

BUDGET 2016: GST / HST CHANGES AFFECTING CHARITIES

Posted on March 31, 2016

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Charities rely on various fundraising activities to generate revenue. Such fundraising activities may include providing property or services to induce donations. Under the existing rules in the *Excise Tax Act* (the "**ETA**"), the supply by a GST/HST registrant charity of non-exempt goods or services in exchange for a donation imposes obligations on the charity to charge, collect and remit GST/HST on the full value of the donation, even if this value exceeds the value of the property or services.

Although there are a number of exemptions to the obligation of charities to charge and collect GST/HST that apply under various circumstances, such as in respect of an admission to a fund-raising dinner, or for the provision of previously donated property, this rule nevertheless often gives rise to onerous GST/HST collection and remittance obligations, which undermine the ability of charities to raise funds.

In contrast to the treatment of charities under the ETA, the "split-receipting" rules under the *Income Tax Act* (the "**ITA**") allow a charity to issue a donation receipt for the amount paid by the donor *less the value of any property or service that the donor receives*. Thus, such donations are treated less favorably under the ETA than under the ITA by requiring GST/HST to be charged and collected on the full value of the donation made by the donor, rather than solely in respect of the value of the property or services received in return by the donor. Budget 2016 contains proposals to bring the GST/HST treatment of such donations in line with the treatment of such an exchange under the ITA.

To accomplish this objective, Budget 2016 amends the ETA to deem the value of the consideration for the taxable supply of property or services by a charity to be equal to the fair market value of the property or services at the time the supply is made. Overall, the amendment will ensure that the portion of the donation that exceeds the value of the property or services received in return is relieved from GST/HST.

This change will apply to taxable supplies of goods and services made by charities after March 22, 2016 ("**Budget Day**").

Transitional Relief

Where, between December 21, 2002 (when the income tax split-receipting rules came into effect) and Budget Day, a registrant charity did not collect GST/HST on the full value of donations made in exchange for the

taxable supply of property or services, the proposals contained in Budget 2016 provide transitional relief. If, during this period, GST/HST was charged on the value of an inducement (i.e., the value of the property or services received in return by a donor to induce his or her donation), or the value of the inducement was less than \$500, the donors' and charities' GST/HST obligations will be deemed to have been satisfied. In other cases where a charity was non-compliant with the then existing law (e.g., the charity did not charge, collect or remit any GST/HST), the charity will be required to remit GST/HST on the value of the inducement only. The upshot of this transitional relief is that the new changes to the ETA applies retroactively to an inducement of \$500 or more. Where an inducement was less than \$500, any non-compliance is effectively ignored by deeming the consideration received for the inducement to be nil.

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A Cautionary Note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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