



January 2015

### **GST Election for Closely Related Corporations and Canadian Partnerships**

Under the Excise Tax Act (ETA), certain corporations and partnerships that qualify as a member of a closely related group may elect to not account for GST on certain taxable transactions of property and services between the two electing members. This election helps provide cash flow reliefs arising from intercompany transactions.

“Closely related corporations and Canadian partnerships” are defined under the ETA and can be very complex. Generally, closely related means the degree of ownership between the two entities is at least 90%. Two sister companies owned by an individual will not qualify as closely related. To qualify as a member of the group for GST purposes, a corporation or partnership must be a GST registrant, resident in Canada and engaged exclusively in commercial activities.

In the past, CRA only required the entities to keep a copy of the signed election on file. As a result of changes outlined in the 2014 Federal budget, this election must now be filed with CRA. For elections in place before 2015 that are still in effect as of January 1, 2015, an election form must be filed between January 1, 2015 and December 31, 2015. For new elections made in 2015, qualifying members must file the new election form no later than the earliest of the GST filing deadlines of the members making the election.

### **Temporary GST administrative relief for Joint Ventures**

Under the GST rules, a joint venture structure does not qualify as a “person” and therefore cannot register, collect and remit the GST or claim input tax credits (ITCs) for GST paid on related expenses. As a result, each participant of the joint venture would be required to register for GST and account for its proportionate share of GST.

However, the ETA provides for an election where, in general, the participants of a qualifying joint venture can elect for one participant that is a GST registrant to be the “operator” of the joint venture and account for the GST on behalf of all the other participants.

To qualify as the “operator” of the joint venture, the person must be either:

- A member who contributed resources and takes a proportionate share of revenue or losses from the joint venture activities; or
- A person, without a financial interest, who is designated as the operator of the joint venture under a written agreement and is responsible for the managerial and operational control of the joint venture.

Note that a nominee corporation or a bare trustee (holding legal title to the joint venture’s properties) does not generally qualify as “participant” and therefore cannot act as the operator of a joint venture.



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Under CRA's temporary administrative policy, for reporting periods ending on or before December 31, 2014, GST will not be reassessed if a bare trustee or nominee was reporting tax on behalf of a joint venture as its operator, as long as all returns have been filed, all amounts have been remitted and the joint venture participants are otherwise fully compliant. However, CRA's temporary policy is no longer available after December 31, 2014.

Please review your joint venture arrangements to ensure that GST is remitted by the appropriate person and that the appropriate elections and agreements are in place.

If you have any questions and would like further information, please contact us and we would be happy to assist.

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