

GST/HST, First Nation Sales Tax and First Nation GST Factsheet

What is the GST/HST?

The Goods and Services Tax (GST) is a federal sales tax of 5% levied on most transactions in Canada, such as retail purchases, real estate sales, and personal services. The GST applies across the country, and some provinces have incorporated the federal GST with provincial sales taxes, creating a Harmonized Sales Tax (HST) that applies in those provinces.

Who does the GST/HST apply to?

Status Indians are not charged GST/HST on any goods purchased on reserve or for services rendered completely on reserve. A Certificate of Indian Status (i.e., status card) must be presented to the vendor when purchasing or rendering services.

People who are Non-Status Indians are not exempt from paying GST/HST, even if they are making purchases on reserve.

When a good is purchased on reserve by a band or tribal council or a service is purchased for band management activities (i.e. not commercial) or services relating to real property on reserve, GST/HST is not be charged.

First Nations that signed self-government agreements do not have GST exemption rights, but are still entitled to carry a status card.

Provinces that use the HST System:

New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, and Prince Edward Island.

Provinces/Territories that use the GST System:

Quebec, Manitoba, Saskatchewan, Alberta, British Columbia, Yukon, the Northwest Territories, and Nunavut.

If I am a First Nation-based vendor, do I need to collect GST/HST?

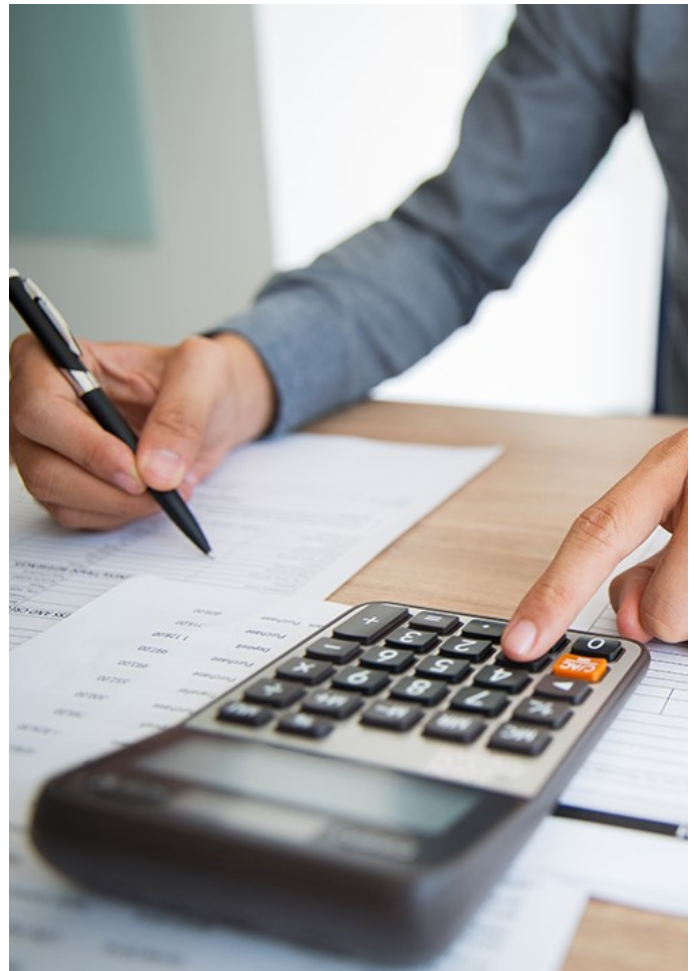
Businesses owned by First Nations that have worldwide taxable sales of goods and services exceeding \$30,000 in any given year (i.e. four consecutive quarters) must register for GST/HST. For certain not-for-profits and charities, this amount is \$50,000. Sales made to Status Indians, even if GST/HST was not charged, is included in the calculation of taxable sale of goods.

Once the business is registered, GST/HST must be charged on all applicable taxable goods and services.

What responsibilities does a vendor have in regards to the GST/HST?

For Status Indians, GST/HST is not charged. Therefore, there is no additional action needed.

When a non-status Indian purchases goods or services on reserve, the vendor needs to charge GST/HST. This means that even if you are a First Nation-owned business, you must charge and remit the GST/HST collected from these individuals



First Nation Sales Tax

What is the First Nations Sales Tax?

The First Nations Sales Tax (FNST) is a tax that applies to on-reserve sales of alcoholic beverages, motor fuels, or tobacco products. The FNST is imposed under the by-law of a taxing *Indian Act* band and is payable on all sales on reserve of the three types of taxed products.

The rate of the FNST is the same as the rate of the federal Goods and Services Tax (GST) or the federal portion of the Harmonized Sales Tax (HST).

Who does the FNST apply to?

All persons, including Status Indians and the general public, who purchase any of the taxed products from a business located on a reserve where the FNST applies, are liable for paying the tax.

Who administers the tax?

The FNST is administered by the Canada Revenue Agency (CRA) on behalf of the taxing *Indian Act* band. The CRA acts as the agent of the taxing *Indian Act* band to collect and administer the tax and enforce the FNST by-law.



Where does the FNST currently apply?

The FNST is currently present in eight *Indian Act* bands:

Adams Lake Indian Band, Chemainus First Nations, Cowichan Tribes, Little Shuswap Lake Indian Band, Sliammon (Tla'amin) First Nation, Tk'emlúps te Secwépemc (Kamloops) Indian Band, Tzeachten First Nation, and Westbank First Nation.

It should be noted that the FNST does not apply to alcoholic beverages in the Sliammon (Tla'amin) First Nation.

Note about First Nations Sales Tax:

Due to the availability of the FNGST, which is a similar tax that applies more broadly to the full range of products and services that are taxable under the GST, no new administration agreements for the FNST are being implemented.

First Nations Goods and Services Tax

What is the First Nations Goods and Services Tax?

The First Nations Goods and Services Tax (FNGST) is a sales tax that *Indian Act* bands or Aboriginal self-governments can levy on goods and services. It replaces GST where GST would be collected.

Where does FNGST apply?

FNGST applies to purchases made on land owned by the band that passes the law and would exclude land shared with other bands.



Who pays FNGST?

FNGST is payable by everyone, including Status Indians.

What are the basic steps to set up a FNGST?

- 1) Request that First Nation be added to Schedule 1 of the *First Nations Goods and Services Tax Act*.
- 2) Pass a First Nation law prescribing the tax.
- 3) Set up an administration agreement between the First Nation and the Government of Canada to establish the method for estimating tax attributable to the First Nation, sharing with the Government of Canada, administration, and enforcement.
- 4) Register businesses to collect FNGST. There is an exemption for small businesses that is the same as the GST.

How can the money collected from the FNGST be used?

Money collected through the FNGST may be subject to a revenue sharing mechanism with Canada.

Depending on the type of First Nation law used to set up FNGST, valid expenditures may be confined to power exercised in conformity with paragraph 2(3)(b) of the *Indian Act*.

Money collected through the FNGST is not considered "Indian Moneys" as defined in the *Indian Act*. In the Act, 'Indian moneys' means "all moneys collected, received or held by Her Majesty for the use and benefit of Indians or bands."



Credits, Refunds or Rebates for the FNGST:

Businesses can collect credit for GST payment on goods used to make products and services through the Input Tax Credit (ITC) program as set up for the GST. These credits can be applied against the FNGST collected, thereby lowering the amount to be sent to the government in FNGST.

First Nations that qualify for a self-government refund for GST would be able to claim a similar refund in the same manner for FNGST.

First Nations that qualify for a public service body rebate under section 259 of the *Excise Tax Act* are permitted to include in their rebate applications any FNGST paid that qualifies as non-creditable tax charge.

Nekaneet First Nation Case Study:



Timeline:

March 1, 2012 - Nekaneet First Nation Added to Schedule 1 of the *FNGST Act*.

September 26, 2012 – Final signature on Administration Agreement.

October 10, 2012 - FNGST effective on Nekaneet First Nation lands.

Applicable FNGST Land FNGST:

Reserves of the Nekaneet First Nation that are not shared with other bands. These lands include the urban reserves in Swift Current and Regina.

Anticipated source of the tax revenue:

The bulk of that tax revenue will come from the Living Sky Casino, which Nekaneet First Nation operates in Swift Current, and urban property in Regina that the Band owns.

Exclusions:

FNGST does not apply to supplies made on the reserve (i.e., Treaty Four Reserve Grounds 77) that the Nekaneet First Nation shares with other Saskatchewan First Nations.

Nekaneet First Nation and its Indian members are still eligible for tax relief on goods and services acquired on a reserve where an FNGST or other First Nations tax does not apply

Calculation of the Tax Attributable to the First Nation

Tax attributable to the First Nation is basically calculated by taking the estimated total GST collected in Saskatchewan and multiplying it by a factor based on the number of residents living on the associated First Nation land, and a factor based on the average income of those residents as compared to the average income in Saskatchewan. The higher the proportion of residents on the First Nation land is compared to the population of Saskatchewan, the higher the tax attributable to the First Nation. Conversely, the lower the percentage of the total population, the lower the tax attributable to the First Nation. Similarly, the higher the average income of those residents compared to the average income in Saskatchewan, the higher the tax attributable to the First Nation. Conversely, the lower the average income compared to the average in Saskatchewan, the lower the tax attributable to the First Nation.

Revenue Sharing Mechanism

The revenue sharing mechanism calculates the Government of Canada's share of the tax attributable to the First Nation based on comparing the amount of tax attributable to the First Nation to the average GST collected from the same size group. For this calculation the formula takes the average GST paid per Canadian and multiplies it by the number of residents on the First Nations land. If this amount is less than two times what the average GST collected, then the Government of Canada's share is zero. If this amount is greater than two times but less than eight times the average GST collected, then the Government of Canada's share is 50% of the tax attributable to the First Nation that is greater than two times the average GST collected. If this amount is greater than eight times the average GST collected then the Government of Canada's share is 50% of six times the average GST collected, plus 95% of the tax attributable to the First Nation that is greater than eight times the average GST collected.