidence that the sale was made to an Indian or a band. Indian customers must present to the vendor a *Certificate of Indian Status* card (status card) or the Temporary Confirmation of Registration Document (TCRD) (see GST/HST Notice 264, *Sales Made to Indians and Documentary Evidence – Temporary Confirmation of Registration Document*), and bands must present appropriate certification indicating that the purchase is eligible for tax relief (see TIB B-039 for an example of such a certificate).

However, when Indian customers are making a purchase of property over the Internet or telephone, they are not able to present their status card or TCRD to the vendor. A notation of information from a status card or TCRD taken by a vendor over the telephone or the Internet is not considered sufficient evidence to support relief of the GST/HST.

Similarly, bands making purchases over the Internet or telephone are not able to provide appropriate certification to the vendor indicating that the purchase is relieved of tax. As a result, the vendor would not be able to obtain adequate evidence to support a tax-relieved supply.

Given the preceding, the CRA has taken the position that an Indian purchaser may subsequently provide a copy of their status card or a copy of the TCRD by mail or electronically (e.g. over the Internet or by facsimile) to the vendor so that the vendor may provide relief of the GST/HST. The information on the status card or the TCRD must match the information provided by the purchaser (e.g., name and address) to the vendor at the time of placing the order.

Example

An Indian uses a credit card to make an online purchase. He subsequently sends a copy of his status card to the vendor by fax. The name shown on the status card is the same as that of the credit card information provided to the vendor. The retention of a copy of the status card together with the credit card documentation maintained by the vendor would be considered satisfactory documentary evidence.

When a band is making a purchase of property over the Internet or telephone, it is required to send a certificate by mail or electronically to support their entitlement for tax relief. The vendor must retain the certificate as evidence that the property was sold to a band. If received electronically, the certificate and related correspondence must also be retained in an electronically readable format.

¹ The Canada Revenue Agency (CRA) recognizes that many First Nations people in Canada prefer not to describe themselves as Indians. However, the term Indians is used in this publication because it has legal meaning in the Indian Act.

NOTE: Ontario First Nation point-of-sale relief

When TIB B-039 does not apply to relieve HST on purchases made by Ontario Indians and Indian bands (e.g., goods not delivered to a reserve by a vendor) in certain situations, the Ontario First Nation point-of-sale relief may apply to relieve the Ontario part of the HST.

Ontario's Harmonized Sales Tax Guide 80, *Ontario First Nations Point-of-Sale Exemptions*, contains further information on point-of-sale relief for Ontario First Nations.

When sales are made to Indians or bands, maintaining documentary evidence is only one of the conditions that must be met in order for the Indians and bands to receive relief of the GST/HST. The remaining conditions in TIB B-039 must also be met at the time of the sale. For example, if a vendor is located off a reserve and an Indian customer makes online purchases, tax relief is not available unless the goods are delivered to a reserve by the vendor or vendor's agent.

Event tickets, conferences and memberships are often ordered by telephone or over the Internet. These are not goods; they are supplies of intangible personal property (IPP). Generally, an Indian individual pays GST/HST when purchasing event tickets or other IPP, unless the event takes place on a reserve or the rights associated with the IPP are only usable on a reserve (e.g., golf membership for a course on a reserve). See TIB B-039 for more information.

Where an Indian or band purchases goods online that will be imported into Canada, any applicable duties or taxes must be paid to the Canada Border Services Agency (CBSA) even if the goods are delivered to a reserve in Canada. The tax relief described under TIB B-039 does not apply to goods imported by an Indian or a band. However, in Ontario, for qualifying goods imported by Ontario Indians, Indian bands and councils of Indian bands, the CBSA may credit the 8% Ontario part of the HST where the conditions in Ontario's Harmonized Sales Tax Guide 80 are met.

This info sheet does not replace the law found in *the Excise Tax Act* (the Act) and its regulations. It is provided for your reference. As it may not completely address your particular operation, you may wish to refer to the Act or appropriate regulation, or contact any CRA GST/HST rulings office for additional information. A ruling should be requested for certainty in respect of any particular GST/HST matter. Pamphlet RC4405, *GST/HST Rulings – Experts in GST/HST Legislation* explains how to obtain a ruling and lists the GST/HST rulings offices. If you wish to make a technical enquiry on the GST/HST by telephone, please call 1-800-959-8287.

Reference in this publication is made to supplies that are subject to the GST or the HST. The HST applies in the participating provinces at the following rates: 13% in Ontario, New Brunswick and Newfoundland and Labrador, 15% in Nova Scotia, and 12% in British Columbia. The GST applies in the rest of Canada at the rate of 5%. If you are uncertain as to whether a supply is made in a participating province, you may refer to GST/HST Technical Information Bulletin B-103, *Harmonized Sales Tax – Place of Supply Rules for Determining Whether a Supply is Made in a Province*.

Effective April 1, 2013, the 12% HST in British Columbia will be replaced by the 5% GST and a provincial sales tax. It is also proposed that, effective April 1, 2013, the provincial sales tax and the 5% GST currently in effect in Prince Edward Island will be replaced by a 14% HST.

If you are located in Quebec and wish to make a technical enquiry or request a ruling related to the GST/HST, please contact Revenu Québec at 1-800-567-4692. You may also visit the Revenu Québec Web site to obtain general information.

All technical publications related to GST/HST are available on the CRA Web site at www.cra.gc.ca/gsthstech.