

CEEDA Consultation Session March 20th 2013 Questions and Answers

Q: On a 60 plus horsepower tractor, any cost associated with that tractor becomes zero rated, if the tire fees were built into the cost of tractor are they also zero rated, but if it is shown as a separate line item on the invoice would it still be HST applicable?

A: The tax status of the fee at retail is the same as the tax status of the product to which it is being applied. The product tax characteristics are imparted to the fee. OTS has been issued a ruling from the Ministry of Revenue in Ontario regarding the tax status of the fee at retail level.

Q: Does OTS have Input Tax Credits (ITCs) given the direction from CRA that some of the incentives paid by OTS should attract the HST?

A: The status of the Input Tax Credits (ITCs) is currently unresolved. While the Canada Revenue Agency has not yet issued a final ruling regarding the taxable status of the Used Tires Program (UTP) CRA has indicated that it does not believe that the program should be considered a taxable supply. The effect of this ruling would be negating OTS's ability to claim ITCs. Pending the issuance of a final Ruling by CRA OTS is banking the ITC's and not claiming them.

Q: Does Quebec have a similar program as the Ontario Tire Stewardship program, and if not than what is stopping customers/suppliers from going out of Ontario to purchase tires and bringing them back?

A: Along with every other province in Canada, Quebec does have a used tire program; however Ontario is unique on how it requires the program to be operated. Quebec for example does not included the full range of off-the-road tires like Ontario, and does not restrict the use of Tire-Derived Fuel, a low cost recycling option for used tires. OTS is aware of the concern that customers may go out of the province to purchase some of the larger tires and bring them back into Ontario, however OTS is currently actively working with the Ministry of Environment to task provincial officers to work with OTS to enforce the Stewardship program requirements for Stewards to report and remit the appropriate TSFs to OTS when importing tires.

Q: OTS has supplied consumers with a brochure with the fees that Stewards remit, the brochure states that consumers can request a refund if the fee they were charged was different or more, how is OTS allowing Stewards to manage the reconciliation fee?

A: OTS has provided Point of Sale material to all registered Stewards and Collectors. This material is intended to help the dealers with their communications with customers and to inform the customers of all the changes. The issue of how a fee gets passed on by a retailer to a consumer is not something OTS controls, OTS only deals with the relationship they have with their Stewards. How the fee gets passed down the supply chain is up to the individual business.

Q: Are Stewards allowed to mark up the cost of a tire?

A: OTS primary focus is on the TSF remitted by the Steward remits, how a Steward manages the fee through its supply chain is a commercial matter between the Steward and their customers. However Stewards should be prepared to explain to the consumer and/or the Ministry of Consumer Affairs the basis for the fee being charged of that fee is higher than the posted TSF. It is up to each individual business to determine how they will be managing the potential liability of the end-of-year reconciliation fee in a way which suits their business needs, and Stewards should be prepared to explain this rationale if requested to do so.