

When do I charge GST/HST?

It's been 27 years since Canada introduced the Goods and Services Tax (GST) and after all this time people are still trying to figure out when and how to charge, collect, file, and pay it. The Harmonized Sales Tax (HST), which five provinces use, isn't any simpler.

Part of the problem is that, like any tax program, some GST/HST rules are clear and some are open to interpretation.

"Interpretation" is just a fancy word for opinion. And you know what they say about opinions.

One thing that's absolutely clear is that if you're an owner-operator working for a carrier, your sales/income is "zero-rated" and therefore you should

not collect GST/HST for your services. You can claim credits on any GST/HST paid on your business expenses, thereby giving you a refund, but this refund, of course, is just you getting your own money back.

However, one of our owner-operator clients works for a medium-sized carrier that, for years, paid its owner-operators HST on gross income. We tried to educate the carrier's staff about their "interpretation," but they said they knew better.

Well, now all of a sudden, the HST payments have stopped. Apparently the company changed its policy.

Maybe this carrier got a letter from Canada Revenue Agency

(CRA). Maybe it paid a consultant big bucks for another opinion. It would have been easy money: CRA publishes its GST/HST guidelines in a document called *Freight Transportation Services GST/HST Memorandum 28-2*.

With more than 500 owner-operator clients working with who knows how many carriers, we hear all kinds of "expert opinions" on GST/HST on income and deductions.

Here are some facts:

A "self-employed driver" must charge GST/HST for his services if he exceeds the annual \$30,000 gross limitation. By definition, a self-employed driver does not use



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his own truck and does not assume liability for the supply of a freight transportation service for GST/HST purposes. He is providing a driving service, which is taxable.

The more difficult issues fall to GST/HST charges on deductions by carriers on broker pay, which CRA refers to as "chargebacks." The CRA bulletin on this states:

Often when an independent truck owner (owner-operator) is subcontracted by a carrier to provide interlining freight transportation services to the carrier, the carrier will initially pay some of the costs related to supplies of fuel, truck repairs, maintenance, and permits incurred by the owner-operator to transport the tangible personal property, with the understanding that the carrier will recover the costs from the owner-operator at a later date.

The recovered amounts are consideration for supplies made by the carrier to the owner-operator. The consideration for such supplies is referred to as a chargeback. The chargeback may be in respect of a supply related to a freight transportation service in that it relates to inputs required for the supply of the freight transportation service, but it is not consideration for the freight transportation service itself. As a result, the interlining rules do not apply to supplies that give rise to a chargeback.

So out of this you get some carriers that charge GST/HST on every deduction, but most pick and choose. For instance, most carriers don't charge GST/HST on licence and permit deductions yet CRA clearly list permits in its example. What about insurance? Does your carrier charge tax on your insurance deduction? One carrier I know goes so far as to separate IFTA and mileage tax chargebacks and apply HST to the Canadian portion and not to the U.S. portion.

Here's the bottom line: Don't waste your time arguing with your carrier "expert" about GST/HST. Instead, talk to your accountant and concentrate your efforts on what they are charging and getting documents properly to support your refund claim.

After all, you should want to claim back every penny of GST/HST you're entitled to receive. At least, that's my opinion. **TN**