



e-news from Alexander Holburn Beaudin & Lang LLP

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What happens when your supplier forgets to charge GST on your invoice?

You receive an invoice from your supplier and it doesn't include GST. You think to yourself "Excellent! I just received a tax break!" Wrong. You are still on the hook for that GST even when your supplier forgets to include it in your bill. Always review your invoice carefully because that supplier can come after you years later for that tax!

The *Excise Tax Act* of Canada specifies that every recipient of taxable goods or services must pay GST. It further goes on to say that every vendor has a responsibility to collect that GST. Most importantly, the *Excise Tax Act* makes allowances so that the vendor can initiate a court action against you to recover the GST as though it were a debt due by you to the supplier. This means he can come back years later and demand GST from you!

How do you protect yourself from this potential liability? You may wish to have your accountant review your purchased supplies to establish if they are zero-rated or taxable. You may also wish to alert the vendor to determine the GST status of the goods or services he is providing. There is case law that supports the argument that a vendor's

accountant may have a responsibility to identify GST applicable goods and could be held partially responsible for any tax liability.

Are there any ways of getting out of paying GST when it has been omitted from your invoice? Unfortunately, it is very rare that you can successfully defend yourself from paying the omitted GST. As mentioned above, the rules are very strict. There is case law that if a contract clearly states that the price is "all inclusive", the vendor is limited in later coming after you for GST. However, the language must be explicit as to who is responsible for GST and should not be relied on as a solid defence.

Ultimately, if the contract or invoice is silent on GST, the better view is that you may very well be responsible for paying tax on those goods or services. Unfortunately, a supplier's error could turn into a costly liability for you down the road if you do not pay attention to present day invoices.

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