

GST/HST Info Sheet

Auctioneers

January 2005

This info sheet explains how the goods and services/harmonized sales tax (GST/HST) applies to goods sold by auctioneers. It also explains how the tax applies to services provided by auctioneers. The information applies only to auctioneers who are registered or required to register for GST/HST purposes.

This info sheet does not apply to auctions of services, precious metals, buildings, land, court-seized property, or leases, licences and other intangible rights and privileges. It also does not apply to auctioneers who are selling goods other than as part of their commercial activities. Please call a GST/HST Rulings Centre toll free at 1-800-959-8287 if you have specific questions on these or other matters related to auctioneers.

In this publication, “taxable” means subject to the GST/HST at a rate of 7% or 15%. “Zero-rated” means subject to the GST/HST at a rate of 0%.

Goods sold by auctioneers

An auctioneer who sells goods by auction on behalf of a person who owns the goods (i.e., the “owner”) is considered to have sold the goods to the purchaser. Furthermore, the sale of the goods by the auctioneer is either taxable or zero-rated even if the owner would not have been required to charge tax had the owner sold the goods directly to the purchaser. The auctioneer—not the owner—is responsible for

charging and accounting for the tax on the sale. Of course, if the sale of the goods is zero-rated, such as a sale of cattle, the auctioneer does not account for any tax.

If the sale of goods is taxable, the auctioneer must charge and account for tax on the entire purchase price including the buyer’s premium (if one is charged). A buyer’s premium is an advertised percentage or a flat fee that the auctioneer adds to the final bid price of the goods.

Services provided by auctioneers

An auctioneer who has made a sale of goods by auction is considered (except in limited circumstances) not to have provided the owner with services related to the sale of the goods. The auctioneer does not charge or account for tax on related services, including those for which they charge a commission, such as calling the auction or providing a facility.

Whether a service is related to a sale of goods by auction depends on the circumstances. Generally, a service is considered to be related to the sale of goods if both of the following requirements are met:

- The service provided to an owner relates directly to the sale of the goods by auction and not simply to the goods themselves. For example, minimal services such as pre-sale cleaning are not taxable since they relate to the sale of the goods by

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auction, whereas repair and restoration services are generally taxable since they may alter or significantly enhance the goods.

- The service is of a kind typically provided at that type of auction or at auctions in general. For example, the following services are usually not subject to tax:
 - auctioneering services, such as calling the auction or providing a facility
 - advertising or illustrating services
 - pre-auction price estimates
 - short-term storage services

Goods or services provided to owners as inputs into related services (i.e., those services meeting both of the above requirements) are not subject to the GST/HST even if the owners are separately billed for them. However, an auctioneer must collect tax on all taxable services to owners that do not meet both of the above requirements.

In addition, an auctioneer must collect tax on all amounts charged to owners for taxable goods and services when goods are put up for auction but are not sold, even if they meet the above requirements.

Services provided to persons other than owners are usually taxable. For example, services provided to a purchaser or to another third party, such as collecting the third party's insurance fees, breed association fees, freight fees, or inspection fees, are subject to the GST/HST.

Auctioneers should not charge and account for the tax on taxable services provided by third parties. The third parties are responsible for determining any tax liability for services they provide. However, as agent of the third parties, auctioneers may collect the tax on those amounts and forward the tax to the third parties who must account for the tax. In this case, auctioneers must charge and account for tax on commissions the third parties pay to them for acting as their agent.

If auctioneers are not collecting amounts on the taxable services as agent of the third parties, but instead, collecting them in their own right, the

auctioneers must charge and account for the GST/HST on those amounts.

For more information on agents, refer to GST/HST Policy Statement P-182R, *Agency*. An info sheet on agents will also be published soon.

Smith Auctions Inc. sells furniture on behalf of owners who are either unregistered individuals or hotels registered for the GST/HST. Smith Auctions Inc. provides pre-sale cleaning, advertising, and auctioneering services to the owners. It also provides pre-auction price estimates and repair and restoration services at the request of owners or purchasers.

In this example, Smith Auctions Inc. must charge and account for tax on sales of the furniture. Neither the individuals nor the hotels are required to account for tax.

Smith Auctions Inc. does not charge or account for tax on the pre-sale cleaning, advertising, auctioneering and pre-auction price estimates it provides to owners since these services relate directly to the sale of the furniture items and are typically provided to owners at furniture auctions. However, Smith Auctions Inc. must charge and account for tax on these services in cases where furniture is put up for auction but is not sold.

Smith Auctions Inc. must charge and account for tax on all repair and restoration services provided to either owners or purchasers and on price estimates provided to clients who want to know the value of goods but are not selling them at auction.

ZZZ Livestock Sales (ZZZ) operates an auction market where it sells cattle on behalf of producers.

ZZZ charges the producers a commission for the following services:

- auctioneering services
- advertising cattle for auction
- tagging cattle in preparation for sale by auction
- weighing cattle at the auction ring

ZZZ also provides boarding (feed and yardage) of the cattle at the request of purchasers.

In this example, *ZZZ* does not charge and account for tax on sales of cattle because sales of cattle are zero-rated.

ZZZ also does not charge and account for tax on the following services provided to producers since they relate directly to the sale of cattle by auction and are typically provided to producers at cattle auctions:

- auctioneering services
- advertising
- tagging
- weighing

However, *ZZZ* would be required to charge and account for tax on these services in the case where cattle are put up for auction but are not sold.

ZZZ must collect the tax on boarding services provided to the purchasers.

ZZZ also collects the following amounts from producers as payment for taxable services provided by third parties and forwards these amounts to those parties:

- breed association fees
- provincial brand inspection fees
- freight fees for transporting cattle to auction

ZZZ may be paid a commission by the third party for collecting and forwarding these amounts.

ZZZ is only required to charge and account for tax on services that it provides, not those provided by third parties. The third parties have to determine the tax status of their services. However, *ZZZ* may collect the tax on amounts collected as agent of third parties for taxable services provided by those parties. *ZZZ* must forward the tax to the third parties who must account for the tax.

ZZZ must charge and account for tax on commissions paid to it by the third parties for acting as their agent.

XYZ Auction Canada Inc. (XYZ) sells used snowmobiles and other off-road vehicles by auction on behalf of various dealers.

XYZ charges the dealers a commission for:

- auctioneering services
- vehicle washing services

XYZ charges the dealers separate fees for the following services:

- decal removal
- engine cleaning, waxing, polishing and steam cleaning
- vehicle key replacement
- repairs
- transportation to the auction site

Regardless of whether payment for the service forms part of the auctioneer's commission or is a separate charge, the auctioneer in the above example should not charge the tax on the following services since they relate directly to the sale of off-road vehicles by auction and are typically provided to dealers at auctions:

- auctioneering services
- washing vehicles
- decal removal
- engine cleaning, waxing, polishing and steam cleaning
- transportation to the auction site

However, XYZ would be required to charge and account for tax on these services in the case where vehicles are put up for auction but are not sold.

XYZ must charge and account for the tax on amounts paid for:

- vehicle key replacement
- repairs

Election for owner to account for tax

An owner who is registered for GST/HST purposes and an auctioneer may jointly elect to allow the owner to charge and account for the tax on sales of certain types of taxable goods. These goods include cars or trucks for highway use, certain heavy machinery and equipment, flowers, and horses. The

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sale of the owner's goods for which the election is made must account for at least 90% of the proceeds from the auction on a particular day. In this situation, the auctioneer must charge and account for the GST/HST on all services it provides (including auctioneering services). The owner and the

auctioneer must complete Form GST 502, *Election and Revocation of an Election between Auctioneer and Principal*, and keep it with their books and records. For more information on the election, please call a GST/HST Rulings Centre.

This info sheet does not replace the law found in the *Excise Tax Act* (the Act) and its Regulations. It is provided for your reference. As it may not completely address your particular operation, you may wish to refer to the Act or appropriate regulation, or contact any Canada Revenue Agency (CRA) GST/HST Rulings Centre for more information. These centres are listed in GST/HST Memorandum 1.2, *Canada Revenue Agency GST/HST Rulings Centres*. If you wish to make a technical enquiry on the GST/HST by telephone, please call the toll-free number 1-800-959-8287. A ruling should be requested for certainty in any particular GST/HST matter.

If you are located in Quebec and wish to make a technical enquiry or request a ruling related to the GST/HST, please contact Revenu Québec by calling the toll-free number 1-800-567-4692.

All GST/HST publications are available on the CRA's Web site at www.cra-arc.gcca/tax/technical/gsthst-e.html.

Reference in CRA publications is made to the harmonized sales tax (HST) that applies to property and services provided in Nova Scotia, New Brunswick and Newfoundland and Labrador (the "participating provinces") at a rate of 15%. The goods and services tax rate is 7%.