

Headquarters Excise and GST/HST Rulings severed letters – October 2015

Date: October 23, 2015

Document No: 144839

Subject: GST/HST RULING AND INTERPRETATION - [...] [Admissions to a charity's Event]

Reference: ETA 123(1);
ETA Sch V, Part V.1; 1(e);

Please note that the following document, although correct at the time of issue, may not represent the current position of the Canada Revenue Agency. / Veuillez prendre note que ce document, bien qu'exact au moment émis, peut ne pas représenter la position actuelle de l'Agence du revenu du Canada.

Excise and GST/HST Rulings Directorate
Place de Ville, Tower A, 15th floor
320 Queen Street
Ottawa ON K1A 0L5

[Addressee]

Case number: 144839

Business number: [...]

Dear [Client]:

Subject: GST/HST RULING AND INTERPRETATION
[...] [Admissions to a charity's Event]

Thank you for your letter of [mm/dd/yyyy], concerning the application of the Goods and Services Tax (GST)/Harmonized Sales Tax (HST) to the [...] ([...] Charity) [...] [Event]. We apologize for the delay in providing a response.

The HST applies in the participating provinces at the following rates: 13% in Ontario, New Brunswick and Newfoundland and Labrador, 14% in Prince Edward Island and 15% in Nova Scotia. The GST applies in the rest of Canada at the rate of 5%.

All legislative references are to the Excise Tax Act (ETA) unless otherwise specified.

STATEMENT OF FACTS

We understand from your letter and the Charity's website [...] that:

1. The Charity is a registered charity for income tax purposes, effective [mm/dd/yyyy]; it is a charity for ETA purposes.

2. The Charity is not registered for the GST/HST.
3. In your letter dated [mm/dd/yyyy], you stated that the Charity met both criteria to be considered a small supplier. The total revenues from all activities and donations were less than the \$250,000 threshold revenue amount, and the \$50,000 taxable supply test was also met. The recent T3010, Registered Charity Information Returns, show that the revenues of the Charity for the past three fiscal years are over \$250,000.
4. The main activity of the Charity is [...].
5. [...][Description of the Charity's Event].
6. [...][Description of the fee to the Charity's Event].
7. [...][Description of the Event's requirements].
8. The minimum and maximum number of participants required in order to run an event varies depending on the location. The minimum number of participants ranges between [#], and the maximum between [#] participants.
9. The Charity's website describes [...] [the] [Event] as [...][quote from the website].
10. [...][Description of the Event's purpose].
11. [...][Further specifics of the Event and locations in Canada and USA]. [...]
12. [...][Additional description of the Event's purpose].
13. The Charity is planning to open more [Event] locations in the coming years [...].
14. [...][Additional information about the fees]
15. [...][Quote from the website]

RULING REQUESTED

You would like to know whether:

- * the \$[...] fee for the [Event] [should] be included in the taxable supply test or is it tax exempt;
- * the tax exemption applicable to the “meals-on-wheels” programs under the ETA applies to the \$[...] fee charged by the Charity for attending [the] [Event];
- * the Charity’s future fund-raising events and donations will need to be included in the taxable supply test.

RULING GIVEN

Based on the facts set out above, we rule that the Charity is making a supply of an admission to [the] [Event], which is exempt under section 1 of Part V.1 of Schedule V. Therefore, the consideration paid by the participants in the [Event] is not included in the small supplier's \$50,000 taxable supply test. We also rule that the exemption for "meals on wheels programs" under section 4 of Part V.1 of Schedule V is not applicable to the supply of Charity's admissions to [the] [Event].

EXPLANATION

Generally, supplies made by a charity are exempt from the GST/HST under section 1 of Part V.1 of Schedule V. However, there are a few exceptions that are generally taxable, notably supplies of admission to a place of amusement where an admission charged is more than \$1.

We have determined that the Charity is making a supply of an admission to [the] [Event]. For GST/HST purposes, an admission in respect of a place of amusement or a seminar, an activity or an event is defined as a "right of entry, or access to, or attendance at, a place of amusement...activity or event." Although the Charity is making a supply of an admission, only an admission to a place of amusement can fall under the exception noted above. For GST/HST purposes, a "place of amusement" is defined in subsection 123(1) of the ETA in part as:

"any premises or place, whether or not enclosed, at or in any part of which is staged or held any:

- (a) film, slide show, sound and light or similar presentation,
- (b) artistic, literary, theatrical, musical or other performance, entertainment or exhibition,
- (c) fair, circus, menagerie, rodeo or similar event, or
- (d) race, game of chance, athletic contest or other contest or game,

and includes ...any place, structure...the purpose of which is to provide any type of amusement or recreation."

Based on the facts set out above, none of the activities described in paragraphs (a) to (d) of the definition of "place of amusement" are being held at the places where the Charity holds [the] [Event]. The purpose of the places where [the] [Event] [...] [is] held, [...] [description of establishment], is not to provide any type of amusement or recreation. The ordinary purpose of these places is either educational, [...] [type of establishment], or to simply [...] [purpose of other establishment]. As the places used to host the [Event] [is] not considered to be places of amusement for GST/HST purposes, the Charity is not making a supply of an admission to a place of amusement. Since none of the other exceptions in section 1 of Part V.1 of Schedule V are applicable to the supply of an admission to the Charity's [Event], the supply is exempt and the GST/HST is not applicable to the \$ [...] fee.

Generally, supplies under “meals on wheels programs” are exempt under section 4 of Part V.1 of Schedule V. This provision exempts a supply “of food or beverages to seniors, underprivileged individuals or individuals with a disability under a program established and operated for the purpose of providing prepared food to such individuals in their places of residence”. The supply by the Charity to the participants of the [Event] is an admission to that event, not a supply of food or beverages. Therefore, the exemption in section 4 of Part V.1 of Schedule V does not apply. Despite this, as previously stated, the supply of the admission to the [Event] is exempt.

INTERPRETATION

You have requested a clarification on whether or not future fund-raising events and donations will need to be included in the taxable supply test. Since this question does not relate to a specific transaction, only an interpretation can be provided.

Fund-raising events

A supply made by a Charity of an admission to a fund-raising dinner, ball, concert, show, or like fund-raising event is exempt where the Charity is permitted to issue a donation receipt for income tax purposes in respect of part of the admission price, or could issue a donation receipt if the recipient of the supply were an individual. This exemption does not require a charity to issue a donation receipt, only that a receipt may be issued. Therefore, the admission to these types of fund-raising events that the Charity might supply in the future could be exempt from GST/HST.

Also, although the sale of new goods by a charity is generally taxable, the sale of a new good by a charity in the course of a fund-raising activity may be exempt except where:

* the charity makes supplies of the goods in the course of that fund-raising activity on a regular or continuous basis throughout the year (any period of twelve consecutive months) or a significant portion (30% or more) of the year; or

* the agreement for the sale entitles the recipient to receive from the charity the goods on a regular or continuous basis throughout the year or a significant portion of the year.

That being said, in order for a supply by a charity to fall under the above exemption it has to be made in the course of a fund-raising activity. The underlying purpose of a fund-raising activity must be to raise funds to support the charitable objects of the charity. A fund-raising activity is not in and of itself charitable as its purpose is to generate solicitations of support for the charity's objects rather than to accomplish them. A solicitation of support can involve supplies of goods or services sold at a profit by a charity to raise funds to support its charitable work. In certain cases, a charity may hold an event that may serve multiple purposes; first, as a way for the charity to fulfill or accomplish its charitable objects and, second, to raise funds to support its charitable objects. An activity undertaken by a charity to raise funds during a charitable event may be considered a fund-raising activity where it can reasonably be treated as discrete and distinct from the holding of the charitable event.

Donations

Generally, GST/HST does not apply to donations and gifts made between two persons dealing at arm's length. A donation or a gift is a voluntary transfer of money or property for which the donor does not receive any benefit in return. If the donor receives property having nominal value, such as a key ring, a pin, or an envelope seal, in exchange for the donation, the donation will still not be subject to the GST/HST. However, if the donor receives property or service having more than nominal value in exchange for the donation, the payment will be subject to GST/HST, unless the property or service is an exempt or zero-rated supply. For more information regarding the tax status of supplies by a charity please refer to Guide RC4082, GST/HST Information for Charities.

“Small Supplier Test”

A charity that makes a taxable supply of property or services in Canada in the course of a commercial activity engaged in by the charity in Canada is generally required to register for GST/HST purposes, unless the charity is a small supplier. A charity is a small supplier if it meets either of the two following scenarios:

- * if its total revenues from taxable (that is, not exempt) supplies of property and services (other than sales of capital property, supplies of financial services and certain payments for goodwill), and those of associated persons, has not exceeded \$50,000 in the current calendar quarter and the previous four consecutive calendar quarters; or
- * if it is the charity's first fiscal year, it is a small supplier; or if the charity is in its second fiscal year, its gross revenue from its first fiscal year was \$250,000 or less; and if it the charity's third or subsequent fiscal year, its gross revenue for either of its two preceding fiscal years was \$250,000 or less. Gross revenue includes business income, revenues from taxable and exempt supplies, donations, grants, gifts, property income, investment income and any amount considered a capital gain less any amount considered a capital loss from the disposal of property for income tax purposes.

If a charity makes taxable supplies and is a small supplier, the charity is not required to be registered for GST/HST, but may choose to register voluntarily. If a charity is not a small supplier and it makes taxable supplies, including zero-rated supplies (that is, supplies taxable at 0%), then the charity is required to register for GST/HST. If a charity makes only exempt (that is, not taxable) supplies of property or services, or is not making any supplies of property or services, the charity is not eligible to be registered for GST/HST.

Please note that the revenues from donations and exempt supplies, for example admissions to the [Event], should not be included in the \$50,000 taxable supplies test; however, those revenues will need to be taken into consideration in the \$250,000 gross revenue threshold.

In accordance with the qualifications and guidelines set out in GST/HST Memorandum 1.4, Excise and GST/HST Rulings and Interpretations Service, the Canada Revenue Agency (CRA) is bound by the rulings given in this letter provided that: none of the issues discussed in the rulings are currently under audit, objection, or appeal; no future changes to the ETA,

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regulations or the CRA's interpretative policy affect its validity; and all relevant facts and transactions have been fully and accurately disclosed. The interpretations given in this letter, including any additional information, are not rulings and do not bind the CRA with respect to a particular situation. Future changes to the ETA, regulations, or the CRA's interpretative policy could affect the interpretations or the additional information provided herein.

If you require clarification with respect to any of the issues discussed in this letter, please call me directly at 613-954-4206. Should you have additional questions on the interpretation and application of GST/HST, please contact a GST/HST Rulings officer at 1-800-959-8287.

Yours truly,

Desneiges Arbour
Charities and Non-profit Organizations Unit
Public Service Bodies and Governments Division
Excise and GST/HST Rulings Directorate