

Minister of Finance



Ministre des Finances

Ottawa, Canada K1A 0G5

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2010FIN324352

The Honourable Dwight Duncan, M.P.P.
Minister of Finance
Government of Ontario
7th Floor, Frost Building South
7 Queen's Park Crescent
Toronto, ON M7A 1Y7

Dear Minister Duncan:

Thank you for your correspondence of June 5, 2010 regarding Ontario's request to provide a point-of-sale rebate under the Harmonized Sales Tax (HST) Framework to allow for the continuation of Ontario's current approach to its point-of-sale exemption for status Indians.

The decision to adopt the HST framework is for provinces to make. Each province has the independence to make decisions they deem appropriate for their own jurisdiction's economy and residents. Ontario's government has decided to maintain the provincial exemption for status Indians and we respect this choice.

The Comprehensive Integrated Tax Coordination Agreement (CITCA) that Ontario signed has always provided the province the flexibility to designate limited point-of-sale rebates for the provincial portion of the HST, under specific conditions. Last year, I had communicated to you a firm deadline of June 30, 2009 for Ontario to inform the Government of Canada of its list of desired point of sale rebates. Although Ontario did not respect this deadline to request a rebate for First Nations, the Government of Canada has worked diligently to accommodate your decision, and the needs of Ontario First Nations.

As you are aware, since your correspondence, federal and provincial officials and First Nation representatives have met on several occasions to discuss how the federal government could facilitate your desire to maintain an Ontario point-of-sale rebate for the provincial portion of the HST for status Indians. We have discussed this issue as well and have agreed to an approach that would provide for the continuation of the existing exemption and provide a basis to help collect the data that would allow us to work towards fully integrating an Ontario point-of-sale rebate for eligible off-reserve purchases of status Indians in the HST Framework at a later date.

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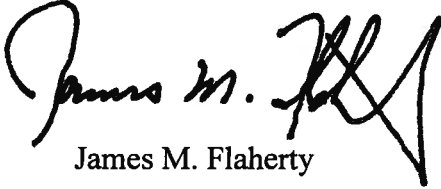
The approach, which would continue until the required data is available to fully integrate the rebate into the HST Framework, would entail the Canada Revenue Agency (CRA) processing claims from vendors in respect of a Government of Ontario point-of-sale rebate for Ontario status Indians on eligible off-reserve purchases. The key features of this approach would include the following:

- Effective September 1, 2010, at the time of sale, Ontario vendors would be allowed to rebate the provincial component of the HST for off-reserve purchases that are eligible for the provincial relief upon presentation of a valid Certificate of Indian status card, effectively resulting in only the 5 percent federal component of the HST being collected. From the First Nation's perspective, regarding eligible purchases made, this approach is the same as the existing exemption under Ontario's retail sales tax.
- Vendors would report both the 13 percent HST and 8 percent Ontario-rebated amount on the existing HST return and fill in a form to report and claim the amounts rebated. The cost of the exemption will be borne by Ontario through reduced HST payments.
- To allow for proper implementation, the Government of Ontario would implement a legal structure providing for the point-of-sale rebate effective September 1, 2010 and, at the earliest opportunity but prior to July 1st, 2010, define and announce its scope.
- The Government of Canada would put in place the legal authority and process to enable vendors to account for the Ontario rebate on the HST return and an associated rebate form effective September 1, 2010 and the CRA would communicate this information to HST registrants.
- The CRA would process the returns received from vendors in respect of the Ontario point-of-sale rebate as of September 1, 2010, at no cost to Ontario. Audit and compliance responsibility for the rebate will rest with the Province. The CRA would provide the Government of Ontario with reports on the Ontario rebates claimed and other related information so that the Government of Ontario could undertake audits or reviews as they consider appropriate.
- The rebate would count towards Ontario's 5 percent point-of-sale rebate limit.

The data obtained from vendors' returns, together with information provided by Ontario and First Nations, would make it easier for Statistics Canada to design proper surveys that should provide reliable data on eligible off-reserve purchases and for the elimination of the requirement for vendors to specifically report those purchases at a later date. In this regard, Ontario and First Nations would participate in and contribute to the development and acquisition of reliable data. The Government of Ontario would agree to cover the costs associated with the development and collection of the required data.

The Government of Canada appreciates that this is a matter of significant importance to Ontario First Nations. My officials are therefore prepared to work with your officials to quickly publicly announce the details for the implementation of Ontario's decision to continue its current provincial sales tax exemption for status Indians by way of an Ontario-provided point-of-sale rebate, effective September 1, 2010.

Sincerely,



James M. Flaherty

- c. The Honourable John Wilkinson, Minister of Revenue, Government of Ontario
The Honourable Chris Bentley, Minister of Aboriginal Affairs, Government of Ontario
The Honourable Monique Smith, Minister of Intergovernmental Affairs, Government of Ontario
Angus Toulouse, Ontario Regional Chief, Chiefs of Ontario
The Honourable Keith Ashfield, Minister of National Revenue, Government of Canada
The Honourable Chuck Strahl, Minister of Indian Affairs and Northern Development, Government of Canada