

Upcoming changes you need to consider for the GST/HST closely related persons election

November 2014

Following the last federal budget, we prepared a [release](#) outlining the changes to the GST/HST election for closely related parties. This election allows most supplies between qualifying corporations and partnerships to be made without having to charge sales tax.

You may not have taken advantage of this election in the past—or maybe you did, but your business has since changed and you need to evaluate whether all members of the group continue to qualify for the election. Whatever the reason, now is the time to take action.

Effective January 1, 2015, this election must be filed with the Canada Revenue Agency (CRA). Previously, it only needed to be kept on file should the CRA request it at the time of an audit.

To make the election, all qualifying members of the group must be engaged (or deemed engaged) exclusively in commercial activities, which means they charge tax on most of their revenue. They must also be Canadian residents and registered for the GST/HST.

Example

OpCo and SisterCo are both wholly-owned by the same parent corporation. OpCo and SisterCo are both registered for GST/HST and tax would be collectable on all of their revenue. SisterCo rents the building to OpCo.

With the election in place, no GST/HST has to be collected and remitted with respect to the intercompany rental charge.

Since OpCo would have been entitled to a full input tax credit for any GST/HST paid to SisterCo (if no election was in place), the election simplifies compliance and assists cash flow by removing the need for one entity to collect and remit GST/HST that is otherwise recoverable by another closely related party.

Requirement to file the election in 2015

The required timing to file the election with the CRA varies depending on whether you already have an election in place in 2014.

If you are currently using the election and want to continue, you must file the new election sometime in 2015. You cannot file it before or after. The current form will be replaced with form number RC4616. As of the publishing of this article, the new form has not yet been released by the CRA.

If you are not currently using the election and want to benefit from it for the last months of 2014, you should review your qualifications and complete the existing form GST25. Do not send it to the CRA but, instead, keep the signed form for your records. You will also need to file

a new election before the end of 2015 using form RC4616 once it is released.

Elections made for the first time in 2015 (including those made for a new member of the group) must be filed on or before the due date of the return for the reporting period in which the election is used. So if one of the parties files monthly, their return for January 2015 and their election must be filed by the end of February 2015. Failure to file the election with the CRA in a timely manner may result in an assessment for the tax plus interest.

Other rules around this election have also changed. One “good news” change involves the definition of a “qualifying member”. Commencing in 2015, this definition now extends to corporations and partnerships that do not hold property and have not yet made any taxable supplies (as long as it is reasonable to assume that almost all of their supplies over the next twelve months will be taxable). This is a welcome change for new businesses. It may, however, still pose a challenge to organizations that are in their start-up phase and may not be making supplies on a regular basis in the near future.

Quebec requirement to file the election

Revenu Quebec has indicated that it will also require a QST election to be filed. In addition to the various criteria required, Revenu Quebec also stipulates that parties to the QST election be resident in Quebec, resulting in a significantly narrower scope for the Quebec election.

Conclusion

With all of these changes, corporations and partnerships with elections in place prior to 2015 must ensure they file these elections during 2015 or else the elections will not be valid.

Your business may have changed. You’ve restructured, added new members to your corporate group or changed your revenue. If

any or all of these apply to your organization, you will want to take a closer look at whether all members of the group qualify for the election.

Given that there will be a flurry of elections that need to be filed and reviewed by the CRA, the time to consider your qualifications is now, before it is examined by the CRA. A Grant Thornton sales tax specialist can help your organization evaluate the benefits of filing the election, determine if you are eligible and walk you through the filing requirements. For further details, or to get answers to any questions you may have, contact your Grant Thornton sales tax adviser before you file the election.

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