



TAX EXECUTIVES INSTITUTE, INC.

2012-2013 OFFICERS

CARITA R. TWINEM
President
Spectrum Brands Holdings, Inc.
Madison, Wisconsin

TERILEA J. WIELENGA
Senior Vice President
Allergan, Inc.
Irvine, California

MARK C. SILBIGER
Secretary
The Lubrizol Corporation
Wickliffe, Ohio

C. N. (SANDY) MACFARLANE
Treasurer
Chevron Corporation
San Ramon, California

KIM N. BERJIAN
Vice President-Region I
ConocoPhillips Canada
Calgary, Alberta

BARRY S. AGRANOFF
Vice President-Region II
Pearson Inc.
New York, New York

TIMOTHY R. GARAHAN
Vice President-Region III
Unifirst Corporation
Farmington, Massachusetts

TIMOTHY J. GOLDEN
Vice President-Region IV
Syngenta Corporation
Wilmington, Delaware

RICHARD H. WIREMAN, II
Vice President-Region V
Principal Financial Group
Des Moines, Iowa

KATRINA H. WELCH
Vice President-Region VI
Texas Instruments Incorporated
Dallas, Texas

MARCUS S. SHORE
Vice President-Region VII
Duke Energy Corporation
Charlotte, North Carolina

TAVIN SKOFF
Vice President-Region VIII
SAIC
San Diego, California

CHRISTER T. BELL
Vice President-Region IX
LEGO Systems A/S
Billund, Denmark

ELI J. DICKER
Executive Director

W. PATRICK EVANS
Chief Tax Counsel

January 10, 2013

Please Respond To:

Kim N. Berjian
Manager, Commodity Tax
ConocoPhillips Canada
401 - 9th Avenue S.W.
Calgary, Alberta T2P 2H7
403.233.5480

kim.n.berjian@conocophillips.com

British Columbia Ministry of Finance
P.O. Box 9547 Stn Prov Govt
Victoria, BC V8W 9C5

Attention: Jordan Goss
c/o Tax Policy Branch

Via email: Jordan.Goss@gov.bc.ca

Re: PST Administrative Recommendations

Dear Ms. Goss:

Last year, residents of British Columbia approved a referendum to repeal the Harmonized Sales Tax (HST) and reinstate the Provincial Sales Tax (PST). Royal assent was given to the *Provincial Sales Tax Act* (PST Act) on May 31, 2012, with a re-implementation date of April 1, 2013. In October, the Ministry of Finance issued a series of bulletins to provide “information to help business understand their obligation to charge, collect and remit provincial sales tax.” To assist the Ministry in this effort, Tax Executives Institute (TEI or the Institute) is pleased to provide the following comments on certain aspects of the Ministry’s guidance aimed at the practical, effective, and efficient administration of the new PST. This letter focuses on the administrative aspects of the PST Act and more specifically on the guidance included in PST Bulletin 002, *Charging, Collecting and Remitting PST* (October 2012).

TEI is the preeminent association of in-house tax professionals worldwide. The Institute’s 7,000 professionals manage the tax affairs of 3,000 of the leading companies across all industry sectors in North America, Europe, and Asia. Canadians constitute ten percent of TEI’s membership, with our Canadian members belonging to chapters in Calgary, Montreal, Toronto, and Vancouver, and they must contend daily

with the planning and compliance aspects of Canada's business tax laws. Many of our non-Canadian members work for companies with substantial activities in British Columbia and Canada generally. The comments set forth in this letter reflect the views of the Institute as a whole, but more particularly those of our Canadian constituency.

I. PST Exemption Documentation Requirements

Jurisdictions imposing a retail sales tax uniformly provide an exemption where the purchaser buys for resale and is registered to collect the tax. Under the PST Act, as interpreted by the Ministry in PST Bulletin 002, the documentation necessary to obtain this exemption remains overly complicated, and, in some cases, requires sellers to collect business records and other information from their customers that are not produced in the ordinary course of business or are otherwise difficult to obtain. These requirements will impose the same heavy administrative burden and associated compliance difficulties that existed under the previous *Social Services Tax Act* (SSTA).

PST Bulletin 002 provides that the vendor must document a resale purchase exemption by recording the purchaser's PST "registration number on the sales invoice or similar document to substantiate the non-collection of tax." (Emphasis added.) The use of the term "similar document" gives the Ministry discretion in determining which types of documentation will be acceptable to substantiate qualification for the exemption. TEI urges the Ministry to employ this discretion to encompass electronic documentation such as an electronic invoice, purchase order, or contract provided that the vendor has obtained a registration number from the purchaser as support for the non-collection of tax.

Companies increasingly rely on electronic recordkeeping to conduct their businesses including mass invoicing systems and electronic procurement methods. This trend shows no sign of abating as it creates efficiencies in order processing and other business operations. Requiring businesses to generate records unique to their PST filing requirements diminishes those efficiencies – especially when the data necessary to substantiate exemptions is already maintained in readily accessible formats common to existing business processes.

Businesses also use other methods to enhance their controls and streamline the administration and processing of transactions. For example, often a single contract or purchase order will govern numerous transactions, creating a single underlying document for several individual purchases and sales. PST Bulletin 002 could be interpreted to require a separate purchase order for each transaction effected pursuant to one of these arrangements. TEI recommends that the Ministry allow businesses to accept blanket certificates or utilize equivalent wording to that contained in exemption certificates within contracts and purchase orders governing multiple transactions to facilitate obtaining documentation to substantiate PST sale for resale exemptions in these common situations.

Despite qualifying for the sale for resale exemption, purchasers often cannot provide their PST registration number until after receiving an invoice for a sale. TEI requests confirmation from the Ministry that a vendor may provide an adjustment to the PST shown on an original

invoice without needing to re-invoice the sale solely to show the purchaser's PST registration number. TEI suggests that in this circumstance a "similar document" should include any document that links the original sales invoice to the PST registration number, including a vendor's credit note or a letter (including an email) from the purchaser providing the PST registration number for the purpose of exempting a purchase.

II. Electronic Filing and Payment Requirements for Large Businesses

PST Bulletin 002 states that "[s]imilar to the requirements for GST/HST, businesses with at least \$1.5 million in total Canadian sales per year will be required to file tax returns and remit PST electronically."

Although requiring electronic filing of tax returns is generally reasonable, not all large businesses will be able to remit their PST payment electronically by May 31, 2013, because financial institutions that provide such services to large businesses may not be capable of providing the requisite online filing and payment services by that date. While large businesses must file their GST/HST returns online, the Canada Revenue Agency also provides non-electronic options for remitting tax payments to address obstacles to online filing. Given that many large businesses may not be able to make PST payments electronically by May 31, 2013, TEI urges the Ministry to provide non-electronic options for making those payments (*e.g.*, by cheque, either by mail or at a financial institution, or a Service BC Centre) until financial institutions complete the changes necessary to provide electronic payment services for PST payments.

III. Claiming a Refund of PST Refunded or Credited to a Customer

Vendors must often refund PST collected on a transaction. PST Bulletin 002 describes refund or adjustment requirements for vendors in the following situations:

- Customer Does Not Provide Required Information or Document at Time of Sale or Lease (no exemption certificate or registration number)
- Customer Was Not Required to Pay the Tax (*i.e.*, exempt item)
- Refund or Credit of Purchase Price or Lease Price (*i.e.*, price adjustment)
- Motor Vehicles Returned Within One Year

Specifically, PST Bulletin 002 states:

If you refund or credit PST to your customer in any of the above circumstances, you may claim a refund of the PST you remitted on the sale or lease by taking an adjustment on your tax return (deducting the amount of your refund from the amount of tax owing) if you are registered as required or by applying directly to the ministry for a refund. If you choose to take an adjustment on your return, you must take the adjustment in the reporting period in which you provided the refund or credit.

Price adjustments and corrections are a normal part of any business. If the Ministry interprets the PST Act to require individually linking each adjustment to the original transaction for PST reporting, however, it will create an unnecessary reporting burden for companies doing business in BC since standard business enterprise software systems do not generally distinguish adjustments and corrections from other sales transactions such that they could be readily segregated for PST reporting purposes. Despite not being kept in a format easily transferrable to a PST return, businesses do maintain the data necessary to manually substantiate the reported net tax amount indicated on the return and the specifics of each tax adjustment in the event of a PST audit. Given the resources necessary to link each price adjustment and correction to the originating transaction and the ability to manually substantiate these items on audit, TEI urges the Ministry to permit reporting of the net amount of tax due on the PST return, which follows normal business accounting processes. This issue will be especially important during the early stages of implementing the new PST when many businesses may not be fully prepared to provide the required registration number or exemption documentation.

IV. Reporting Periods

TEI welcomes the decision to match the PST return due date to a registrant's GST/HST return due date as this will simplify reporting and ease the related compliance burden. Similarly, TEI recommends the Ministry adopt a notification approach to accommodate fiscal periods which vary from calendar months or calendar quarters, or a fiscal year that does not end on the last day of a month. These non-standard reporting periods are common among large businesses, particularly in the retail sector.

The approach to these reporting periods under the SSTA was far too complex. TEI urges the Ministry to follow the GST/HST model where a business completes and submits a notification form annually (reference form GST 71, *Notification of Accounting Periods*) (copy attached). If the non-standard accounting periods are outside established tolerances set by the Ministry, the GST 71 has a section that serves as a request for consideration by the tax authority to permit such periods. The greatest benefit would be felt where the due date for these non-standard periods would mirror those applicable to GST/HST returns.¹ This approach would decrease the administrative burden for many large businesses that will otherwise be required to establish and produce separate reporting data for financial accounting purposes and PST purposes.

*

*

*

TEI would be pleased to meet with Ministry representatives to discuss these comments and other PST administration issues to ensure that the system is designed in the most practical, effective, and efficient manner to the benefit of the Ministry and the business community.

¹ The *Excise Tax Act* requires filing on the day of the immediately following month that matches the final day of the period being reported (e.g., if the final day of the reporting period is May 13th, the filing due date is June 13th).

TEI's comments were prepared under the aegis of the Institute's Canadian Commodity Tax Committee, whose chair is Robert Smith. Should you have any questions about our recommendations, please do not hesitate to call Mr. Smith at 514.832.8198 (or Robert.Smith@mckesson.ca) or Kim N. Berjian, TEI's Vice President for Canadian Affairs, at 403.233.5480 (or Kim.N.Berjian@conocophillips.com).

Respectfully submitted,

Tax Executives Institute



Carita R. Twinem
International President

cc: Kim N. Berjian, TEI Vice President for Canadian Affairs
Robert Smith, Chair of TEI's Canadian Commodity Tax Committee

General information

Who can use this form?

Use this form if your accounting periods vary in length throughout your fiscal year, or if your quarter-end and month-end dates do not end on the last day of a calendar month. Your accounting periods have to meet our guidelines for fiscal quarters and fiscal months. See "Guidelines for fiscal quarters and fiscal months" on this page.

You can also use this form if you want to use fiscal months that do not meet the guidelines described below. See "Request to shorten or lengthen fiscal months" on this page.

Do not use this form if:

- your business uses a 12 calendar month fiscal year, each fiscal year ends on the same date every year, and your fiscal months and quarters do not meet the guidelines described on this form; or
- you want to change either your GST/HST fiscal year or your GST/HST filing frequency (for example, from quarterly to monthly). To change your GST/HST fiscal year, send us a completed Form GST70, *Election or Revocation of an Election to Change a GST/HST Fiscal Year*. To change your GST/HST filing frequency, send us a completed Form GST20, *Election for GST/HST Reporting Period*.

Accounting periods

Accounting periods are consecutive periods of time during the course of a fiscal year. Books and records are maintained to record the financial transactions and activities of a business during these accounting periods.

Many businesses use a period of 12 calendar months as their fiscal year. In this case, a business's fiscal year ends on the same date every year. The fiscal year is divided into accounting periods of fiscal months and fiscal quarters that end at calendar month-end.

Other businesses do not use a period of 12 calendar months as their fiscal year. Some businesses divide their fiscal year into accounting periods that have a consistent number of working days. Others use 4-week accounting periods and have a fiscal year-end that always falls on a particular day of a month. In these cases, the date of the fiscal year-end usually changes from year to year. The number of calendar days per accounting period also varies.

Guidelines for fiscal quarters and fiscal months

Fiscal quarters

There are four fiscal quarters in each fiscal year. The first fiscal quarter in a fiscal year starts on the first day of that fiscal year, and the last fiscal quarter ends on the last day of that fiscal year. Each fiscal quarter cannot be longer than 119 days and, except for the first and last quarters of the fiscal year, each fiscal quarter cannot be shorter than 84 days.

Fiscal months

The first fiscal month in each fiscal quarter starts on the first day of that fiscal quarter, and the last fiscal month in each fiscal quarter ends on the last day of that fiscal quarter. Each fiscal month cannot be longer than 35 days and, except for the first and last month of a fiscal quarter, each fiscal month cannot be shorter than 28 days.

Notification of accounting periods

To notify us of your accounting periods, complete parts A, B, C, and E of this form and send it to us. Be sure to enter all of the fiscal period start and end dates in Part C. Attach a separate sheet if you have more than 14 fiscal months in a fiscal year. If your fiscal months do not meet the guidelines for fiscal months, see "Request to shorten or lengthen fiscal months" on this page.

Effect of notification

If the accounting periods you use are within the guidelines, we will base your GST/HST reporting and remittance requirements on these periods.

If you have been authorized to file separate GST/HST returns for branches or divisions of your business or organization, the branches or divisions have to use the same accounting periods as the parent organization.

When to file notification

File this form on or before the first day of the fiscal year to which it relates. If you are a new GST/HST registrant, file this form no later than:

- the day you apply to be registered or, if you have to file an application on or before an earlier day, that earlier day; or
- the effective date of your registration.

You have to file a new notification for each fiscal year for which you want to use your accounting periods. If you do not tell us your accounting periods, we will revert your GST/HST return and payment due dates to calendar months or calendar quarters, as appropriate.

Request to shorten or lengthen fiscal months

You have to request approval to use fiscal months that do not meet the guidelines for fiscal months in "Guidelines for fiscal quarters and fiscal months" on this page. To make your request, complete parts A, B, D, and E of this form and send it to us with a list of the months for which you are requesting approval and your reasons for using these fiscal months.

We will notify you if we approve your application to modify the length of fiscal months. If we deny your request, you have to file a notification using fiscal months that meet the guidelines.

Where do you send this form?

Send this form to your tax centre. To get the address of your tax centre, go to www.cra.gc.ca/tso or call 1-800-959-5525.

Note

If you choose to submit this information using the "File an election" online service at www.cra.gc.ca/mybusinessaccount or at www.cra.gc.ca/representatives, do not send us this form.

What if you need help?

For more information, go to www.cra.gc.ca/gsthst, see Guide RC4022, *General Information for GST/HST Registrants*, or call 1-800-959-5525.

To get our forms and publications, go to www.cra.gc.ca/gsthstpub or call 1-800-959-2221.