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Ontario Region
LPRA Division – GST/HST Rulings
55 Bay Street North
P.O. Box 2220
Hamilton ON L8N 3E1

BC Funeral Association
2187 Oak Bay Avenue
Suite 211
Victoria BC V8R 1G1

Attention: Lorraine Fracy
President

Case Number: 170523
Business Number: 10677 8186

July 7, 2015

Dear Ms. Fracy:

Subject: GST/HST INTERPRETATION
Disbursements by a funeral home

Thank you for your letter of May 20, 2015, concerning the application of the Goods and Services Tax (GST)/Harmonized Sales Tax (HST) to disbursements by a funeral home.

The HST applies in the participating provinces at the following rates: 13% in Ontario, New Brunswick and Newfoundland and Labrador, 14% in Prince Edward Island and 15% in Nova Scotia. The GST applies in the rest of Canada at the rate of 5%.

All legislative references are to the *Excise Tax Act* (ETA) unless otherwise specified.

As BC Funeral Association is located in British Columbia, this letter will only address the GST.

We understand from your letter and our telephone conversation with Aaron Morrison on June 24, 2015, the following:

1. The BC Funeral Association represents cemetery, cremation and funeral professionals located in British Columbia (BC).
2. Often, funeral professionals will provide outsourced services such as clergy, life celebrants, soloists, catering and photography/videography services. Funeral professionals secure these services on behalf of their clients.
3. These services are indicated on client's invoices as disbursements.
4. You have indicated that there is some confusion as to whether GST should be charged to the clients as the recipients of these supplies.

INTERPRETATION REQUESTED

You would like to know how GST is applicable on the items included on a contract for a funeral service that are identified as disbursements and/or third party supplier(s).

INTERPRETATION GIVEN

Generally supplies made in Canada are either taxable supplies or exempt supplies. Exempt supplies are supplies that are not subject to the GST/HST and are listed in Schedule V. Taxable supplies are supplies made in the course of a commercial activity and may be taxable at 5%, 13%, 14%, 15%, or 0% (zero-rated supplies). Zero-rated supplies are those supplies specifically listed in Schedule VI.

The following definitions are found in subsection 123(1) of the ETA and are relevant to the information provided in our interpretation.

“Consideration” includes any amount that is payable for a supply by operation of law.

A “recipient” of a property or a service means

- (a) where consideration for the supply is payable under an agreement for the supply, the person who is liable under the agreement to pay that consideration,
- (b) where paragraph (a) does not apply and consideration is payable for the supply, the person who is liable to pay that consideration, and
- (c) where no consideration is payable for the supply,
 - (i) in the case of a supply of property by way of sale, the person to whom the property is delivered or made available,
 - (ii) in the case of a supply of property otherwise than by way of sale, the person to whom possession or use of the property is given or made available, and
 - (iii) in the case of a supply of a service, the person to whom the service is rendered, and any reference to a person to whom a supply is made, shall be read as a reference to the recipient of the supply.

A “supplier” in respect of a supply, means the person making the supply.

With respect to disbursements, there are two possible situations: first, where a funeral home acquired property and services of another in the course of supplying a funeral service to its client (i.e. a reimbursement) and second, where a funeral home, as agent of a client, acquires property and services on behalf of the client.

Reimbursements

Where a funeral home’s disbursement is for an expense incurred in the course of supplying a funeral service to its client, this cost is an input of the funeral home in providing the funeral service. In this case, the GST is charged to the client by the funeral home on the reimbursement of the expense to the extent that the GST is payable for the funeral service provided by the

funeral home. The funeral home must account for this tax in its net tax for the reporting period during which the tax is payable by the client and must remit any net tax owing for the period. In addition, the funeral home may claim an input tax credit (ITC) for any GST paid or payable in respect of the expense provided that the conditions for claiming an ITC are met.

For example, if a funeral home located in BC acquires the service of a singer who is registered for GST/HST purposes and the fee is \$100 plus \$5 GST, the funeral home, if eligible, will claim an ITC of \$5 and then charge the client \$100 plus \$5 GST provided that the funeral home is registered for GST/HST purposes. If the singer is not required to charge GST (e.g. the singer is a small supplier who is not registered for GST/HST purposes), the funeral home will not claim an ITC, as the singer has no liability to collect GST. However, the funeral home will charge the client \$100 plus \$5 GST.

Where an amount is given to a member of the clergy by the funeral home as a donation made otherwise than as agent of the client, no GST will be payable to the clergy; however, the GST will apply in the same manner described above when the funeral home seeks reimbursement from the client.

Expense incurred as agent

Policy Statement P-182R, *Agency*, addresses the issue of agency. For GST/HST purposes, a person is an agent acting on behalf of another person if the person is an agent at law. It is a question of fact whether an agency relationship exists. Where an agency relationship exists, there should be clear evidence of the existence of the relationship. For example, where an agency relationship exists, the contract between the funeral home and the client should specify that the funeral home will act as agent of the client for specific acquisitions of property and services on the client's behalf. In that case, the expenses invoiced to the client and paid by funeral home as agent will be treated as having been incurred by the client.

Where a funeral home incurs an expense as agent of a client, no GST is charged by the funeral home on the subsequent reimbursement of the expense. In addition, the funeral home is not entitled to claim an ITC in respect of this disbursement.

If a funeral home acquires the service of an organist registered for GST/HST purposes as "agent at law" of the client and the fee is \$100 plus \$5 GST, the funeral home will pay GST on behalf of the client to the supplier, will not claim an ITC (because it is not the funeral home's expense) and will not charge or account for GST in its net tax when it seeks a reimbursement of the \$105 from its client. Likewise, if the organist is not required to charge GST, the funeral home will not claim an ITC and will not charge the client GST when it seeks a reimbursement of the \$100.

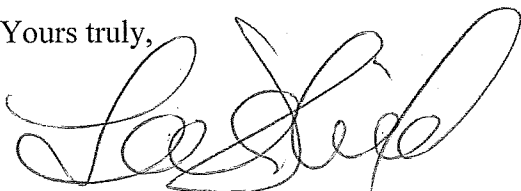
Where a funeral home pays an amount, e.g., \$200, as agent of a client to the clergy for its service of performing a funeral rite and that service is exempt of GST, the funeral home may not claim an ITC and may not charge the client the GST when it seeks a reimbursement of the \$200 from the client.

Where an amount given to the clergy by the funeral home is a donation or honorarium made on behalf of the client as its agent, no GST will be payable to the clergy and GST will not apply when the funeral home seeks reimbursement from the client.

In accordance with the qualifications and guidelines set out in GST/HST Memorandum 1.4, *Excise and GST/HST Rulings and Interpretations Service*, the interpretation(s) given in this letter, including any additional information, is not a ruling and does not bind the Canada Revenue Agency (CRA) with respect to a particular situation. Future changes to the ETA, regulations, or the CRA's interpretative policy could affect the interpretation(s) or the additional information provided herein.

If you require clarification with respect to any of the issues discussed in this letter, please call me directly at 905-572-2600. Should you have additional questions on the interpretation and application of GST/HST, please contact a GST/HST Rulings officer at 1-800-959-8287.

Yours truly,



Lee-Ann Wild
GST/HST Rulings Centre