

# PART V

## EXPORTS

1. A supply of tangible personal property (other than an excisable good) made by a person to a recipient (other than a consumer) who intends to export the property where

(a) in the case of property that is a continuous transmission commodity that the recipient intends to export by means of a wire, pipeline or other conduit, the recipient is not registered under Subdivision d of Division V of Part IX of the Act;

(b) the recipient exports the property as soon after the property is delivered by the person to the recipient as is reasonable having regard to the circumstances surrounding the exportation and, where applicable, to the normal business practice of the recipient;

(c) the property is not acquired by the recipient for consumption, use or supply in Canada before the exportation of the property by the recipient;

(d) after the supply is made and before the recipient exports the property, the property is not further processed, transformed or altered in Canada except to the extent reasonably necessary or incidental to its transportation; and

(e) the person maintains evidence satisfactory to the Minister of the exportation of the property by the recipient.

1.1 A taxable supply made by way of sale to a recipient (other than a consumer) who is registered under Subdivision d of Division V of Part IX of the Act of tangible personal property (other than property that is an excisable good or is a continuous transmission commodity that is to be transported by or on behalf of the recipient by means of a wire, pipeline or other conduit), where

(a) the recipient provides the supplier with an export certificate (within the meaning of section 221.1 of the Act), certifying that an authorization to use the certificate granted to the recipient under that section is in effect at the time the supply is made, and discloses to the supplier the number referred to in subsection 221.1(4) of the Act and the expiry date of the authorization; and

(b) if an authorization granted by the Minister to use the certificate is not, in fact, in effect at the time the supply is made or the recipient does not export the property in the circumstances described in paragraphs 1(b) to (d), it is the case that the supplier did not know and could not reasonably be expected to have known, at or before the latest time at which tax in respect of the supply would have become payable if the supply were not a zero-rated supply, that the authorization was not in effect at the time the supply was made or that the recipient would not so export the property.

1.2 A taxable supply made by way of sale to a recipient who is registered under Subdivision d of Division V of Part IX of the Act of property (other than property that is an excisable good or is a continuous transmission commodity that is to be transported by or on behalf of the recipient by means of a wire, pipeline or other conduit), where

(a) the recipient provides the supplier with an export distribution centre certificate (within the meaning of section 273.1 of the Act), certifying that an authorization to use the certificate granted to the recipient under that section is in effect at the time the supply is made and that the property is being acquired for use or supply as domestic inventory or as added property of the recipient (as those expressions are defined in that section), and discloses to the supplier the number referred to in subsection 273.1(9) of the Act and the expiry date of the authorization;

(b) the total amount, included in a single invoice or agreement, of the consideration for that supply and for all other supplies, if any, that are made to the recipient and are otherwise included in this section is at least \$1000; and

(c) if an authorization granted by the Minister to use the certificate is not, in fact, in effect at the time the supply is made or the recipient is not acquiring the property for use or supply as domestic inventory or as added property (as those expressions are defined in that section) in the course of commercial activities of the recipient, it is the case that, at or before the latest time at which tax in respect of the supply would have become payable if the supply were not a zero-rated supply, the supplier did not know, and could not reasonably be expected to have known, that the authorization was not in effect at the time the supply was made or that the recipient was not acquiring the property for that purpose.

2. A supply of property or a service (other than a supply of real property by way of sale) made to a non-resident person who is not registered under Subdivision d of Division V of Part IX of the Act at the time the supply is made, where the property or service is acquired by the person for consumption, use or supply

(a) where the person carries on a business of transporting passengers or property to or from Canada or between places outside Canada by ship, aircraft or railway, in the course of so transporting passengers or property;

(b) in the course of operating a ship or aircraft by or on behalf of a government of a country other than Canada; or

(c) in the course of operating a ship for the purpose of obtaining scientific data outside Canada or for the laying or repairing of oceanic telegraph cables.

2.1 A supply of fuel made to a person who is registered under Subdivision d of Division V of Part IX of the Act at the time the supply is made, where

(a) the person carries on a business of transporting passengers or property to or from Canada or between places outside Canada by ship, aircraft or railway; and

(b) the fuel is acquired by the person for use in the course of so transporting passengers or property.

2.2 A supply of an air navigation service (as defined in subsection 2(1) of the [Civil Air Navigation Services Commercialization Act](#)) made to a person who is registered under Subdivision d of Division V of Part IX of the Act at the time the supply is made, if

(a) the person carries on a business of transporting passengers or property to or from Canada, or between places outside Canada, by aircraft; and

(b) the service is acquired by the person for use in the course of so transporting passengers or property.

3. A supply of an excisable good if the recipient exports the good without the payment of duty in accordance with the [Excise Act](#) or the [Excise Act, 2001](#).

4. A supply of

(a) a service (other than a transportation service) in respect of tangible personal property that is

(i) ordinarily situated outside Canada,

(ii) temporarily imported for the sole purpose of having the service performed, and

(iii) exported as soon as is practicable after the service is performed; and

(b) any tangible personal property supplied in conjunction with the service.

5. A supply made to a non-resident person of a service of acting as an agent of the person or of arranging for, procuring or soliciting orders for supplies by or to the person, where the service is in respect of

(a) a supply to the person that is included in any other section of this Part; or

(b) a supply made outside Canada by or to the person.

6. A supply made by a person to a non-resident recipient of an emergency repair service, and of any tangible personal property supplied in conjunction with the service, in respect of a conveyance or cargo container that is being used or transported by the person in the course of a business of transporting passengers or property.

6.1 A supply made to a non-resident person who is not registered under Subdivision d of Division V of Part IX of the Act of an emergency repair service, and of any tangible personal property supplied in conjunction with the service, in respect of railway rolling stock that is being used in the course of a business to transport passengers or property.

6.2 A supply made to a non-resident person who is not registered under Subdivision d of Division V of Part IX of the Act of

(a) an emergency repair service in respect of, or a service of storing, an empty cargo container that

(i) is used in transporting property to or from Canada, and

(ii) is classified under heading No. 98.01 or subheading No. 9823.90 of Schedule I to the [Customs Tariff](#),

other than a container less than 6.1 metres in length or having an internal capacity less than 14 cubic metres; and

(b) any tangible personal property supplied in conjunction with the repair service referred to in paragraph (a).

7. A supply of a service made to a non-resident person, but not including a supply of

(a) a service made to an individual who is in Canada at any time when the individual has contact with the supplier in relation to the supply;

(a.1) a service that is rendered to an individual while that individual is in Canada;

(b) an advisory, consulting or professional service;

(c) a postal service;

(d) a service in respect of real property situated in Canada;

(e) a service in respect of tangible personal property that is situated in Canada at the time the service is performed;

(f) a service of acting as an agent of the non-resident person or of arranging for, procuring or soliciting orders for supplies by or to the person;

(g) a transportation service; or

(h) a telecommunication service.

8. A supply of a service of advertising made to a non-resident person who is not registered under Subdivision d of Division V of Part IX of the Act at the time the service is performed.

9. A supply made to a non-resident person of an advisory, consulting or research service that is intended to assist the person in taking up residence or establishing a business venture in Canada.

10. A supply of an invention, patent, trade secret, trade-mark, trade-name, copyright, industrial design or other intellectual property or any right, licence or privilege to use any such property, where the recipient is a non-resident person who is not registered under Subdivision d of Division V of Part IX of the Act at the time the supply is made.

10.1 A supply of intangible personal property made to a non-resident person who is not registered under Subdivision d of Division V of Part IX of the Act at the time the supply is made, but not including

- (a) a supply made to an individual unless the individual is outside Canada at that time;
- (b) a supply of intangible personal property that relates to
  - (i) real property situated in Canada,
  - (ii) tangible personal property ordinarily situated in Canada, or
  - (iii) a service the supply of which is made in Canada and is not a zero-rated supply described by any section of this Part or Part VII or IX;
- (c) a supply that is the making available of a telecommunications facility that is intangible personal property for use in providing a service described in paragraph (a) of the definition “*telecommunication service*” in subsection 123(1) of the Act;
- (d) a supply of intangible personal property that may only be used in Canada; or
- (e) a prescribed supply.

11. A supply of tangible personal property made by a person operating a duty free shop licensed as such under the [Customs Act](#) to an individual at a duty free shop for export by the individual.

12. A supply of tangible personal property (other than a continuous transmission commodity that is being transported by means of a wire, pipeline or other conduit) if the supplier

- (a) ships the property to a destination outside Canada that is specified in the contract for carriage of the property;
- (b) transfers possession of the property to a common carrier or consignee that has been retained, to ship the property to a destination outside Canada, by
  - (i) the supplier on behalf of the recipient, or
  - (ii) the recipient’s employer; or
- (c) sends the property by mail or courier to an address outside Canada.

13. A supply made to a non-resident person who is not registered under Subdivision d of Division V of Part IX of the Act of

(a) tangible personal property, or a service performed in respect of tangible personal or real property, if the property or service is acquired by the person for the purpose of fulfilling an obligation of the person under a warranty; or

(b) tangible personal property, where the supply is deemed under section 179 of the Act to have been made as a consequence of a transfer of possession of the property in the performance of an obligation of the person under a warranty.

14. (1) In this section,

“*die*” means a solid or hollow form used for shaping materials by stamping, pressing, extruding, drawing or threading;

“*fixture*” means a device for holding goods in process while working tools are in operation that does not contain any special arrangement for guiding the working tools;

“*jig*” means a device used in the accurate machining of goods in process by holding the goods firmly and guiding tools exactly to position;

“*mould*” means a hollow form, matrix or cavity into which materials are placed to produce goods of desired shapes;

“*tool*” means a device for use in, or attachment to, production machinery that is for the assembling of materials or the working of materials by turning, milling, grinding, polishing, drilling, punching, boring, shaping, shearing, pressing or planing.

(2) A supply of property that is a jig, die, mould, tool or fixture, or an interest therein, made to a non-resident person who is not registered under Subdivision d of Division V of Part IX of the Act at the time the supply is made, where the property is to be used directly in the manufacture or production of tangible personal property for the non-resident person.

15. A supply of natural gas made by a person to a recipient who is not registered under Subdivision d of Division V of Part IX of the Act and who intends to export the gas by pipeline, if

(a) the recipient

(i) exports the gas, or

(ii) receives a supply, included in section 15.3, of a service provided for a period in respect of the gas and subsequently exports the gas,

as soon after the gas is delivered to the recipient by the supplier of the gas, or, if subparagraph (ii) applies, after the gas is delivered to the recipient on the expiry of the period, as is reasonable having regard to the circumstances surrounding the exportation and, if applicable, to the normal business practice of the recipient;

(b) the gas is not acquired by the recipient for consumption or use in Canada (other than by a carrier as fuel or compressor gas to transport the gas by pipeline) or for supply in Canada (other than to supply natural gas liquids or ethane as described in subsection 153(6) of the Act) before the exportation of the gas by the recipient;

(c) after the supply is made, and before the exportation, the gas is not, except to the extent reasonably necessary or incidental to its transportation, further processed, transformed or altered in Canada other than to recover natural gas liquids or ethane from the gas at a straddle plant; and

(d) the person maintains evidence satisfactory to the Minister of the exportation of the gas by the recipient.

#### 15.1 A supply of

(a) a continuous transmission commodity made by a supplier (in this section referred to as the “first seller”) to a person (in this section referred to as the “first buyer”) who is not registered under Subdivision d of Division V of Part IX of the Act, if

(i) the first buyer makes a supply of the commodity to a registrant and delivers it in Canada to the registrant,

(ii) all or part of the consideration for the first buyer’s supply of the commodity to the registrant is property of the same class or kind delivered to the first buyer outside Canada,

(iii) between the time at which the commodity is delivered to the first buyer and the time at which the first buyer delivers it to the registrant,

(A) the first buyer does not use the commodity except, in the case of natural gas, to the extent that it is used by a carrier as fuel or compressor gas to transport the gas by pipeline, and

(B) the commodity is not (except to the extent reasonably necessary or incidental to its transportation) further processed, transformed or altered other than, in the case of natural gas, to recover natural gas liquids or ethane from the gas at a straddle plant,

(iv) between the time at which the first seller’s supply is made and the time at which the registrant receives delivery of the commodity, the commodity is not transported by any means other than a wire, pipeline or other conduit, and

(v) the first seller maintains evidence satisfactory to the Minister of the first buyer’s supply of the commodity to the registrant; and

(b) any service, supplied by the registrant to the first buyer, of arranging for or effecting the exchange of the commodity for the property of the same class or kind, if the first buyer is a non-resident person.

15.2 A particular supply made by a supplier to a recipient who is registered under Subdivision d of Division V of Part IX of the Act of a continuous transmission commodity, if the recipient provides the supplier with a declaration in writing that

(a) the recipient intends to export the commodity by means of a wire, pipeline or other conduit in the circumstances described in

(i) in the case of natural gas, paragraphs 15(a) to (c), and

(ii) in any other case, paragraphs 1(b) to (d), or

(b) the recipient intends to supply the commodity in the circumstances described in subparagraphs 15.1(a)(i) to (iv),

provided that, if the recipient subsequently neither exports the commodity as described in paragraph (a) nor supplies it as described in paragraph (b), it is the case that the supplier did not know, and could not reasonably be expected to have known, at or before the latest time at which tax in respect of the particular supply would have become payable if the supply were not a zero-rated supply, that the recipient would neither so export nor so supply the commodity.

15.3 A supply made by a person to a non-resident recipient who is not registered under Subdivision d of Division V of Part IX of the Act of a service of storing natural gas for a period, or of taking up surplus natural gas of the recipient for a period, and returning the gas to the recipient at the end of the period, if

(a) at the end of the period, the gas is to be delivered to the recipient for export;

(b) at the end of the period, the recipient holds a valid licence or order for the export of the natural gas issued under the [National Energy Board Act](#); and

(c) it is not the case that, at or before the latest time at which tax in respect of the supply would have become payable if the supply were not a zero-rated supply, the person knew or could reasonably be expected to have known either that

(i) the recipient would not export the gas as soon after the end of the period as is reasonable having regard to the circumstances surrounding the exportation and, if applicable, to the normal business practice of the recipient, or

(ii) the gas would not be exported

(A) in the same measure as was stored or taken up except for any loss due to its use by a carrier as fuel or compressor gas for transporting the gas by pipeline, and



(B) in the same state except to the extent of any processing or alteration reasonably necessary or incidental to its transportation or necessary to recover natural gas liquids or ethane from the gas at a straddle plant.

15.4 A supply made by a supplier to a non-resident recipient who is not registered under Subdivision d of Division V of Part IX of the Act of a service of taking up surplus electricity of the recipient for a period and returning the electricity to the recipient at the end of the period or of deferring delivery of electricity supplied to the recipient at the beginning of a period until the end of the period, if

(a) the electricity is exported by the supplier or recipient

(i) in the same measure and state except for any consumption or alteration reasonably necessary or incidental to its transportation, and

(ii) as soon after the end of the period as is reasonable having regard to the circumstances surrounding the exportation and, if applicable, to the normal business practice of the exporter; and

(b) at the end of the period, the requirement under the [National Energy Board Act](#) with respect to the holding of a valid licence, order or permit for the export of the electricity issued under that Act is met.

16. A supply of tangible personal property made by way of sale to a person operating a duty free shop licensed as such under the [Customs Act](#) where the person acquires the property as inventory for supply by way of sale at the shop to an individual for export by the individual and the person provides the supplier with the licence number of the shop.

17. A supply made to a non-resident person of a custodial or nominee service in respect of securities or precious metals of the person.

18. A supply made to a non-resident person, other than an individual, who is not registered under Subdivision d of Division V of Part IX of the Act of a service of instructing non-resident individuals in, or administering examinations in respect of, courses leading to certificates, diplomas, licences or similar documents, or classes or ratings in respect of licences, that attest to the competence of the individuals to whom the service is rendered or the examination is administered to practise or perform a trade or vocation.

19. A supply made to a non-resident person who is not registered under Subdivision d of Division V of Part IX of the Act of a service of destroying or discarding tangible personal property.

20. A supply made to a non-resident person who is not registered under Subdivision d of Division V of Part IX of the Act of a service of dismantling property for the purpose of exporting the property.

21. A supply made to a non-resident person who is not registered under Subdivision d of Division V of Part IX of the Act of a service of testing or inspecting tangible personal property that is imported or acquired in Canada for the sole purpose of having the service performed and that is to be destroyed or discarded in the course of providing, or on completion of, the service.

22. A supply of a postal service where the supply is made, by a registrant who carries on the business of supplying postal services, to a non-resident person who is not a registrant and who carries on such a business.

22.1 A supply of a telecommunication service where the supply is made, by a registrant who carries on the business of supplying telecommunication services, to a non-resident person who is not a registrant and who carries on such a business, but not including a supply of a telecommunication service where the telecommunication is emitted and received in Canada.

23. A supply of an advisory, professional or consulting service made to a non-resident person, but not including a supply of

(a) a service rendered to an individual in connection with criminal, civil or administrative litigation in Canada, other than a service rendered before the commencement of such litigation;

(b) a service in respect of real property situated in Canada;

(c) a service in respect of tangible personal property that is situated in Canada at the time the service is performed; or

(d) a service of acting as an agent of the non-resident person or of arranging for, procuring or soliciting orders for supplies by or to the person.

24. For the purposes of this Part,

(a) a floating home, and

(b) a mobile home that is not affixed to land

shall each be deemed to be tangible personal property and not real property.