

Tracking Federal Regulatory Initiatives

Regulatory Affairs

VOL. 5, No. 6

May 1, 1999

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Notice of Intention to Increase Tariffs (EU Ban on Beef)

Customs Tariff

The Finance Department has given notice of its intention to increase tariffs in response to the European Union's ban on imports of beef produced with certain growth-promoting hormones.

Published in Canada Gazette April 17, 1999

The notice, published in the Canada Gazette, Part I, lists the products which could be selected should Canada proceed with a request to the World Trade Organization (WTO) Dispute Settlement Body (DSB) for authorization to retaliate. The selected products could face withdrawal of tariff concessions; instead 100% tariffs would be imposed on products originating from Member States of the European Union.

Interested parties are invited to submit comments on the items by May 17, 1999 to the International Trade Policy Division, Department of Finance, Ottawa, Ontario K1A 0G5 (Fax: 613-995-3843).

The products listed include (tariff item, description, current tariff treatment):

- 0201, Meat of bovine animals, fresh or chilled, Free or 27%;
- 0202, Meat of bovine animals, frozen, Free or 27%;
- 0203, Meat of swine, fresh, chilled, frozen Free;
- 0206.29, Bovine edible offal, frozen, Free;

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Proposed Regulations

for Pre-Publication in Part I, Canada Gazette

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- 0707.00.99, Cucumbers and gherkins, fresh or chilled, Free;
- 0709.60, Peppers of the genus *Capsicum* or *Pimenta*, fresh, chilled, Free or 3.86¢/kg but not less than 8.5%;
- 1108.13, Potato starch, 10.5%;
- 1109, Wheat gluten, whether or not dried, 10.5% or \$420.66/tonne plus 15.5%;
- 1602.20.90, Livers of any animal prepared or preserved, Other, Free;
- 1602.41, Hams and cuts thereof of swine prepared or preserved, 10% or Free;
- 1602.42, Shoulders and cuts thereof of swine prepared or preserved, 10% or Free;
- 1602.49, Swine meat and meat offal, excluding livers/ including mixtures, prepared or preserved, 14% or Free;
- 1602.50, Bovine meat and meat offal, excluding livers, prepared or preserved 12%, 10% or Free;
- 1704.90.90, Sugar, confectionery (including white chocolate), not containing cocoa, 10.5%;
- 1806.90.90, Chocolates and chocolate confectionery, put up for retail sale, 7%;
- 1905.20, Gingerbread and the like, 3%;
- 1905.30, Sweet biscuits, waffles and wafers Free, 3% or 5.7¢/kg plus 4%, 3.5%;
- 2002.10, Tomatoes, whole or in pieces prepared or preserved other than by vinegar or acetic acid, 11.5%;
- 2007.99, Jams, fruit jellies, fruit or nut purée and paste, cooked, prepared, sugared, sweetened or not, 13%, Free, or 8.5%;
- 2008.70, Peaches other than prepared or preserved whether or not sugared, sweetened or not, 7% or 8.5%;
- 2104.10, Soups and broths and preparations thereof, 7%;
- 2201.10, Mineral and aerated waters not containing sugar or sweetening matter nor flavoured, Free;
- 2208.50 Gin, 5.38¢/litre of absolute ethyl alcohol;
- 2208.60 Vodka, 13.43¢/litre of absolute ethyl alcohol.

Contact: Ms. Hélène Belleau, Technical Barriers and Regulation Division, Department of Foreign Affairs and International Trade, Ottawa, Ontario, K1A 0G2. Tel: 613-944-2100. Ms. Marie-France Huot, International Trade Policy Division, Department of Finance, Ottawa, Ontario, K1A 0G5. Tel: 613-996-0628.

Notice Amending the Cruise Ship Inspection Fees

The Minister of Health has amended the fees that are payable for the provision of cruise ship inspections, beginning April 1, 1999

The cruise ship inspections, provided in compliance with the *World Health Organization International Health Regulation* to ensure the protection of public health on board ships, are conducted by personnel of the *Occupational Health and Safety Agency* (OHSa) under a voluntary compliance program.

The fee for the provision of an inspection for the 1999 sailing season, during daylight hours, seven days a week, will be \$6,450 for a large/extra large vessel, \$5,775 for a medium vessel, \$5,100 for a small vessel and \$1,500 for an extra small vessel. This fee does not include a contingency amount in case the Agency needs to provide outbreak investigation services in the event of a food-borne illness outbreak on board a ship. One routine inspection will be conducted on each cruise ship per Canadian sailing season (April to October inclusively).

Department of Health Act

Published in Canada
Gazette April 17, 1999

Proposed Regulations

for Pre-Publication in Part I, Canada Gazette

Statutory
Authority

Contact: Dr. Wayne Corneil, Director, Program Development and Professional Services, Occupational Health and Safety Agency, Address Locator 1903A1, Jeanne-Mance Building, Room D 393, Tunney's Pasture, Ottawa, Ontario, K1A 0L3. Tel: 613-957-7678; Fax: 613-954-5822.

Food and Drug Regulations (Prohibited Substances Schedule 1108)

Food and Drug Act

The Health Department is proposing a new regulatory approach covering homeopathic products which contain otherwise prohibited substances in minute amounts.

Published in Canada
Gazette April 17, 1999

More specifically, the Department is proposing to amend the Regulations to allow drug products to contain these prohibited substances in concentrations which meet the most stringent specifications described in specified pharmacopoeias. This proposal would result in the addition of Homeopathic Pharmacopoeias of the United States (HPUS) and Homöopathische Arzneimittel (HAB) [German Homeopathic Pharmacopoeia] to Schedule B to the *Food and Drugs Act*.

A new drug submission (NDS) will be required to demonstrate safety where a prohibited substance is proposed for use as a medicinal ingredient in a drug.

The provisions setting out the "prohibited substances" mentioned above are:

- Section C.01.036 states that no manufacturer or importer shall sell: a drug that contains phenacetin in combination with any salt or derivative of salicylic acid; a drug for human use that contains oxyphenisatin, oxyphenisatin acetate or phenisatin; a drug for human use that contains mercury or its salts or derivatives with certain exceptions in which the substance is present as a preservative and is demonstrated to be the only satisfactory way to maintain the sterility/stability of the drug.
- Section C.01.038 states that a drug for human use is adulterated and therefore prohibited if it contains: strychnine or its salts or derivatives; extracts/tinctures of *Strychnos nux vomica*, *Strychnos Ignatii*, or a *Strychnos* species containing strychnine; methapyrilene or its salts; echimidine or its salts; *Symphytum asperum*, *Symphytum x uplandicum* (plant extracts or tinctures) or any other plant species containing echimidine.
- Section C.01.040 states that no manufacturer or importer shall sell a drug for human use that contains: chloroform; arsenic or its salts or derivatives.
- Section C.01.040.1 states that no manufacturer shall use methyl salicylate as a medicinal ingredient in a drug for internal use in humans.

Contact: Lauraine Begin, Policy Division, Bureau of Policy and Coordination, Therapeutic Products Programme, Holland Cross, Tower B, 2nd Floor, 1600 Scott Street, Address Locator 3102C5, Ottawa, Ontario, K1A 1B6. e-mail: lauraine_begin@hc-sc.gc.ca

Pacific Fishery Regulations, 1993, amendment

Fisheries Act, section 43

These amendments to repeal provisions of the Regulations that are no longer required or that are more effectively dealt with by a licence condition. The Regulations already include the authority to use licence conditions in these instances. No substantive changes to the rules governing the fishery are included in these amendments, merely the method of imposing and communicating them to the industry.

Published in Canada
Gazette April 24, 1999

Proposed Regulations

for Pre-Publication in Part I, Canada Gazette

Statutory
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For example, the restriction on having a salmon net in a hung condition on board a vessel while fishing for salmon had been in place for many years. It was aimed at preventing simultaneous gill net and troll operations, which would have affected historical allocation amongst the three salmon gear types. The implementation of a new licensing system three years ago effectively eliminated this problem. The salmon net restriction was therefore no longer required and created undue hardship for salmon fishermen who were licensed to fish with both gill net and troll gear.

In another example, some of the provisions being repealed deal with the mesh size of nets used in various fisheries. The size of the mesh is one method to control the size of the fish that are caught. Should the situation arise, as it has in the past, where the size of mesh should be altered for a specific fishery in a specific area, a licence condition can be used to establish the appropriate mesh size.

Contact: Wendy Grider, Chief, Regulations Unit, Conservation and Protection Division, Operations Branch, Department of Fisheries and Oceans, 555 West Hastings Street, Vancouver, British Columbia, V6B 5G3. Tel: 604-666-6408; Fax: 604-666-9136; e-mail: Grid-erW@dfo-mpo.gc.ca

Patent Rules, amendment

These proposed amendments would make technical improvements to the Patent Rules, including relatively minor changes to facilitate electronic commerce, ensure conformity with international obligations under the Patent Cooperation Treaty (PCT) adopted at the World Intellectual Property Organization (WIPO), correct clerical errors and clarify the language of the current Patent Rules.

The specific changes include provisions to:

- clarify for patent applicants and their agents the conditions for electronically filing patent applications and communicating a number of other documents to the Patent Office. There will be a choice between electronic and paper filing.
- modify the manner in which correspondence addressed to the Patent Office is delivered and specify on what date it is considered received. Any correspondence, which is delivered physically to the Patent Office or to a designated establishment, when the Patent Office or the establishment is closed for business, will be considered to be received on the next working day. Correspondence submitted electronically, including by facsimile, may be sent at any time. It will have to be received by midnight, local time, at the Patent Office to be considered to have been received on that day, if the Patent Office is closed for business on that day, then the correspondence will be considered to have been received on the next working day.
- change the deadlines for claiming priority and submitting the required information so that they are calculated from the priority date, as defined by the WIPO Paris Convention, as opposed to the filing date. This will be more advantageous to applicants who use the convention priority system;
- indicate that time limits related to the processing of PCT applications upon national entry, i.e., once they are transmitted to the Office by the International Bureau, and to their subsequent examination by the Office, would be exclusively governed by the Patent Rules. Accordingly, article 48(2) of PCT would not apply to the time limits for national entry or to time limits after national entry.
- make it clear that section 8 of the *Patent Act* cannot be used to correct clerical errors until after the PCT application has entered the national phase;

Patent Act, section 12 as it read immediately before October 1, 1989, and sections 8.1 and 12, subsection 27(2), section 27.1, subsections 28.4(2) and 38.1(1) and section 46

Published in Canada
Gazette April 24, 1999

Proposed Regulations

for Pre-Publication in Part I, Canada Gazette

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- confirm that the requirement for information to be given to the Commissioner may be given directly to the International Bureau of the World Intellectual Property Organization, where such information has to be submitted before national entry, e.g., in the case of information concerning the deposits of biological material. The requirements will be simplified for those applications that make reference to deposits of biological material, in that information concerning the name of the international depositary authority and accession number will be mandatory. However, the date of the deposit would only be given where the examiner so requisitions it.
- correct a clerical error, which arose in the definition section of the Rules, to indicate that the word “application” does not include an application to re-issue a patent. This will bring the English version into conformity with the French version. Further clarification to the language of the Rules will provide a uniform approach to the language of documents submitted to the Patent Office and will also remove doubt regarding the applicability of the small entity provisions.

Contact: Pierre Trépanier, Acting Director, Patent Branch, Canadian Intellectual Property Office, Place du Portage, Phase I, 8th Floor, 50 Victoria Street, Hull, Quebec, K1A 0C9. Tel: 819-997-1947. Fax: 819-994-1989; e-mail: trepanier.pierre@ic.gc.ca.

Canadian Aviation Security Regulations

These proposed amendments would amalgamate the *Air Carrier Security Regulations* and the *Aerodrome Security Regulations* into the new *Civil Aviation Security Regulations*, for regulating the security of civil aviation operations in Canada.

The *Air Carrier Security Regulations* and the *Aerodrome Security Regulations* would be revoked when the *Canadian Aviation Security Regulations* become law.

The new Regulations have been simplified.

The proposed Regulations would authorize the Minister of Transport to develop mandatory security measures for normal and enhanced threat levels for aerodrome tenants and other entities that provide services to an air carrier or services related to the transportation of cargo or mail by air, such as air freight forwarders, catering supply companies and air navigation services.

The specific changes include measures to:

- oblige air carriers and aerodrome operators to report major security incidents to the Minister;
- require air carriers and other entities to provide security-related information to the Minister on demand;
- to introduce threat assessment obligations for aerodrome operators similar to those currently in place for air carriers;
- to prohibit individuals from circumventing or assisting others in circumventing the requirement to undergo security screening;
- to introduce controls to ensure the integrity of combination and personal identification codes to prevent unauthorized access to restricted areas;
- to add provisions related to persons under escort while in a restricted area in accordance with the Airport Restricted Area Access Clearance Program;
- to control of emergency exits which provide access to a restricted area;
- to standardize national airport restricted area passes;
- to establish minimum standards for security officers who perform pre-board screening duties.

Aeronautics Act, subsection 4.3(2) and sections 4.7 and 4.9

Published in Canada
Gazette April 24, 1999

Proposed Regulations

for Pre-Publication in Part I, Canada Gazette

Statutory
Authority

- to broaden provisions regarding false declarations by persons concerning bombs, to include declarations about checked baggage or cargo, and to include similar false declarations made by persons who are not intending to board an aircraft;
- to strengthen provisions relating to the possession and transportation of weapons on aerodromes and on board aircraft;
- to broaden provisions related to the escort and transportation of persons in custody on board aircraft, to apply to federal or provincial escort officers as well as peace officers to ensure a uniform approach to the control of persons under escort;
- to clarify provisions relating to response to threats and information reporting, to ensure a coordinated approach to the management of threats against aircraft and air carrier facilities;
- to prohibit the misuse of keys and restricted area passes and to ensure that only authorized persons are able to gain access to restricted areas; and
- to clarify provisions relating to the transportation of explosive substances, to harmonize them with the *Transportation of Dangerous Goods Regulations*.

Contact: Jim Marriott, Director, Security Policy and Legislation (ABA), Transport Canada, Place de Ville, Tower C, 13th Floor, 330 Sparks Street, Ottawa, Ontario, K1A 0N5. Tel: 613-990-5520; Fax: 613-996-6381; e-mail: marrioj@tc.gc.ca

Designated Provisions Regulations, amendment

The proposed amendment would reflect the amalgamation of the *Air Carrier Security Regulations* and the *Aerodrome Security Regulations* into the *Canadian Aviation Security Regulations*.

More specifically, the amendments establish new designated provisions, change the numbering of sections and revokes designated provisions that resulted from the creation of the Canadian Aviation Security Regulations.

The Regulations list certain regulations and orders made pursuant to the *Aeronautics Act* which may be enforced by means of an administrative monetary penalty assessed by the Minister of Transport.

These regulations and orders include the *Canadian Aviation Security Regulations*, the *Air Carrier Security Measures Order* and the *Aerodrome Security Measures Order*.

Administrative action in the form of a monetary penalty may be taken when voluntary compliance cannot be achieved or in the case of flagrant violations. The monetary penalty for the contravention of a designated provision is fixed at an amount not to exceed \$5,000 in the case of an individual and \$25,000 in the case of a corporation.

Contact: Jim Marriott, Director, Security Policy and Legislation (ABA), Transport Canada, Place de Ville, Tower C, 13th Floor, 330 Sparks Street, Ottawa, Ontario, K1A 0N5. Tel: 613-990-5520; Fax: 613-996-6381; e-mail: marrioj@tc.gc.ca

Aeronautics Act, subsection 7.6(1)

Published in Canada
Gazette April 24, 1999

Exempt from Pre-Publication and Approved

Statutory Authority

United Nations Angola Regulations, amendment (SOR/99-170, OIC 1999-620)

The amendment tightens sanctions against the National Union for the Total Independence of Angola (UNITA) pursuant to UN Security Council Resolution 1173.

More specifically, the amendments:

- freezes all funds belonging to UNITA, to senior members of UNITA and to their immediate families;
- prohibits the export, sale, supply and shipment, by their nationals or from their territories or using their flag vessels or aircraft, of any mining equipment, motorized vehicles, watercraft, or spare parts thereof, whether or not originating in their territory, to the territory of Angola where State administration has not been extended. The provision of mining, ground or waterborne transportation services in the areas of Angola where State administration has not been extended is also prohibited;
- permits the Minister of Foreign Affairs to provide a Certificate issued pursuant to section 9 of the Regulations to a person in Canada or a Canadian outside Canada who wishes to sell equipment or provide services that ordinarily would be prohibited under these Regulations if it is demonstrated that the equipment or services will be delivered to an area where State administration has been extended;
- prohibits the direct or indirect import from Angola of all diamonds that do not have a certificate of origin issued by the Angolan government.

Contact: Terence Jones, Eastern and Southern Africa Division (GAA), Foreign Affairs and International Trade, Lester B. Pearson Building 125 Sussex Drive Ottawa, Ontario, K1A 0G2. Tel: 613-944-5988; Fax: 613-944-3566.

United Nations Act, sections 2 and 3

To be published in Canada Gazette April 28, 1999

Medical Devices (GST) Regulations, amendment (SOR/99-171, OIC 1999-621)

The amendment repeals provisions of the Regulations that list certain medical devices that are zero-rated (i.e., non-taxable) under the Goods and Services Tax (GST) and Harmonized Sales Tax (HST).

Instead, the list of devices has instead been incorporated (by c. 10, S.C. 1997) into Part II of Schedule VI to the *Excise Tax Act*, which lists other zero-rated supplies under the GST/HST. The zero-rated status of the items listed has not changed except that, in the case of specially designed footwear, the zero-rating provision in the Schedule which replaced the item in the Regulations imposes a new requirement for a doctor's prescription in order to ensure that the tax relief is targeted to those who require such footwear.

Contact: Annie Hardy, Sales Tax Division, Department of Finance, L'Esplanade Laurier, 16th Floor, East Tower, 140 O'Connor Street, Ottawa, Ontario, K1A 0G5. Tel: 613-943-8479. Lance Dixon, GST/HST Rulings and Interpretations Directorate, Revenue Canada 9th Floor, Place Vanier "C", 25 McArthur Avenue, Ottawa, Ontario, K1A 0L5. Tel: 613-952-9264.

Excise Tax Act, section 277

To be published in Canada Gazette April 28, 1999

Exempt from Pre-Publication and Approved

Statutory Authority

Specified Tangible Personal Property (GST) Regulations, amendment (SOR/99-172, OIC 1999-622)

The amendment change the Regulations to take into account changes to the *Excise Tax Act* (enacted by c. 10, S.C. 1997) which resulted in the prescribed amounts set out in the Regulations applying only for the purposes of sections 183 and 184.

More specifically:

- the reference to section 176 of the Act under which the Regulations were formerly made is removed.
- section 3 of the Regulations is repealed, also as a consequence of changes to the Act. Section 3 prescribed a percentage for the purposes of former paragraph 176(2)(d) of the Act, which was repealed for supplies made after April 23, 1996.
- The long title to the Regulations is changed accordingly.
- The short title to the Regulations is changed to reflect the fact that the Regulations also apply for the purposes of the HST as of April 1, 1997.

Contact: Marlene Legare, Sales Tax Division, Department of Finance, L'Esplanade Laurier, 16th Floor, East Tower, 140 O'Connor Street, Ottawa, Ontario, K1A 0G5. Tel: 613-992-4230. Duncan Jones, Financial Institutions Section, GST/HST Rulings and Interpretations Directorate, Revenue Canada 10th Floor, Place Vanier "C", 25 McArthur Avenue, Ottawa, Ontario, K1A 0L5. Tel: 613-952-9210.

Amalgamations and Windings-Up Continuation (GST) Regulations, amendment (SOR/99-173, OIC 1999-623)

The Regulations are amended to include references to new provisions of the *Excise Tax Act* which have been added since the Regulations were passed.

The Regulations are further amended to prescribe provisions dealing with the transfer of property as a security interest, the overpayment of refunds, rebates for bankrupts and bankruptcies and receiverships in general. An amendment is also made to delete the reference to section 178 of the Act following the repeal of that section in chapter 10 of the Statutes of Canada, 1997.

These Regulations ensure that there is no break in the application of the prescribed provisions as a result of an amalgamation or merger or as a result of a subsidiary being wound up into a parent corporation.

The title of the Regulations is also changed to reflect the implementation of the HST on April 1, 1997.

Contact: Rainer Nowak, Sales Tax Division, Department of Finance, L'Esplanade Laurier, 16th Floor, East Tower, 140 O'Connor Street, Ottawa, Ontario, K1A 0G5. Tel: 613-992-9333. Noreen Staple, Corporate Reorganizations Unit, GST/HST Rulings and Interpretations Directorate, Revenue Canada 10th Floor, Place Vanier "C", 25 McArthur Avenue, Ottawa, Ontario, K1A 0L5. Tel: 613-957-8232.

Artists' Representatives (GST) Regulations, amendment (SOR/99-174, OIC 1999-624)

The schedule to the Regulations is amended by adding the Directors Guild of Canada and its district councils, as of January 1, 1997, the Educational Rights Collective of Canada (ERCC) and the Société de droits d'auteur des artistes en arts visuels (SODART), as of January 1, 1999, the Neighbouring Rights Collective of Canada (NRCC), as of January 1, 1998, and the Société collective de gestion des droits des producteurs de phonogrammes et de vidéogrammes du Québec (SOPROQ), as of August 1, 1991.

Excise Tax Act, sections 183, 184 and 277

To be published in Canada Gazette April 28, 1999

Excise Tax Act, sections 271, 272 and 277

To be published in Canada Gazette April 28, 1999

Excise Tax Act, section 277 and subsection 177(2)

To be published in Canada Gazette April 28, 1999

Exempt from Pre-Publication and Approved

Statutory Authority

The short title of these Regulations is also changed to reflect the implementation of the HST as of April 1, 1997.

Contact: Marc Rhéaume, Sales Tax Division, Department of Finance, L'Esplanade Laurier, 16th Floor, East Tower, 140 O'Connor Street, Ottawa, Ontario, K1A 0G5. Tel: 613-992-6636. Marcel Boivin, General Operations and Border Issues, GST/HST Rulings and Interpretations Directorate, Revenue Canada 9th Floor, Place Vanier "C", 25 McArthur Avenue, Ottawa, Ontario, K1A 0L5. Tel: 613-954-2488.

Specified Crown Agents (GST) Regulations (SOR/99-175, OIC 1999-625)

These Regulations list the agents of the federal government falling under the definition, "specified Crown agent", which was added, effective December 17, 1990, to subsection 123(1) of the *Excise Tax Act* by chapter 27 of the Statutes of Canada, 1993.

The effect of prescribing these particular federal Crown agents is to exclude them from the application of certain special rules under Part IX of the *Excise Tax Act* relating to the Goods and Services Tax (GST) and Harmonized Sales Tax (HST). These rules are designed to apply to governments and their agents who, because of their constitutional immunity from taxation, are not required to pay GST/HST on their purchases.

The prescribed federal Crown agents are carved out of these rules because they are, in contrast, required to pay GST/HST on their purchases and re-cover it by way of input tax credits in the same manner as other commercial businesses.

The title of these Regulations is also changed to reflect the implementation of the HST on April 1, 1997.

Contact: Andrew Marsland, Sales Tax Division, Department of Finance, L'Esplanade Laurier, 16th Floor, East Tower, 140 O'Connor Street, Ottawa, Ontario, K1A 0G5. Tel: 613-992-4380. Darlene Wladyka, Government Sectors, GST/HST Rulings and Interpretations Directorate, Revenue Canada 9th Floor, Place Vanier "C", 25 McArthur Avenue, Ottawa, Ontario, K1A 0L5. Tel: 613-954-7947.

Automobile Operating Expense Benefit (GST) Regulations (SOR/99-176, OIC 1999-626)

These Regulations take into account amendments to the *Income Tax Act* that prescribe a fixed amount per kilometre as the GST-inclusive automobile operating expense benefit in respect of employer-provided vehicles.

For the 1993 to 1995 taxation years, this fixed amount was set at 12 cents per-kilometre. On December 12, 1995, the government increased that amount to 13 cents a kilometre for the 1996 taxation year. On December 23, 1996 the government increased the per-kilometre amount to 14 cents for the 1997 and subsequent taxation years. Both amounts include a 5% GST component, as opposed to the general GST rate of 7%.

The lower GST percentage reflects the fact that a portion of the total automobile operating expense benefit reported for income tax purposes relates to GST-exempt expenses such as insurance. The *Automobile Operating Expense Benefit (GST) Regulations* prescribe this percentage of GST applicable to automobile operating expense benefits.

Excise Tax Act, section 277 and subsection 123(1)

To be published in Canada Gazette April 28, 1999

Excise Tax Act, section 277 and subsection 173(1)

To be published in Canada Gazette April 28, 1999

Exempt from Pre-Publication and Approved

Statutory Authority

Where the Harmonized Sales Tax (HST), which came into effect on April 1, 1997, applies to the benefit, the prescribed rate is 11% for the 1998 and subsequent taxation years. This rate is reduced from the general HST rate of 15%, again to reflect the fact that a component of the automobile operating expense benefit includes HST-exempt supplies such as insurance. For the 1997 taxation year, a special transitional prescribed rate of 9.5% reflects the fact that the HST was in effect for only three-quarters of the 1997 calendar year. As of April 1, 1997, the title to the Regulations is also amended to reflect the fact that they apply for purposes of the HST as well as the GST.

Contact: Andrew Marsland, Sales Tax Division, Department of Finance, L'Esplanade Laurier, 16th Floor, East Tower, 140 O'Connor Street, Ottawa, Ontario, K1A 0G5. Tel: 613-992-4380. Dave Caron General Operations Unit, GST/HST Rulings and Interpretations Directorate, Revenue Canada 9th Floor, Place Vanier "C", 25 McArthur Avenue, Ottawa, Ontario, K1A 0L5. Tel: 613-952-0301.

Fiscal Equalization Payments Regulations, 1999 (SOR/99-177, OIC 1999-627)

These Regulations will provide a basis for the Minister of Finance to make payments of provincial Equalization entitlements for the fiscal year 1999-2000. The Regulations thereby ensure no interruption in the well-established schedule of payments to provinces pending the promulgation of more detailed regulations.

Recent amendments to the *Federal-Provincial Fiscal Arrangements Act*, extended for five years the provisions of Part I of the Act, which deals with Equalization payments to the provinces. This renewal of the Equalization program will include changes to the tax bases in order to update and improve the measurement of the relative fiscal capacity of provinces.

Detailed technical Regulations to implement the aforementioned tax base changes require extensive work and will be put forward at a later date.

Contact: Richard Davis, Department of Finance, Federal-Provincial Relations Division, 15th Floor, East Tower, L'Esplanade Laurier, 140 O'Connor Street, Ottawa, Ontario, K1A 0G5. Tel: 613-996-7436.

Federal-Provincial Fiscal Arrangements Regulations, amendment (SOR/99-178, OIC 1999-628)

These two amendments to the Federal-Provincial Fiscal Arrangements Regulations set out the manner for determining and scheduling the amount of Equalization payments to be recovered from provinces as a consequence of correcting population for census revisions in respect of the 1996-97 and 1997-98 fiscal years.

The 1996 census has given rise to changes in the provincial populations used for calculating Equalization transfers for 1996-97 and 1997-98.

The purpose of the first amendment is to ease the effect of the financial impact on the negatively affected provinces by implementing a moratorium on recoveries until 1999-2000 and establishing a recovery formula permitting repayment over five years. Quebec will face recoveries of \$327.8 million (\$65 million/year) and Newfoundland, of \$13.3 million (\$3 million/year).

Federal-Provincial Fiscal Arrangements Act, section 40

To be published in Canada Gazette April 28, 1999

Federal-Provincial Fiscal Arrangements Act, section 40

To be published in Canada Gazette April 28, 1999

Exempt from Pre-Publication and Approved

Statutory Authority

The purpose of the second amendment is to speed up the recovery of outstanding overpayments from the 1991 census. Positive Equalization impacts from the 1996 census will be applied against the outstanding balances. Some provinces still face recoveries; the net outstanding balances will be recovered according to the existing Regulations governing the 1991 census loans.

Both amendments will require that recoveries be deducted on a monthly basis from provincial transfer payments.

Contact: Richard Davis, Department of Finance, Federal-Provincial Relations Division, 15th Floor, East Tower, L'Esplanade Laurier, 140 O'Connor Street, Ottawa, Ontario, K1A 0G5.
Tel: 613-996-7436.

Income Tax Regulations, amendment (SOR/99-179, OIC 1999-629)

The 1996 federal budget announced two policy changes with regard to the resource allowance for taxpayers in the resource sector. The first change was that "Canadian field processing" (essentially most gas plant processing) would now be considered a resource activity, which entitles a taxpayer to the resource allowance, rather than a manufacturing and processing (M & P) activity, which entitles a taxpayer to the M & P tax credit. Second, in order to provide for symmetrical treatment of resource losses and resource profits, it was announced that 25% of a taxpayer's prescribed resource losses would be added in computing the taxpayer's income. The legislation implementing the 1996 budget, including measures partially implementing the two changes described above, was given Royal Assent in April 1997.

The bulk of these amendments complete the implementation of the two policy changes. An earlier draft of these amendments was included in an appendix to explanatory notes which accompanied the December 5, 1996 release of the draft legislation implementing the 1996 federal budget.

In addition to minor technical amendments, there are two other amendments not previously announced which are included in these Regulations. The first is a relieving amendment of a technical nature to the manufacturing and processing tax credit provisions. The second is a relieving measure so that those taxpayers who are in a position similar to mine owners are not precluded from access to the accelerated capital cost allowance for equipment used in the operation of a mine.

Contact: Simon Thompson Tax Legislation Division, Department of Finance, East Tower, L'Esplanade Laurier, 140 O'Connor Street, Ottawa, Ontario, K1A 0G5. Tel: 613-992-0049.

Application of Provincial Laws Regulations, amendment (SOR/99-180, OIC 1999-633)

This amendment to the Regulations will permit the use of the contraventions offence scheme of Quebec to prosecute contraventions, designated under the Contraventions Regulations, committed in this province.

The amendment identifies the provincial laws that will apply to the processing in Quebec of contraventions. The amendment was developed in close cooperation with the Quebec's Office of the Attorney General and Minister of Justice.

Contact: Mrs. Louise Bégin, Legal Counsel, Contraventions Project, Department of Justice, 284 Wellington Street, Ottawa, Ontario, K1A 0H8. Tel: 613-954-6717; Fax: 613-998-1175; e-mail: louise.begin@justice.x400.gc.ca

Income Tax Act, section 221

To be published in Canada Gazette April 28, 1999

Contraventions Act, section 65.1

To be published in Canada Gazette April 28, 1999

Exempt from Pre-Publication and Approved

Statutory Authority

Order Amending Schedule I to the Federal -Provincial Fiscal Arrangements Act (SOR/99-181, OIC 1999-646)

This amendment adds the Fraser River Port Authority, the Prince Rupert Port Authority, the Quebec Port Authority, the Saguenay Port Authority, the Saint John Port Authority, the Sept-Iles Port Authority, the St. John's Port Authority and the Trois-Rivières Port Authority to Schedule I of the Act to ensure that, as Crown agents, the port authorities be obliged to pay provincial sales tax where applicable as well as other provincial taxes and fees in the participating provinces as part of the federal government's commitment to the provinces.

The Minister of Transport will issue letters patent of continuance or incorporation for the port authorities effective May 1, 1999. The letters patent set out all matters which are specific to a port authority such as the real property it will manage, the navigable waters over which it will have jurisdiction, the composition of the board of directors, and restrictions on its activities. Port authorities are commercial entities and cannot rely on Parliament to assist them in the discharge of their obligations and liabilities.

The Order comes into effect May 1, 1999.

Contact: Bruce Bowie, Executive Director, Marine Policy Reform, Department of Transport.
Tel: 613-998-0702.

Federal-Provincial Fiscal Arrangements Act, paragraph 31(2.2)(a)

To be published in Canada Gazette April 28, 1999

Andrés Wines Ltd. Remission Order (SI/99-38, OIC 1999-634)

This Order remits \$371,267.43 that represents the provincial sales tax liability of Andrés Wines Ltd. during the period in question, but that was mistakenly remitted to federal authorities as the Goods and Services Tax, rather than to provincial authorities. A rebate or other credit of the amount under Part IX of the Excise Tax Act is not possible because all statutory time limits have expired.

Financial Administration Act, subsection 23(2)

To be published in Canada Gazette April 28, 1999

Pre-Published and Approved No comments or changes

Statutory Authority

Insurance Companies Assessed Expenses Recovery Regulations (SOR/99-182, OIC 1999-649)

These amendments change the manner in which liquidation assets from the estate of a failed insurance company are distributed by the Office of the Superintendent of Financial Institutions (OSFI) to insurance companies that were previously required to pay a special assessment to cover the costs of liquidating a failed institution.

The changes were triggered by the liquidation of Northumberland General Insurance Company, in which case OSFI received a liquidation recovery in the amount of \$37.3 million from the estate of Northumberland.

OSFI has been appointed as the liquidator of a number of failed insurance companies. In each case, the Superintendent appointed an agent to carry out the liquidation. The costs incurred for liquidating a failed institution are subsequently assessed against other insurance companies pursuant to sections 686 and 687 of the *Insurance Companies Act*.

Insurance Companies Act, section 692 and paragraph 703(a)

To be published in Canada Gazette April 28, 1999

Pre-Published and Approved No comments or changes

Statutory Authority

The new regulations prescribe the following:

(a) recoveries received from an estate in a fiscal year that do not aggregate more than \$1 million will be offset against future regular assessments; and (b) recoveries received from an estate in a fiscal year that aggregate more than \$1 million will cause the issuance of refund cheques (only for amounts higher than \$10). The issuance of cheques will entail the tracking down of all companies that contributed to the past assessments but have since either been liquidated, withdrawn from Canada or merged with other companies.

Contact: Charles P. Johnston, Regulations Officer, Legislation and Precedents Division, Office of the Superintendent of Financial Institutions, 255 Albert Street, Ottawa, Ontario, K1A 0H2. Tel: 613-990-7472; Fax: 613-998-6716.

Pre-Published and Approved With comments or changes

Statutory Authority

Fish Inspection Regulations, amendment (SOR/98-169, OIC 1998-618)

These amendments update the fish inspection registration and Quality Management Programs (QMP) requirements for federally registered fish processing establishments processing fish and fish products for export, as a result of several reviews of the existing program.

More specifically, the regulations are amended to better protect public safety and maintain market access, notably to the United States, by:

- incorporating the Hazard Analysis Critical Control Point (HACCP) principles into QMP;
- strengthening record keeping;
- aligning QMP with internationally recognized standards;
- clarifying and expanding the requirements regarding the administration of the establishment registration activities of the Canadian Food Inspection Agency (CFIA);
- updating the Schedule I Construction and Equipment Requirements and Schedule II Operating Requirements, to confirm that processing infrastructure meets recognized international food handling standards with an increased emphasis on sanitation and concurrently streamlining and making them easier to understand;
- making provision for the issuance of fish export licences and application;
- facilitating enforcement of the Fish Inspection Regulations;
- consolidating into one section and rationalizing the exemption provisions contained in the Regulations, revoking the requirements to attach certification stickers to fishing vessels; and
- strengthening provisions for the approval of thermal processes used in canneries to sterilize lots of canned fish.

Contact: C. Prince, A/Director Fish, Seafood and Production Division Canadian Food Inspection Agency 59 Camelot Drive Nepean, Ontario, K1A 0Y9. Tel: 613-225-2342, Ext. 4212; Fax: 613-228-6607.

Fish Inspection Act, sub-section 3

To be published in Canada Gazette April 28, 1998

Regulatory Affairs

ISSN 1201-0716

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Editor: Mary Ferguson

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