

GST/HST Policy Statement

P-246

Remote stores and other off-reserve stores with significant sales to Indians, Indian bands and band-empowered entities

Date of issue	October 24, 2005
Legislative reference	<i>Indian Act</i> (the Act)
National coding system file number	11872-1
Effective date	January 1, 1991 for GST and April 1, 1997 for HST

Note: 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

This policy relates to Technical Information Bulletin (TIB) B-039R2, *GST/HST Administrative Policy – Application of GST/HST to Indians* and describes the policy developed to accommodate vendors who are not located on a reserve but make significant sales to Indians, Indian bands and band-empowered entities. This policy was previously described, in part, in TIB B-039R (dated November 25, 1993) in the former section “Remote Stores”. The new title recognizes that some qualifying stores may be located in areas that are not remote. Reference to “remote stores” includes all stores that may qualify under this policy.

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

Some vendors who are not located on a reserve may make a significant portion of their sales to Indians, Indian bands and band-empowered entities. In some instances, these vendors are in a remote location and their regular trading zone includes a reserve that is not in the immediate vicinity. In such cases, the requirement to deliver goods to a reserve in order for tax relief to apply may be difficult for the vendor to meet (e.g., prohibitive cost or a lack of means of transportation).

More Ways to Serve You!
Pour vous servir encore mieux !

La version française de ce document est intitulée *Magasins situés dans des endroits éloignés et autres magasins situés à l'extérieur d'une réserve qui réalisent d'importantes ventes auprès d'Indiens, de bandes indiennes et d'entités mandatées par une bande.*



Canada Revenue
Agency

Agence du revenu
du Canada

Canada

The policy developed for remote stores recognizes these unique circumstances by enabling vendors who meet certain conditions to provide point-of-sale tax relief to Indians, Indian bands and band-empowered entities on the acquisition of goods without the need to deliver those goods to a reserve.

Vendors located off a reserve who do not qualify as remote stores are not entitled to provide tax relief to Indians, Indian bands and band-empowered entities on goods that are not delivered to a reserve.

Please note that this policy applies only to goods and not to services.

Decision

In recognition of the unique circumstances of both off-reserve vendors and purchasers who are Indians, Indian bands and band-empowered entities, the requirement for the delivery of goods to a reserve will be waived where vendors qualify as remote stores under one of the following three options.

Please note, a vendor's decision to operate as a remote store does not affect the vendor's reporting period for purposes of filing GST/HST returns.

Further, where a vendor is a branch/division with a separate location from that of its parent corporation, the sales made to Indians, Indian bands and band-empowered entities by the individual branch/division may be used to determine whether the percentage-of-sales threshold for that separate location is met. In essence, each separate location may qualify in its own right as a remote store. Please note, the percentage-of-sales threshold is based on all sales made by a vendor. A vendor may not separate sales on the basis of who their customers are (i.e., Indians vs. non-Indians) in order to create separate branches or divisions for purposes of this policy.

In addition, for purposes of determining the percentage-of-sales threshold, a vendor may exclude sales that are not made in the ordinary course of the vendor's business activities (e.g., one-time sale of capital property).

Option 1

Where the regular trading zone of the vendor includes a reserve and,

- the vendor is located in a remote location, and,
- during the previous 12-month period, the vendor's sales were made primarily (generally more than 50%) to Indians, Indian bands and band-empowered entities

the requirement that goods be delivered to a reserve by the vendor in order to be relieved from GST/HST will not apply. The regular trading zone means the area in which all or substantially all (generally 90% or more) of a vendor's customers reside.

A vendor is considered to be in a remote location when:

- the vendor is serviced by year-round road access, and is located over 350 kilometres from the nearest community with a population of 5,000 or more, by the most direct route normally travelled in the circumstances, or

- surface transportation is not available year-round on paved or gravelled roads linking the vendor with the nearest established community. An established community means a village, hamlet, town, etc., within which there exists most basic or standard municipal services.

Please note, a vendor in an established community that is not linked by year-round roads to other communities is not considered to be in a remote location. Therefore, such a vendor cannot use this option in order to waive the delivery requirement on the sale of goods to Indians, Indian bands and band-empowered entities.

Option 2

The requirement for delivery will also be waived where

- the vendor is within 10 kilometres of a reserve; and
- during the previous 12-month period, all or substantially all the vendor's sales (generally 90% or more) were made to Indians, Indian bands or band-empowered entities.

Option 3

Vendors who have

- no prior sales history of their own on which to base their calculations,
- a sales history for a period of less than 12 months, or
- a sales history for a period of more than 12 months and there is a newly created reserve in their sales area

may operate as remote stores for four consecutive three-month periods under this option provided:

- they are in a location described under Option 1 or Option 2 above;
- there is a reasonable expectation that their sales will meet the percentage-of-sales threshold described under Option 1 or Option 2; and
- all other conditions to operate as remote stores are met.

Once a vendor operating under Option 3 meets the percentage-of-sales threshold for four consecutive three-month periods, it will cease to operate as a remote store under Option 3 and will be eligible to operate as a remote store for a further 12-month period under Option 1 or Option 2 provided all other conditions to operate as a remote store are met.

Please note, vendors operating under Option 3 will cease to qualify as remote stores if, at the beginning of any three-month period following the three-month period they begin operating as remote stores, their cumulative sales for all prior three-month periods fall below the percentage-of-sales threshold described under Option 1 or Option 2.

On the first day of the three-month period following the three-month period when they ceased to qualify as a remote store, they will be required to charge, collect and remit GST/HST on the supply of goods made to Indians, Indian bands and band-empowered entities unless the delivery requirements set out in TIB B-039R2 are met.

Vendors who cease to qualify as a result of not having met the percentage-of-sales threshold over all prior three-month periods will then have to wait until the percentage-of-sales threshold is met for a consecutive 12-month period. If the percentage-of-sales threshold is met for the 12-month period, vendors can resume operation as remote stores for a further 12-month period under Option 1 or Option 2 provided the conditions described therein are met.

For purposes of calculating the percentage-of-sales threshold, a partial month of operation is treated as a full month. Further, the term “three-month period” is not limited to a calendar quarter.

Vendor Documentation – Under All Options

Vendors who choose to operate as remote stores must maintain, for verification purposes, documentation pertaining to their sales made to Indians, Indian bands and band-empowered entities. The CRA will consider the facts of each case in determining whether a vendor qualifies to operate as a remote store for a particular period.

Vendors who choose to operate under this policy must advise their Tax Services Office of the CRA, in writing, of their decision to do so when they first begin operating as a remote store and at the beginning of every 12-month period that follows.

Examples

EXAMPLE NO. 1

Facts

1. A new vendor begins operation on April 15, 2005.
2. The vendor is in a remote location, as described under Option 1, because it is serviced by year-around road access, and is located over 350 kilometres from the nearest community with a population 5,000 or more.
3. The vendor has no prior sales history of its own but has a reasonable expectation that its sales to Indians, Indian bands and band-empowered entities will be more than 50%, as described under Option 1.
4. On July 1, 2005, the vendor’s percentage-of-sales made to Indians, Indian bands and band-empowered entities for the previous three-month period is 56%.
5. On October 1, 2005, the vendor calculates that the percentage-of sales-made to Indians, Indian bands and band-empowered entities for the two previous three-month periods is 52%.
6. On January 1, 2006, the new vendor’s sales percentage for all prior three-month periods (i.e., covering the period April 15 to December 31) drops below 50%.

Decision and rationale

The new vendor is entitled to operate as a remote store under Option 3 from April 15, 2005, to June 30, 2005. The vendor can continue to operate as a remote store for the three-month period ending September 30, 2005, and again for the three-month period ending December 31, 2005. Effective January 1, 2006, the new vendor will cease to qualify as a remote store and, effective that date, will be required to charge, collect and remit GST/HST on the supply of goods to Indians, Indian bands and band-empowered entities unless the delivery requirements set out in TIB B-039R2 are met. The vendor will

then have to wait until the percentage-of-sales threshold under Option 1 is met for a consecutive 12-month period before the vendor can operate as a remote store under Option 1.

If, on April 1, 2006, the vendor meets the percentage-of-sales threshold under Option 1 for the period April 15, 2005 to March 31, 2006, the vendor will then qualify as a remote store under Option 1 for the 12-month period commencing April 1, 2006. For purposes of determining whether the vendor can continue to operate as a remote store under Option 1 for the 12-month period commencing April 1, 2007, the vendor will calculate the percentage-of-sales threshold for the period April 1, 2006 to March 31, 2007.

EXAMPLE NO. 2

Facts

1. A sole proprietor operating a grocery store is located within 10 kilometres of a reserve and during the previous 12-month period, more than 90% of its sales were made to Indians, Indian bands or band-empowered entities, as described under Option 2.
2. The sole proprietor incorporates to continue the operations of the remote store.
3. The legal status of the business changes from that of a sole proprietor to a corporation on April 1, 2005.

Decision

The vendor will be entitled to operate as a remote store under Option 3 for a three-month period beginning April 1, 2005, without having to wait a full 12 months to determine whether its sales meet the percentage-of-sales threshold.

Rationale

The sales records maintained by the sole proprietor for the prior 12-month period demonstrates that the vendor has a reasonable expectation to meet the percentage-of-sales threshold under Option 2. Provided the vendor continues to meet the percentage-of-sales threshold under Option 3 for four consecutive three-month periods, the vendor will be eligible to operate as a remote store for a further 12-month period commencing April 1, 2006 under Option 2.

EXAMPLE NO. 3

Facts

1. A new urban reserve is created 15 kilometres from where a vendor is located.
2. Over 90% of the vendor's sales are made to Indians.
3. The vendor has been in operation for about 10 years.

Decision

The vendor is not entitled to operate as a remote store under Option 3.

Rationale

The vendor is not within 10 kilometres of a reserve, as described under Option 2.

EXAMPLE NO. 4

Facts

1. A vendor that has been in operation for several years is located in a remote location, as described under Option 1.
2. On April 28, 2005, a new reserve is created within the regular trading zone of the vendor.
3. The vendor has a reasonable expectation that more than 50% of its sales will be to Indians, Indian bands and band-empowered entities.

Decision

The vendor is entitled to operate as a remote store under Option 3 for a three-month period.

Rationale

The vendor has a reasonable expectation to meet the percentage-of-sales threshold under Option 1. If the vendor's sales continue to meet the percentage-of-sales threshold for four consecutive three-month periods, the vendor will be eligible to operate as a remote store for a further 12-month period commencing April 1, 2006, under Option 1.