
Explanatory Notes Relating to the Goods and Services Tax/Harmonized Sales Tax, the Underused Housing Tax and the Select Luxury Items Tax

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Preface

These explanatory notes describe proposed amendments to the *Excise Tax Act*, the *Underused Housing Tax Act*, the *Select Luxury Items Tax Act* and related regulations. These explanatory notes describe these proposed amendments, clause by clause, for the assistance of Members of Parliament, taxpayers and their professional advisors.

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These notes are intended for information purposes only and should not be construed as an official interpretation of the provisions they describe.

Table of Contents

Clause in Draft Legislation	Section Amended	Topic	Page
Part 3 – Amendments to the Excise Tax Act, the Underused Housing Tax Act, the Select Luxury Items Tax Act and Other Related Texts			
Division 1 – Excise Tax Act and a Related Text			
Excise Tax Act			
159	181	Redemption of coupon	5
160	191(9)	Substantial completion	6
161	256.2	GST rental rebates	7
162	Sch. V, Pt. II, s. 1	Practitioner	12
163	Sch. V, Pt. II, s. 7	Osteopathic services	12
Real Property (GST/HST) Regulations			
164	3.1	Excluded equity housing supply	13
165	4	Prescribed conditions	14
166	4.1	Prescribed conditions – cooperative housing corporations	14
Division 2 – Underused Housing Tax Act and a Related Text			
Underused Housing Tax Act			
167	1.1	Tax not payable	15
168	6.1	Return not required	15
169	–	Repeal	15
Underused Housing Tax Regulations			
170	–	Repeal	16
Division 3 – Select Luxury Items Tax Act and a Related Text			
Select Luxury Items Tax Act			
171	1.1	Tax not payable – aircraft and vessels	17
172	50(6)	Registration not required	17
173	52.1	Registrations cancelled – aircraft and vessels	18
174	55(3.1)	No requirement to file – aircraft and vessels	18
Select Luxury Items Tax Regulations			
175 and 176	1 to 10	Regulations	18

**Part 3 – Amendments to the *Excise Tax Act*, the *Underused Housing Tax Act*,
the *Select Luxury Items Tax Act* and Other Related Texts**

Division 1 – *Excise Tax Act* and a Related Text

Excise Tax Act

Clause 159

Redemption of coupon

ETA

181

Section 181 of the *Excise Tax Act* (the Act) sets out rules pertaining to coupons that offer price discounts or that may be redeemed for property or services. Section 181 is amended by amending subsection 181(5) and by adding new subsection 181(6).

These amendments are deemed to have come into force on August 16, 2025. They also apply in respect of any payment made by a person before August 16, 2025 to a supplier for the redemption of a coupon if the person has not claimed an input tax credit in respect of the payment in a return under Division V of Part IX of the Act that is filed before August 16, 2025.

Subclause 159(1)

Redemption of coupon

ETA

181(5)

Subsection 181(5) of the Act addresses situations where a coupon value is treated as a tax-included amount. If, in full or partial consideration for a taxable supply of property or a service, a supplier that is a registrant accepts a coupon that may be exchanged for the property or service or that entitles the recipient of the supply to a reduction of, or a discount on, the price of the property or service and a particular person makes a payment, in the course of commercial activities of the particular person, to the supplier for the redemption of the coupon, subsection 181(5) allows the particular person to claim an input tax credit in respect of the tax amount included in the total amount redeemed.

Subsection 181(5) is amended to clarify that a person must have made a payment for the redemption of a coupon exclusively in the course of commercial activities of the person to be entitled to claim an input tax credit in respect of the payment.

Subclause 159(2)**Redemption – commercial activities**

ETA

181(6)

New subsection 181(6) of the Act provides the condition that must be satisfied for a payment to be made exclusively in the course of commercial activities of a person.

- If the person is not a financial institution, all or substantially all of the activities in the course of which the payment is made must be commercial activities.
- If the person is a financial institution, all of the activities in the course of which the payment is made must be commercial activities.

Clause 160**Substantial completion**

ETA

191(9)

Existing subsection 191(9) of the Act deems, for the purposes of section 191 of the Act, the construction or substantial renovation of a multiple unit residential complex or a condominium complex, or the construction of an addition to a multiple unit residential complex, to be substantially completed not later than the day all or substantially all of the residential units in the complex or addition are occupied after the construction or substantial renovation is begun. This deeming rule impacts the timing of the application of tax under section 191.

Subsection 191(9) is amended so that this rule also applies to deem the timing of substantial completion for the purposes of subsection 256.2(3.1) of the Act and the *Real Property (GST/HST) Regulations*. This amendment ensures, for example, that despite the fact that construction of a residential complex is not substantially completed before 2036, where tax in respect of a residential complex is payable before 2036 because all or substantially all of the residential units in a residential complex were occupied before 2036, a rebate in respect of a residential complex may still be available pursuant to the rules in section 256.2 of the Act or the *Real Property (GST/HST) Regulations*. The French version of subsection 191(9) is also amended to correct a minor terminology error.

This amendment is deemed to have come into force on September 14, 2023.

Clause 161**GST rental rebates**

ETA

256.2

Existing section 256.2 of the Act provides for a partial rebate of up to 36% of the Goods and Services Tax (the GST) paid in relation to a residential rental property (the Existing GST Rental Rebate). It also provides for a temporary enhanced 100% rebate of the GST paid in respect of purpose-built rental housing (the Temporary Enhanced GST Rental Rebate). To qualify for the Temporary Enhanced GST Rental Rebate, residential rental property must meet the conditions for the Existing GST Rental Rebate, as well as additional conditions.

Section 256.2 is amended to implement rules that allow universities, public colleges and school authorities to claim GST relief in respect of newly constructed student residences at levels similar to what is provided for under the Temporary Enhanced GST Rental Rebate. These rules account for the fact that: (1) universities, public colleges and school authorities are not required to self-assess tax under section 191 of the Act when they construct a new student residence; and (2) in some cases universities, public colleges and school authorities may be claiming input tax credits and public service body rebates for GST paid on inputs used to construct a new student residence.

Where the relevant conditions are met, the amount of the Temporary Enhanced GST Rental Rebate under section 256.2 for the construction of a residential complex by a builder that is a university, public college or school authority is determined by reference to the basic tax content of the residential complex. The rules effectively allow universities, public colleges and school authorities to claim a “top-up” rebate in respect of any eligible GST they are unable to recover through these other mechanisms under the Act.

Subclause 161(1)**Purpose-built rental housing – student residence**

ETA

256.2(2.01)

Existing subsection 256.2(3) of the Act provides the authority for the Minister of National Revenue to pay certain rebates in respect of a residential complex or addition to a multiple unit residential complex. The amount of a rebate in respect of a residential complex or addition is calculated by determining the total of all amounts each of which is an amount determined in respect of a qualifying residential unit (as defined in subsection 256.2(1) of the Act) that forms part of the residential complex or addition.

New subsection 256(2.01) of the Act provides that clause (a)(iii)(A) of the definition “qualifying residential unit” is to be read in a special way for the purposes of applying section 256.2 of the Act and the *Real Property (GST/HST) Regulations* in respect of a taxable supply of property that is a residential complex or an addition that meets the condition described in either paragraph 256.2(3.1)(a) or (b). The special reading of the definition “qualifying residential unit” is only applicable to a person that is a university that is established and operated otherwise than for profit, a public college that is established and operated otherwise than for profit or a school authority that is established and operated otherwise than for profit.

If the special reading of the definition “qualifying residential unit” applies, a residential unit of the person may be a qualifying residential unit of the person if it is the case, or can reasonably be expected by the person to be the case, that the first use of the unit is or will be as a place of residence for students attending the university, the public college or a school of the school authority.

This amendment has the effect of relaxing, for a person that is a not-for-profit university, public college or school authority, one of the conditions that needs to be met in order that a rebate under subsection 256.2(3), as determined in accordance with new subsection 256.2(3.4), may be paid to the person.

This amendment is deemed to have come into force on September 14, 2023.

Subclause 161(2)

Rebate in respect of land and building for residential rental accommodation

ETA

256.2(3)

Existing subsection 256.2(3) of the Act provides that the amount of the rebate under that subsection is subject to subsection 256.2(3.1) of the Act. This gives the Temporary Enhanced GST Rental Rebate (which is for 100% of the GST) priority over the Existing GST Rental Rebate (which is for up to 36% of the GST) where the conditions for the Temporary Enhanced GST Rental Rebate have been met.

Subsection 256.2(3) is amended to provide that the amount of the rebate under that subsection is subject to subsections 256.2(3.1) to (3.4) of the Act consequential to the additions of new subsections 256.2(3.3) and (3.4), which provide the criteria and a calculation for the rebate equivalent to the Temporary Enhanced GST Rental Rebate for a university, public college or school authority that acquires or constructs a new student residence.

This amendment is deemed to have come into force on September 14, 2023.

Subclause 161(3)**Amount of rebate – purpose-built rental housing**

ETA

256.2(3.2)

Existing subsection 256.2(3.2) of the Act is amended to remove an unnecessary reference to a residential condominium unit in element B of the formula in that subsection.

This amendment is deemed to have come into force on September 14, 2023.

Subclause 161(4)**Amount of rebate – student residence**

ETA

256.2(3.3) and (3.4)

New subsections 256.2(3.3) and (3.4) of the Act implement a series of conditions and deeming rules, which are relevant when a new student residence that is acquired or constructed by a person that is a university, public college, or school authority. These new conditions and rules set out the parameters for the person to claim a rebate in respect of that student residence that is generally equivalent to the Temporary Enhanced GST Rental Rebate (i.e., to allow for recovery of 100% of any eligible GST paid in respect of that student residence).

New subsection 256.2(3.3) provides that if the conditions listed in that subsection are met, the deeming rules set out in new subsection 256.2(3.4) apply in respect of the construction or substantial renovation of a residential complex or an addition to a multiple unit residential complex.

The first condition is met if the builder of the residential complex or addition is a university, a public college or a school authority.

The second condition is met if the construction or substantial renovation of the residential complex or addition is carried out primarily for the purpose of providing a place of residence for students attending the university, the public college or a school of the school authority.

The third condition is met if the builder would, in the absence of subsection 191(6) of the Act, be deemed under section 191 of the Act to have made and received, at a particular time, a taxable supply by way of sale of the residential complex or addition. Subsection 191(6) provides that the self-supply rules in subsections 191(1) to (4) do not apply in respect of the construction by a school authority, public college or university of a student residence, or addition thereto.

Therefore, this third condition notionally re-instates that deemed supply for the purposes of applying the fourth condition, as set out below.

The fourth condition must be evaluated in respect of the notional supply referred to in the third condition that would, in the absence of subsection 191(6), be deemed under section 191 to have been made and received by the builder. This fourth condition in respect of the notional taxable supply is met if it is the case that the residential complex or addition is property prescribed for the purposes of subsection 256.2(3.1) of the Act, determined as if the deemed purchase referred to in subparagraph 256.2(3)(a)(ii) of the Act were the notional taxable supply and the particular time referred to in paragraph 256.2(3)(b) were the particular time referred to in the third condition above. It must also be the case that the notional taxable supply and the residential complex or addition meet the conditions prescribed for the purposes of subsection 256.2(3.1) and the conditions described in paragraph 256.2(3.1)(a) or (b). Essentially, meeting this fourth condition requires that the residential complex or addition that is acquired or constructed by a university, a public college or a school authority meet all the requirements of the Temporary Enhanced GST Rental Rebate.

New subsection 256.2(3.4) provides that, if the conditions listed in new subsection 256.2(3.3) are met (i.e., in respect of a new student residence of a university, a public college or a school authority), certain rules apply. These rules effectively deem the university, public college or school authority to have met all the conditions that must be satisfied to qualify for a rebate under section 256.2(3). This is necessary because to qualify for the Temporary Enhanced GST Rental Rebate, a residential complex or addition must also meet the conditions for the legacy Existing GST Rental Rebate. These deeming rules are set out in paragraphs (a) to (c) of new subsection 256.2(3.4).

Paragraph (d) of new subsection 256.2(3.4) provides a special formula for the determination of the rebate equivalent to the Temporary Enhanced GST Rental Rebate for a student residence acquired or constructed by a university, a public college or a school authority. If all the conditions for the rebate have been met, paragraph (d) would replace the first formula in subsection 256.2(3), and the descriptions for that formula, as follows:

$$\mathbf{A} \times \mathbf{B}$$

where

A is the amount that, in the absence of subsection 191(6), the person would have been entitled to claim under section 193 or 257 of the Act in respect of the deemed purchase of the residential complex or addition determined as if the references in section 193 or 257, as the case may be, to “basic tax content” were read as references to “*qualifying portion of basic tax content* (as defined in subsection 256.2(1))”, and

B is the unit’s percentage of total floor space.

This formula accounts for the fact that universities, public colleges and school authorities may already be claiming eligible input tax credits and public service body rebates for GST paid on inputs used to construct a new student residence. This formula effectively allows universities, public colleges and school authorities to claim a “top-up” rebate for the eligible GST they are unable to recover through these other mechanisms under the Act.

This amendment is deemed to have come into force on September 14, 2023.

Subclauses 161(5), (7) and (8)

Application for rebate and payment of tax

ETA

256.2(7)

Existing subsection 256.2(7) of the Act sets out rules for when a person must file an application for a rebate under section 256.2 of the Act. In the case of a rebate under subsection 256.2(3) in respect of a residential unit, the rebate application must be filed within two years after the end of the month in which tax first becomes payable by the person, or is deemed to have been paid by the person, in respect of the residential unit or interest therein, or in respect of the residential complex or addition (or interest therein) in which the residential unit is situated.

Subsection 256.2(7) is amended to provide an alternate rebate application timing rule for rebates under subsection 256.2(3), in respect of the construction or substantial renovation of a residential complex or an addition to a multiple unit residential complex, if the amount of the rebate is determined under subsection 256.2(3.4). In such a case, the rebate application must be filed within two years after the end of the month that includes the particular time referred to in paragraph 256.2(3.3)(c) in respect of the construction or renovation of the residential complex or addition. The particular time referred to in that paragraph is the time that the builder would, in the absence of subsection 191(6) of the Act, be deemed under section 191 of the Act to have made and received a taxable supply by way of sale of the residential complex or addition.

This amendment is deemed to have come into force on September 14, 2023.

Subclauses 161(7) and (8) of this Act provide special transitional rules in respect of the rebate application timing rules contained in subsection 256.2(7) of the Act, as amended by subclause 161(5) of this Act, which are described above.

The special transitional rule in subclause 161(7) applies if three conditions are met. The first condition requires that a person is, or would be in the absence of paragraph 256.2(7)(a) of the Act, entitled to a rebate under subsection 256.2(3) (as amended by subclause 161(2) of this Act) in respect of the construction or substantial renovation of a residential complex or an addition to a multiple unit residential complex. The second condition requires that the construction or

renovation is substantially completed before the day on which this Act receives royal assent. The third condition requires that the amount of the rebate is determined under subsection 256.2(3.4) of the Act (as enacted by subclause 161(4) of this Act). If these conditions are met, subclause 161(7) provides that the rebate may, despite paragraph 256.2(7)(a) of the Act (as amended by subclause 161(5) of this Act), be paid to the person if the person files an application for the rebate before the second anniversary of the day on which this Act receives royal assent.

Similarly, the special transitional rule in subclause 161(8) applies if three conditions are met. The first two conditions under subclause 161(8) are the same as the first two conditions described above for the special transitional rule under subclause 161(7). The third condition under subclause 161(8) requires that the amount of the rebate is determined under subsection 256.2(3.2) of the Act (as amended by subclause 161(3) of this Act). If these conditions are met, subclause 161(8) provides that the rebate may, despite paragraph 256.2(7)(a) of the Act (as amended by subclause 161(5) of this Act), be paid to the person if the person files an application for the rebate before the second anniversary of the day on which this Act receives royal assent.

Clause 162

Practitioner

ETA

Sch. V, Pt. II, s. 1

The definition “practitioner” in section 1 of Part II of Schedule V to the Act lists the types of health care professionals who are not required to charge tax, if certain conditions are met, in respect of their supplies of health care services itemized in sections 7 and 7.1 of Part II of Schedule V to the Act.

The definition “practitioner” is amended to remove references to osteopathic services and osteopathy from the list.

This amendment is deemed to have come into force on November 5, 2025.

Clause 163

Osteopathic services

ETA

Sch. V, Pt. II, s. 7

Section 7 of Part II of Schedule V to the Act lists the services of health care practitioners whose supplies are exempt from the GST/HST.

Paragraph 7(f) is repealed to remove osteopathic services from the list.

This amendment applies to supplies made after June 5, 2025, except that it does not apply to a supply of osteopathic services made after June 5, 2025 but before November 5, 2025 if the supplier did not charge, collect or remit any amount as or on account of tax under Part IX of the Act in respect of the supply.

Real Property (GST/HST) Regulations

Clause 164

Excluded equity housing supply

Real Property (GST/HST) Regulations

3.1

New section 3.1 of the *Real Property (GST/HST) Regulations* (the Regulations) introduces the concept of “excluded equity housing supply” for the purposes of the Regulations. A taxable supply that is an excluded equity housing supply of a residential complex is not eligible for a GST rebate under subsection 256.2(3) of the *Excise Tax Act* (the Act), determined in accordance with subsection 256.2(3.2) of the Act (i.e., the temporary 100% GST rebate for purpose-built rental housing), nor the corresponding rebates in respect of the provincial component of the HST.

Subsection 3.1(3) of the Regulations provides that a taxable supply is an excluded equity housing supply of a residential complex if the taxable supply is a supply by way of sale to a corporation of the residential complex, an interest in the residential complex or an addition to the residential complex and it is the case that, in respect of a residential unit situated in the residential complex:

- the corporation makes a particular supply of a share of the capital stock of the corporation to a particular person;
- the share confers on the particular person a right to possess the residential unit or a right to enter into an agreement for the supply by the corporation of the residential unit to the particular person by way of a lease that is, or is similar to, an arrangement commonly referred to as a “proprietary lease”; and
- if the particular person were to make a subsequent supply of the share to the corporation or another person, the total consideration for the subsequent supply would not be prohibited from exceeding the total consideration for the particular supply under the statute by or under which the corporation was incorporated, under the corporation’s charter, articles of association, by-laws or contracts with its shareholders or members or under contracts between its shareholders or members.

Subsections 3.1(1) and (2) provide interpretative rules that apply for the purposes of section 3.1. Specifically, subsection 3.1(1) provides that, for greater certainty, a share of the capital stock of a corporation includes a share of the capital stock of a cooperative corporation. Subsection 3.1(2)

provides that the total consideration for a supply to a person of a share in the capital stock of a corporation that confers a right in respect of a residential unit situated in a residential complex is the total of all amounts, each of which is the consideration payable for the supply to the person of the share or an interest in the corporation, the residential complex or the residential unit.

This amendment is deemed to have come into force on September 14, 2023.

Clause 165

Prescribed conditions

Real Property (GST/HST) Regulations

4

Existing section 4 of the Regulations prescribes conditions for the purposes of subsection 256.2(3.1) of the Act. The conditions must be met in order that an amount of the rebate under subsection 256.2(3) of the Act in respect of a taxable supply may be determined in accordance with subsection 256.2(3.2) of the Act.

Section 4 of the Regulations is amended to add a condition that a taxable supply must not be an excluded equity housing supply of the residential complex (within the meaning of subsection 3.1(3) of the Regulations).

This amendment is deemed to have come into force on September 14, 2023.

Clause 166

Prescribed conditions – cooperative housing corporations

Real Property (GST/HST) Regulations

4.1

Subsection 256.2(2.1) of the Act provides that, if certain conditions including prescribed conditions are met, a person that is a cooperative housing corporation (as defined in subsection 123(1) of the Act) may qualify for the temporary 100% GST rebate for purpose-built rental housing by deeming that person, for the purposes of applying section 255 and subsections 256.2(3) and (5) of the Act, not to be a cooperative housing corporation.

New section 4.1 of the Regulations makes it a prescribed condition that, in applying subsection 256.2(2.1) of the Act to a cooperative housing corporation in respect of a taxable supply of property that is a residential complex, an interest in a residential complex or an addition to a multiple unit residential complex, the taxable supply must not be an excluded equity housing supply of the residential complex (within the meaning of subsection 3.1(3) of the Regulations). No other conditions are currently prescribed.

This amendment is deemed to have come into force on September 14, 2023.

Division 2 – *Underused Housing Tax Act* and a Related Text***Underused Housing Tax Act*****Clause 167****Tax not payable**

UHTA

1.1

Existing subsection 6(3) of the *Underused Housing Tax Act* (the Act) is the charging provision for the underused housing tax. Under subsection 6(3), subject to other provisions of the Act, every person that is, on December 31 of a calendar year, an owner of a residential property (other than an excluded owner as defined under section 2 of the Act) is required to pay to His Majesty in right of Canada tax in respect of the residential property for the calendar year in the amount determined by a formula.

The Act is amended by adding new section 1.1 of the Act, which provides that no tax is payable under subsection 6(3) for 2025 and subsequent calendar years.

Clause 168**Return not required**

UHTA

6.1

Existing section 7 of the Act generally imposes a requirement on an owner of one or more residential properties in Canada to file a return in respect of each residential property they own for a calendar year. Existing section 10 of the Act allows the Minister of National Revenue to require a person to file a return by sending the person a demand.

The Act is amended by adding new section 6.1 of the Act, which provides that, despite sections 7 and 10, a person is not required to file a return for a residential property for 2025 and subsequent calendar years.

Clause 169**Repeal**

UHTA

The Act is repealed, effective on January 1, 2035, following the cessation of the tax in respect of 2025 and subsequent calendar years.

Underused Housing Tax Regulations

Clause 170

Repeal

Underused Housing Tax Regulations

The *Underused Housing Tax Regulations* (the Regulations) contain rules related to the underused housing tax. The Regulations are repealed, effective on January 1, 2035, following the cessation of the tax in respect of 2025 and subsequent calendar years.

Division 3 – *Select Luxury Items Tax Act* and a Related Text

Select Luxury Items Tax Act

Clause 171

Tax not payable – aircraft and vessels

SLITA

1.1

Division 2 of Part 1 of the *Select Luxury Items Tax Act* (the Act) imposes a tax on subject vehicles and subject aircraft with a value above \$100,000 and subject vessels (i.e., boats) with a value above \$250,000. The amount of the luxury tax is equal to the lesser of 10% of the total value of the subject item and 20% of the value above the relevant threshold. The tax is generally imposed on sales, importations, leases and certain improvements of subject vehicles, subject aircraft, and subject vessels.

The Act is amended to remove subject aircraft and subject vessels from the luxury tax base. To that effect, new section 1.1 of the Act provides that, despite anything in the Act, tax in respect of a subject aircraft or subject vessel is not payable if, in the absence of new section 1.1, the tax would become payable after November 4, 2025.

This amendment is deemed to have come into force on November 5, 2025.

Clause 172

Registration not required

SLITA

50(6)

Section 50 of the Act sets out the rules for when a person is required to register as a vendor in respect of a type of subject item for the purposes of the Act.

Existing subsection 50(6) provides that, subject to subsection 50(3), a person is not required to be registered as a vendor in respect of a type of subject item for the purposes of the Act if the person is a person prescribed by regulations (at this time, no persons are proposed to be prescribed by regulations).

Existing subsection 50(6) is amended to provide that a person also is not required to be registered as a vendor in respect of subject aircraft or subject vessels after November 4, 2025.

This amendment is deemed to have come into force on November 5, 2025.

Clause 173**Registrations cancelled – aircraft and vessels**

SLITA

52.1

Existing section 52 of the Act provides rules and procedures in respect of circumstances in which a registration may be cancelled. Subject to the rules in this section, if the Minister of National Revenue is satisfied that the registration is not required for the purposes of the Act, the registration may be cancelled.

New section 52.1 of the Act is added to provide that all registrations under Division 5 of Part 1 of the Act in respect of subject aircraft or subject vessels are canceled on February 1, 2028.

This amendment is deemed to have come into force on November 5, 2025.

Clause 174**No requirement to file – aircraft and vessels**

SLITA

55(3.1)

Existing section 55 of the Act provides rules in respect of the filing of returns. Every person that is registered, or required to be registered, under Division 5 of Part 1 of the Act must file a return on or before the last day of the month after the end of each quarterly reporting period.

New subsection 55(3.1) provides that a return for a reporting period of a person that begins after December 2025 is not required to be filed if three conditions are met: (a) the person is registered as a vendor in respect of subject aircraft or subject vessels; (b) the person is neither registered, nor required to be registered, as a vendor in respect of subject vehicles; and (c) no tax under the Act becomes payable by the person during the reporting period.

This amendment is deemed to have come into force on November 5, 2025.

This clause will also subsequently repeal new subsection 55(3.1). This repeal comes into force on February 1, 2028.

Select Luxury Items Tax Regulations**Clauses 175 and 176****Regulations***Select Luxury Items Tax Regulations*

1 to 10

These clauses make the *Select Luxury Items Tax Regulations* (the Regulations). Sections 1 to 10

of the Regulations set out the rules described below.

These clauses provide that Parts 1 and 3 to 5 of the Regulations are deemed to have come into force on September 1, 2022. Part 2 of the Regulations is deemed to have come into force on August 5, 2023. These clauses also deem the Regulations to have been made under section 154 of the *Select Luxury Items Tax Act*. Since these Regulations are being enacted by Parliament, this clause also confirms that procedural steps under the *Statutory Instruments Act* are deemed to have been made.

Section 1

Definition of Act

Section 1 of the Regulations defines “Act” for the purposes of the Regulations. “Act” is defined as the *Select Luxury Items Tax Act*.

Part 1 – Prescribed Aircraft and Vessel

Section 2

Exclusion from subject aircraft – agreements before 2022

Section 2 of the Regulations prescribes an aircraft for the purposes of paragraph (g) of the definition “subject aircraft” in subsection 2(1) of the *Select Luxury Items Tax Act* (the Act). An aircraft prescribed under paragraph (g) of the definition “subject aircraft” is excluded from the definition “subject aircraft”.

Section 2 of the Regulations provides that, for an aircraft to be a prescribed aircraft under paragraph (g), ownership of the aircraft must be transferred to a purchaser from a vendor by way of sale under an agreement in writing (sale agreement) and must meet the additional conditions set out in paragraphs (a) through (f) of section 2 of the Regulations.

- The conditions in paragraph (a) are met when either the conditions in subparagraph (i) or (ii) are met. Subparagraph (a)(i) is met if the purchaser entered into the sale agreement before 2022. Subparagraph (a)(ii) is met if the purchaser entered into the sale agreement after 2021 and also entered into another agreement in writing before 2022 with the vendor in respect of the aircraft. Under this other agreement, the purchaser must have: paid a deposit in respect of the aircraft to the vendor before 2022; agreed to enter into the sale agreement; and agreed to forfeit the deposit if the purchaser fails to enter into the sale agreement.
- Paragraph (b) requires that the sale agreement was entered into between the purchaser and the vendor in the course of the vendor’s business of offering aircraft for sale.

- Paragraph (c) requires that the aircraft is delivered or made available in Canada in relation to the sale agreement.
- Paragraph (d) requires that possession of the aircraft is transferred to the purchaser under the sale agreement at a particular time. This particular time is then referenced in the condition in paragraphs (e) and (f).
- Paragraph (e) requires that the vendor be a registered vendor in respect of subject aircraft at the particular time referenced in paragraph (d).
- Paragraph (f) requires that the purchaser is neither registered, nor required to be registered, as a vendor in respect of subject aircraft at, or at any time before, the particular time referenced in paragraph (d).

Section 3

Exclusion from subject vessel – agreements before 2022

Section 3 of the Regulations prescribes a vessel for the purposes of paragraph (h) of the definition “subject vessel” in subsection 2(1) of the Act. A vessel prescribed under paragraph (h) of the definition “subject vessel” is excluded from the definition “subject vessel”.

Section 3 of the Regulations provides that, for a vessel to be a prescribed vessel under paragraph (h), ownership of the vessel must be transferred to a purchaser from a vendor by way of sale under an agreement in writing (sale agreement) and must meet the additional conditions set out in paragraphs (a) through (f) of section 3.

- The conditions in paragraph (a) are met when either the conditions in subparagraph (i) or (ii) are met. Subparagraph (a)(i) is met if the purchaser entered into the sale agreement before 2022. Subparagraph (a)(ii) is met if the purchaser entered into the sale agreement after 2021 and also entered into another agreement in writing before 2022 with the vendor in respect of the vessel. Under this other agreement, the purchaser must have: paid a deposit in respect of the vessel to the vendor before 2022; agreed to enter into the sale agreement; and agreed to forfeit the deposit if the purchaser fails to enter into the sale agreement.
- Paragraph (b) requires that the sale agreement was entered into between the purchaser and the vendor in the course of the vendor’s business of offering vessels for sale.
- Paragraph (c) requires that the vessel is delivered or made available in Canada in relation to the sale agreement.
- Paragraph (d) requires that possession of the vessel is transferred to the purchaser under

the sale agreement at a particular time. This particular time is then referenced in the condition in paragraphs (e) and (f).

- Paragraph (e) requires that the vendor be a registered vendor in respect of subject vessels at the particular time referenced in paragraph (d).
- Paragraph (f) requires that the purchaser is neither registered, nor required to be registered, as a vendor in respect of subject vessels at, or at any time before, the particular time referenced in paragraph (d).

Section 4

Partial ownership

Section 4 of the Regulations provides rules that apply for the purposes of sections 2 and 3 of the Regulations. Under section 4, a transfer of ownership of an aircraft or vessel occurs even if only partial ownership is transferred to the purchaser and the vendor retains partial ownership. Section 4 also provides that, for the purposes of sections 2 and 3, a transfer of ownership of an aircraft or vessel occurs even if only partial ownership is transferred to the purchaser and the vendor transfers partial ownership to any third person, for example if the vendor sells a partial interest of an aircraft or vessel to two different persons.

Part 2 – Sale of Partial Ownership

Section 5

Prescribed circumstances – taxable amount

Subsection 18(7) of the Act provides that the taxable amount for a subject item is, in circumstances prescribed by regulation, determined in a manner prescribed by regulation.

Section 5 of the Regulations sets out certain circumstances for determining the taxable amount when a sale of partial ownership of a subject item occurs. Subsection 5(2) provides rules for determining the taxable amount where a vendor sells only partial ownership of a subject item to a purchaser. In such cases (subject to subsection 5(3)), the taxable amount of the subject item is to be determined under subsection 5(2) for the purposes of section 18 of the Act and for the purposes of determining under section 34 of the Act the amount of tax payable under section 18.

The taxable amount is determined by adding elements A and B from the formula. Element A of the formula is the greater of the value of the consideration for the sale of the subject item and the retail value of the subject item (as determined under section 16 of the Act) at the time at which the sale is completed. Element B is the total of all amounts, each of which is the greater of the value of the consideration for, and the fair market value of, an improvement in respect of the

subject item that is provided by the vendor, or a person that does not deal at arm's length with the vendor, in connection with the sale of the subject item, but only to the extent that the amount is not included in the determination of A.

Subsection 5(3) of the Regulations provides rules for determining the taxable amount where the following circumstances exist:

- a particular sale of only partial ownership of a subject item between a vendor and a purchaser is completed at a particular time; and
- another sale of only partial ownership of the subject item between the vendor and a purchaser is completed at or after the particular time.

In such cases, the taxable amount of the subject item in respect of the other sale is equal to zero if the conditions in paragraphs (a) and (b) are met.

Paragraph (a) is met if the taxable amount of the subject item in respect of the particular sale is determined under subsection 5(2). Paragraph (b) is met if, before the particular time (i.e., the time that the particular sale is completed), the vendor entered into an agreement in writing for the particular sale and an agreement in writing for the other sale. Paragraph (b) does not require that the particular sale and the other sale be made under separate agreements.

Part 3 – Exportation

Section 6

Prescribed circumstances – aircraft (tax not payable)

Section 33 of the Act provides that tax is not payable in prescribed circumstances. Subsection 6(1) of the Regulations provides that the circumstances set out in this section are prescribed circumstances for the purposes of section 33 of the Act.

Subsection 6(2) of the Regulations provides that tax under section 18 of the Act in respect of a sale of a subject aircraft by a vendor to a purchaser is not payable if the conditions set out in paragraphs (a) to (e) are met.

- Paragraph (a) requires that the vendor be a registered vendor in respect of subject aircraft at the particular time at which the sale is completed.
- Paragraph (b) requires that the purchaser is neither registered, nor required to be registered, as a vendor in respect of subject aircraft at the particular time.
- Paragraph (c) requires that an exemption certificate does not apply in respect of the sale

in accordance with section 36 of the Act.

- Paragraph (d) requires that the subject aircraft meets the conditions set out in subparagraphs (i) to (iii):
 - Subparagraph (i) is met if the subject aircraft is to be exported as soon after the particular time as is reasonable, having regard to the circumstances surrounding the exportation, the sale, and, if applicable, the normal business practice of the purchaser and vendor.
 - Subparagraph (ii) is met if the subject aircraft is not to be used in Canada at any time before the exportation except to the extent reasonably necessary or incidental to its manufacture, offering for sale, transportation or exportation.
 - Subparagraph (iii) is met if the subject aircraft is not to be registered with the Government of Canada or a province before the exportation except if the registration is done solely for a purpose incidental to its manufacture, offering for sale, transportation or exportation.
- Paragraph (e) requires that the vendor maintain evidence satisfactory to the Minister of National Revenue of the exportation of the subject aircraft by the purchaser.

If the conditions detailed in subsection 6(2) of the Regulations are not met, then tax is payable in accordance with provisions of the Act.

Section 7

Prescribed circumstances – aircraft (exemption certificate)

Subsection 36(3) of the Act provides that, if prescribed circumstances exist, an exemption certificate applies in respect of a sale of a subject item. Subsection 7(1) of the Regulations provides that the circumstances detailed in this section are prescribed circumstances for the purposes of subsection 36(3) of the Act. Section 7 of the Regulations only applies to subject aircraft.

Subsection 7(2) provides that, subject to subsection 7(3), an exemption certificate applies in respect of a sale of a subject aircraft by a vendor to a purchaser if the conditions in paragraphs (a) to (e) are met.

- Paragraph (a) requires that the vendor is a registered vendor in respect of subject aircraft at the particular time at which the sale is completed.
- Paragraph (b) requires that the certificate be made in prescribed form containing

prescribed information.

- Paragraph (c) requires that the certificate include the requirements set out in subparagraphs (i) through (iii).
 - Subparagraph (i) requires that the certificate include the identification number of the subject aircraft.
 - Subparagraph (ii) requires that the certificate include a declaration by the purchaser that all the conditions set out in clauses (A) through (D) are met.
 - Clause A requires the purchaser to declare that the subject aircraft is to be exported as soon after the particular time as is reasonable having regard to the circumstances surrounding the exportation, the sale, and, if applicable, the normal business practice of the purchaser and vendor.
 - Clause B requires the purchaser to declare that the subject aircraft is not to be used in Canada at any time before the exportation except to the extent reasonably necessary or incidental to its manufacture, offering for sale, transportation or exportation.
 - Clause C requires the purchaser to declare that the subject aircraft is not to be registered with the Government of Canada or a province before the exportation except if the registration is done solely for a purpose incidental to its manufacture, offering for sale, transportation or exportation.
 - Clause D requires the purchaser to declare that it is neither registered, nor required to be registered, as a vendor in respect of subject aircraft at the particular time.
 - Subparagraph (iii) requires that the certificate include an acknowledgment by the purchaser that the purchaser is assuming liability to pay any amount of tax in respect of the subject aircraft that is or may become payable by the purchaser under this Act.
- Paragraph (d) requires that the purchaser provide, in a manner satisfactory to the Minister of National Revenue, the certificate to the vendor.
- Paragraph (e) requires that the vendor retain the certificate.

Subsection 7(3) provides additional rules for when a subject aircraft is sold by a vendor to more than one purchaser. If a subject aircraft is sold by a vendor to more than one purchaser, an exemption certificate applies in respect of the sale only if an exemption certificate would apply

in respect of each purchaser in accordance with subsection 7(2). For example, if a subject aircraft is sold by a vendor to three purchasers (A, B, and C), each purchaser must provide an exemption certificate consistent with the conditions set out in subsection 7(2) in order for an exemption certificate to apply for purposes of determining whether tax is payable under the Act in respect of each sale. If purchaser A and B provided exemption certificates consistent with subsection 7(2) but purchaser C did not, then no exemption certificate would apply in respect of the sales to A, B or C.

Part 4 – Miscellaneous

Section 8

Information return – prescribed person

Subsection 59(1) of the Act requires that a person (other than a prescribed person) must file an information return in respect of a reporting period of the person if certain conditions are met. Section 8 of the Regulations prescribes persons for whom the obligation in subsection 59(1) of the Act does not apply. It provides that a person is a prescribed person for a reporting period of the person if the conditions in paragraphs (a) and (b) are met.

Paragraph (a) requires that the person is a registered vendor in respect of subject vehicles throughout the reporting period.

Paragraph (b) requires that the person is not otherwise registered, or required to be registered, under Division 5 of Part 1 of the Act at any time during the reporting period. For example, if a person is a registered vendor in respect of both subject aircraft and subject vehicles during a reporting period, the person is not a prescribed person for the purposes of section 8 of the Regulations in respect of the information return for that reporting period.

Section 9

General penalty – prescribed provision

Section 119 of the Act provides for a general penalty for failure to comply with any provision of the Act for which no other penalty is specified. Paragraph 119(a) provides that, in the case of a prescribed provision, the general penalty is \$100. Section 9 of the Regulations sets out that subsection 71(2) of the Act is a prescribed provision for the purposes of paragraph 119(a); consequently, failure to comply with subsection 71(2) results in a penalty of \$100.

Subsection 71(2) requires that every person who must pay an amount greater than or equal to \$10,000 to the Receiver General must do so by way of electronic payment unless the person cannot reasonably pay the amount in that manner.

Part 5 – Agreements Before 2022

Section 10

Prescribed circumstances

Section 33 of the Act provides that tax is not payable in prescribed circumstances. Section 10 of the Regulations provides that, for the purposes of section 33 of the Act, the circumstances set out in subsections 10(2) to (4) of the Regulations are prescribed circumstances (i.e., that tax is not payable in those circumstances).

Subsection 10(2) provides that tax is not payable under section 18 or 29 of the Act in respect of a subject item that is sold by a vendor to a purchaser if:

- the purchaser entered into an agreement in writing before 2022 with the vendor for the sale of the subject item in the course of the vendor's business of offering for sale that type of subject item.

Subsection 10(3) of the Regulations provides that tax under section 20 of the Act in respect of a subject item that is imported is not payable if the conditions set out in paragraphs (a) and (b) are met.

- Paragraph (a) requires that the importer entered into an agreement in writing before 2022 with a vendor for the transfer of ownership of the subject item to the importer by way of sale.
- Paragraph (b) requires that the agreement was entered into in the course of the vendor's business of offering for sale that type of subject item.

Subsection 10(4) of the Regulations provides that tax under section 26 of the Act in respect of a subject item (in this case, a subject aircraft or a subject vessel) that is used in Canada at a particular time is not payable if the conditions set out in paragraphs (a) to (c) are met.

- Paragraph (a) requires that a person entered into an agreement in writing before 2022 with a vendor for the transfer of ownership of the subject item to the person by way of sale.
- Paragraph (b) requires that the agreement was entered into in the course of the vendor's business of offering for sale that type of subject item.
- Paragraph (c) requires that the person is an owner of the subject item at the particular time (i.e., the time that the subject item is used in Canada).