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January 9, 2026

Via email: Consultation-Legislation@fin.gc.ca

Department of Finance
Canada 90 Elgin Street
Ottawa, ON K1A0G5

Dear Sirs/Mesdames:

Re: Feedback on Carousel Fraud Proposals in 2025 Federal Budget

In the 2025 Federal Budget (the “**2025 Budget**”), the Federal Government proposed new rules to address “carousel fraud,” including, in particular, the introduction of a “reverse charge” mechanism that applies to certain supplies in the telecommunications sector (the “**RCM Proposal**”). Further to the invitation in the 2025 Budget, the Commodity Tax, Customs and Trade Section of the Canadian Bar Association (the “**CBA Section**”) appreciates the opportunity to provide feedback on the proposal by January 12, 2026.

The Canadian Bar Association is a national association representing over 40,000 legal professionals, including lawyers, notaries, law professors, and students across Canada. Our mandate includes promoting the rule of law, improving access to justice, advocating for effective law reform, and providing expertise on how legislation impacts Canadians’ daily lives. The CBA Section comprises approximately 40 members and works to enhance awareness and understanding of legal and policy issues related to commodity tax, customs, and trade.

The CBA Section believes that the RCM Proposal is an improvement on the existing law, and is consistent with the Section’s recommendations set out in a submission to the Canada Revenue Agency (“CRA”) and Department of Finance last year. However, the CBA Section has specific suggestions for improving the RCM Proposal to better combat fraud without imposing unnecessary costs on businesses conducting business in Canada.

Background

A common form of alleged GST fraud is referred to as a “carousel scheme”, which involves legitimate goods or services circulating through a series of entities, each obligated to pay the GST and each of which claims an input tax credit (“ITC”), until a participant in the chain collects GST and disappears without remitting it.

In recent years, in some cases, instead of pursuing rogue suppliers who commit fraud (and who are themselves the legal collection agents of the Minister), the CRA has relied on enforcement approaches that deny ITCs to the recipients who paid the tax, and who are often completely innocent and unaware of the GST fraud. In these cases, the CRA has alleged that no supplies were actually made or that the supplier was not the actual supplier. This approach has been rejected by the Courts because there was no evidence

that the recipients had participated in the fraud: *Entrepôt Frigorifique International Inc. v. His Majesty the King*, [2024 TCC 78](#), and *Fiera Foods Company v. The King*, [2023 TCC 140](#).

At the 2024 CBA Section-CRA GST/HST Roundtable, the CRA requested submissions from the CBA Section on how to better address GST fraud. The CBA Section responded to the CRA and the Department of Finance with a [submission](#) dated September 20, 2024, recommending several ways the CRA could prevent fraud without assessing innocent parties. One recommendation was for the Department of Finance to propose a reverse-charge mechanism for industries at the highest risk of GST fraud.

It appears that the Department of Finance has followed the CBA Section's recommendation. However, the RCM Proposal, as set out in the 2025 Budget, applies only to "specified telecommunications services" and only if the recipient is registered and acquires all or substantially all of those services for the purpose of resupplying them. The RCM Proposal does not explain the policy rationale for these limitations.

Submission

The CBA Section recommends the following revisions to the RCM Proposal:

- The RCM Proposal should be extended to other industries that historically present elevated risks of GST fraud, including precious metals and employment agencies.
- Rather than allowing the RCM Proposal to expand by regulation, extensions would ideally involve statutory amendments to allow sufficient consultation. Moreover, any extensions of the RCM Proposal to new industries or kinds of supplies should be accompanied by a consultation period. These changes are necessary to ensure that taxpayers in other industries receive sufficient notice of any extension to the RCM Proposal before they are affected.
- The consequences for innocent non-compliance by recipients should be attenuated by extending the time within which a credit note may be issued under subsection 232(1).
- Similarly, the consequences for innocent non-compliance by suppliers should be mitigated by extending an express due diligence defence to suppliers who reasonably rely on information provided by the recipient and do not collect the tax as a result.

Discussion

The CBA Section is pleased to see that the 2025 Budget follows its recommendation to implement a reverse charge mechanism. The RCM Proposal will prevent fraud because when the recipient pays GST/HST directly to the government, the supplier will be unable to abscond with the funds. It will also allow recipients to claim ITCs with confidence, as they will not have to worry about the supplier absconding with the tax and the CRA challenging their ITCs.

That said, the application of the RCM Proposal is, at this time, extremely limited. It applies only to "specified telecommunications services" and only where the recipient is registered and plans to resupply the services. To truly reduce fraud, the RCM Proposal should be expanded to cover supplies made in other industries with the highest risk of GST fraud—in particular, precious metals and employment agencies.

In this regard, the 2025 Budget notes that "the proposed new rules would include a new legal authority that would allow the government to make other supplies subject to an RCM by means of regulations. While we welcome the potential expansion of the mechanism to other supplies, we are concerned about the proposal to do so by regulation. Critically, regulatory amendments generally receive less attention than legislative changes, and we are worried that taxpayers may be unaware when the reverse charge mechanism is expanded to their industry.

If the government does intend to proceed with allowing the expansion of the reverse charge mechanism by regulation, it should ensure that when it does so, the affected industries are given ample notice and an opportunity to provide input. Adequate lead time is critical for industry players to update their systems and implement the reverse charge for the relevant products or services.

Taxpayers must have sufficient notice and awareness of the reverse charge mechanism because, as we have seen with the reverse charge mechanism for emission allowances, the potential consequences can be severe when incorrectly determining whether it applies. As is the case with the emission allowance rules, under the RCM Proposal, "a rebate for tax paid in error on a supply subject to the RCM would be limited to cases where the person had paid the amount to the Receiver General. What this means in practice is that, if a supplier incorrectly believes that a supply is not subject to a reverse charge mechanism and charges the tax in error, the recipient has no way of recovering it except from the supplier (it also cannot be recovered by ITC, as it is not "tax paid or payable"). Conversely, if the supplier incorrectly believes that the reverse charge mechanism does apply, the supplier may be liable for the tax, with interest and penalties. The rules are unforgiving if the determination is made incorrectly, so it is critically important that taxpayers have clear guidance and as much notice as possible when a reverse charge mechanism is implemented.

In addition, legislation should be introduced to mitigate the severe consequences outlined above for innocent parties. In circumstances where a recipient's ITCs have been disallowed due to incorrectly paying GST/HST when a reverse charge mechanism applies, the parties should have additional time to correct their error by issuing a credit note under subsection 232(1). Currently, the time limit is two years. However, in cases where the reverse charge mechanism applies, the time limit should match the time provided for claiming ITC under subsection 225(4), which is 4 years but may be extended in certain circumstances.

Finally, because the mechanism will only apply where the recipient is registered and acquiring the services for resupply, we recommend implementing a due diligence defence for suppliers who reasonably rely on information provided by the recipient not to collect the tax. Such mechanisms already exist elsewhere in the *Excise Tax Act* (Canada). For example, under paragraph 211.13(5)(c), in certain circumstances, the Minister is not to assess a specified non-resident supplier that did not collect tax in reliance on a false statement made by a Canadian recipient. Without such a defence, we are concerned that the reverse charge mechanism will be unworkable in practice, as the supplier cannot otherwise confirm that the recipient is registered and acquiring the services for resupply and will insist on collecting the tax.

Concluding Comments

The RCM Proposal is a welcome measure that the CBA Section believes is likely to help combat GST fraud while protecting innocent recipients. With targeted refinements, particularly regarding scope, implementation and relief for good-faith errors, the mechanism can more effectively balance fraud prevention and fairness. To ensure the RCM Proposal effectively achieves these ends, the CBA Section encourages the Department of Finance to consider the points made above when drafting the legislation.

Thank you for the opportunity to provide our comments. Should you require any additional information, we welcome the opportunity to discuss any aspect of our submission further. Please do not hesitate to contact us.

Yours very truly,

(original letter signed by Noel Corriveau for Jesse Waslowski)

Jesse Waslowski
Chair, Commodity Tax, Customs and Trade Section