



CHIEFS OF ONTARIO

Q & A

MEMORANDUM OF AGREEMENT BETWEEN FIRST NATIONS AND THE ONTARIO GOVERNMENT TO CONTINUE THE POINT OF SALE TAX EXEMPTION

What is the significance of the Memorandum of Agreement (MOA)?

The main purpose of the MOA is that it commits the Government of Ontario and First Nations to work together to ensure that the First Nations point of sale tax exemption (FN-POS) is in place by the time the Harmonized Sales Tax (HST) is slated to come into effect on July 1, 2010.

The MOA commits the Government of Ontario to take all necessary steps under the tax agreement it entered into with Canada, called the Comprehensive Integrated Tax Coordination Agreement (CITCA), to realize this objective.

For months the government of Ontario has made public statements supporting the First Nations in their efforts to have the POS continue under the HST framework. The MOA commits the Ontario government to move beyond simply words and on to action.

The government of Ontario will work with First Nations to press the federal government to continue the FN-POS exemption under the HST system.

Note: This MOA does not let the Ontario government off the hook for its failure to consult with, and accommodate First Nations prior to the decision to harmonize the provincial retail sales tax with federal goods and services tax. This was a failure that both levels of government share. Once again, First Nations are forced to find a solution to a problem created by the governments' failure to fulfill their legal obligations to First Nations.

Does the signing of the MOA mean that I (as a First Nation citizen) will not have to pay the HST after July 1, 2010?

Possibly, with the cooperation of the federal government. The MOA is an important step forward in our ongoing efforts to have the FN-POS continue under the HST framework but it does not accomplish our ultimate objective – which is the continuance of the exemption post July 1, 2010. What remains is the necessity to engage and convince the federal government to act appropriately in this matter and agree to implement the FN-POS exemption under the HST system.

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What has been the position of the federal government in relation to the concerns of First Nations about the HST and the potential loss of the First Nation tax exemption?

The Prime Minister, in a letter to Premier McGuinty dated February 1, 2010, confirmed that Ontario could do what it wanted with its portion of the HST – including exempting First Nations. The only stipulation is that the amount of the First Nation exemption needs to be calculated so that the federal government, as the HST collector, knows how much to deduct from its transfers to the province. This is referred to as the “data and measurement” issue.

What’s involved in resolving the data and measurement issue?

Ontario and First Nations need the federal government at the table because the federal government will be administering the HST. To date, the federal Minister of Finance has refused to meet with First Nation leaders to discuss the options that have been developed to make the continuance of the FN-POS possible under the HST. Ontario and First Nations have been involved in the development of workable options that take into consideration the concerns of the federal government in regards to calculating the amount of the FN-POS exemption.

What does the study by economist Fred Lazar (commissioned by the Ontario First Nations) say about this?

Professor Lazar said the data and measurement issue is easy to resolve. In fact, he applied a method to calculate the impact of the HST on First Nations in Ontario using existing data sources. He said the cost will be between \$85 million to \$121 million in the first year of the HST, and increasing in future years. He also said that there is no reason why the present system for administering the First Nation exemption – simply presenting a status card – cannot be used under HST.

What are the next steps now that the MOA has been signed?

The signing of this MOA is a significant step. It provides a tool to hold the Ontario government to account by calling for it to take action to demonstrate its’ support for the First Nations position and creates greater pressure on the federal government to come to the table to meet with First Nations leaders to identify and finalize a fair and just resolution.

Our battle continues, and we must now focus all of our efforts on keeping the pressure on the federal government to do the right thing.