

LEGISLATIVE PROPOSALS RELATING TO THE EXCISE TAX ACT

1. (1) Section 1 of Part V.1 of Schedule V to the *Excise Tax Act* is amended by striking out “or” at the end of paragraph (m), by adding “or” at the end of paragraph (n) and by adding the following after paragraph (n):

(o) a parking space if

(i) the supply is made for consideration by way of lease, licence or similar arrangement in the course of a business carried on by the charity,

(ii) at the time the supply is made, it is reasonable to expect that the specified parking area (as defined in section 1 of Part VI) in relation to the supply will be used, during the calendar year in which the supply is made, primarily by individuals who are accessing a property of, or a facility or establishment operated by, a particular person that is a municipality, a school authority, a hospital authority, a public college or a university, and

(iii) any of the following conditions is met:

(A) under the governing documents of the charity, the charity is expected to use a significant part of its income or assets for the benefit of one or more of the particular persons referred to in subparagraph (ii),

(B) the charity and any particular person referred to in subparagraph (ii) have entered into one or more agreements with each other or with other persons in respect of the use by the individuals referred to in subparagraph (ii) of parking spaces in the specified parking area (as defined in section 1 of Part VI) in relation to the supply, or

(C) any particular person referred to in subparagraph (ii) performs any function or activity in respect of supplies by the charity of parking spaces in the specified parking area (as defined in section 1 of Part VI) in relation to the supply.

(2) Subsection (1) applies to any supply made after March 21, 2013, except that a supply of a parking space made by a charity after that day and on or before Announcement Date is only included in paragraph (o) of section 1 of Part V.1 of Schedule V to the Act, as enacted by subsection (1), if it also meets the following conditions:

(a) the parking space is situated at a particular property for which, at the time the supply is made, it is reasonable to expect that the parking spaces at the particular property will be used, during the calendar year in which the supply is made, primarily by individuals who are accessing a property of, or a facility or establishment operated by, a particular person that is a municipality, a school authority, a hospital authority, a public college or a university; and

(b) any of the following conditions is met:

(i) under the governing documents of the charity, the charity is expected to use a significant part of its income or assets for the benefit of one or more of the particular persons referred to in paragraph (a),

(ii) the charity and any particular person referred to in paragraph (a) have entered into one or more agreements with each other or with other persons in respect

of the use of the parking spaces at the particular property by the individuals referred to in that paragraph, or

(iii) any particular person referred to in paragraph (a) performs any function or activity in respect of the supplies by the charity of parking spaces at the particular property.

2. (1) Section 5 of Part V.1 of Schedule V to the Act is replaced by the following:

5. A supply made by a charity of any property or service if all or substantially all of the supplies of the property or service by the charity are made for no consideration, but not including a supply of

(a) blood or blood derivatives; or

(b) a parking space if the supply is made for consideration by way of lease, licence or similar arrangement in the course of a business carried on by the charity.

(2) Subsection (1) applies to any supply made after March 21, 2013.

3. (1) Part V.1 of Schedule V to the Act is amended by adding the following after section 6:

7. A supply (other than a supply by way of sale) of a parking space in a parking lot made by a charity if

(a) at the time the supply is made, either

(i) all of the parking spaces in the specified parking area (as defined in section 1 of Part VI) in relation to the supply are reserved for use by individuals who are accessing a public hospital, or

(ii) it is reasonable to expect that the specified parking area (as defined in section 1 of Part VI) in relation to the supply will be used, during the calendar year in which the supply is made, primarily by individuals who are accessing a public hospital;

(b) it is not the case that

(i) all or substantially all of the parking spaces in the specified parking area (as defined in section 1 of Part VI) in relation to the supply are reserved for use by persons other than individuals accessing a public hospital otherwise than in a professional capacity,

(ii) the supply or the amount of the consideration for the supply is conditional on the parking space being used by a person other than an individual accessing a public hospital otherwise than in a professional capacity, or

(iii) the agreement for the supply is entered into in advance and, under the terms of the agreement for the supply, use of a parking space in the specified parking area (as defined in section 1 of Part VI) in relation to the supply is made available for a total period of time that is more than twenty-four hours and the use is to be by a person other than an individual accessing a public hospital otherwise than in a professional capacity; and

(c) no election made by the charity under section 211 of the Act is in effect, in respect of the property on which the parking space is situated, at the time tax would become payable under Part IX of the Act in respect of the supply if it were a taxable supply.

(2) Subsection (1) applies to any supply made after March 21, 2013.

(3) If a charity collected an amount as or on account of tax under Part IX of the Act in respect of a supply of a parking space made by the charity after March 21, 2013 and on or before Announcement Date and, by reason of the application of subsection (1), no tax was collectible by the charity in respect of the supply, then for the purpose of determining the net tax of the charity, the amount is deemed not to have been collected as or on account of tax under Part IX of the Act.

(4) If an amount is deemed not to have been collected by a person as or on account of tax under subsection (3) and that amount was taken into consideration in assessing the net tax of the person under section 296 of the Act for a reporting period of the person, the person is entitled until the day that is one year after the day on which this Act receives royal assent to request in writing that the Minister of National Revenue make an assessment, reassessment or additional assessment for the purpose of taking into account that the amount is deemed not to have been collected by the person as or on account of tax and, on receipt of the request, the Minister must with all due dispatch

(a) consider the request; and

(b) under section 296 of the Act assess, reassess or make an additional assessment of the net tax of the person for any reporting period of the person and of any interest, penalty or other obligation of the person, but only to the extent that the assessment, reassessment or additional assessment may reasonably be regarded as relating to the amount.

4. (1) Section 1 of Part VI of Schedule V to the Act is amended by adding the following in alphabetical order:

“specified parking area” in relation to a supply of a parking space means all of the parking spaces that could be chosen for use in parking under the agreement for the supply of the parking space if all of those parking spaces were vacant and none were reserved for specific users.

(2) Subsection (1) is deemed to have come into force on March 21, 2013.

5. (1) Part VI of Schedule V to the Act is amended by adding the following after section 25:

25.1 A supply (other than a supply by way of sale) of a parking space in a parking lot made by a public sector body if

(a) at the time the supply is made, either

(i) all of the parking spaces in the specified parking area in relation to the supply are reserved for use by individuals who are accessing a public hospital, or

(ii) it is reasonable to expect that the specified parking area in relation to the supply will be used, during the calendar year in which the supply is made, primarily by individuals who are accessing a public hospital;

(b) it is not the case that

(i) all or substantially all of the parking spaces in the specified parking area in relation to the supply are reserved for use by persons other than individuals accessing a public hospital otherwise than in a professional capacity,

(ii) the supply or the amount of the consideration for the supply is conditional on the parking space being used by a person other than an individual accessing a public hospital otherwise than in a professional capacity, or

(iii) the agreement for the supply is entered into in advance and, under the terms of the agreement for the supply, use of a parking space in the specified parking area in relation to the supply is made available for a total period of time that is more than twenty-four hours and the use is to be by a person other than an individual accessing a public hospital otherwise than in a professional capacity; and

(c) no election made by the public sector body under section 211 of the Act is in effect, in respect of the property on which the parking space is situated, at the time tax would become payable under Part IX of the Act in respect of the supply if it were a taxable supply.

(2) Subsection (1) applies to any supply made after Announcement Date.