



Canada Revenue
Agency

Agence du revenu
du Canada

GST/HST Policy Statement P-212: ENTITLEMENT MEMBERS OF VISITING FORCES (VFA) TO CLAIM A REBATE UNDER SUBSECTION 252(1) OF THE (ETA)

Date of Issue:

September 12, 1997 (Final December 1997)

Subject:

Does section 22 of the *Visiting Forces Act* (VFA) entitle members of visiting forces to claim a rebate of tax under subsection 252(1) of the *Excise Tax Act* (ETA)?

Legislative Reference(s):

Section 22 of the VFA and subsection 252(1) of the ETA

National Coding System File Number(s):

11842-8-1

Effective Date:

April 1, 1997

Issue and Decision:

At issue is the question of whether members of visiting forces are entitled to claim a rebate under subsection 252(1) for goods taken out of Canada within 60 days of purchase.

Section 2 of the VFA states

"visiting force" means any of the armed forces of a designated state present in Canada in connection with official duties. ...

Subsection 22(1) of the VFA states:

Where the liability for any form of taxation in Canada depends upon residence or domicile, a period during which a member of a visiting force is in Canada by reason of his being a member of such visiting force shall, for the purpose of such taxation, be deemed not to be a period of residence in Canada and not to create a change of residence or domicile.

Subsection 22(3) of the VFA states:


For the purposes of this section, the term "member of a visiting force" does not include a Canadian citizen resident or ordinarily resident in Canada.

Section 165 of the ETA imposes GST/HST on supplies made in Canada. Subsection 252(1) of the ETA provides for a rebate of GST/HST paid by a non-resident person on goods purchased in Canada and exported or taken by the person out of Canada within 60 days of purchase. The GST/HST paid on excisable goods and wine does not qualify for a rebate under subsection 252(1) of the ETA. As well, consumers are not entitled to a rebate of GST/HST on motive fuels.

Under the VFA, where liability for taxation depends upon residence, the period of time a member of a visiting force spends in Canada by reason of being a member of a visiting force is deemed not to be a period of residence in Canada.

The interaction of sections 165 and 252(1) of the ETA indicates that the intention of the legislation is to relieve a non-resident from any tax liability for certain goods removed from the country within 60 days of purchase. Based on our interpretation of these provisions, a member of a visiting force is considered not to be a resident of Canada while stationed in Canada and is entitled, under subsection 252(1) of the ETA, to claim a rebate of tax paid on goods (other than excisable goods, wine and motive fuels) that are removed from Canada within 60 days of purchase.

The use of a rebate to effect relief granted under the VFA parallels the method used to effect relief granted under the *Foreign Missions and International Organizations Act* (FMIOA). The FMIOA grants certain diplomatic agents (those whose home countries have reciprocal agreements with Canada) immunity from taxation. Administratively, the immunity granted under the FMIOA is respected via a rebate of tax, under section 261 of the ETA. In a similar manner, the entitlement to be treated as a non-resident granted to a member of a visiting force under the VFA is respected via a non-resident rebate under subsection 252(1) of the ETA.



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