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Ontario natives fight to keep tax breaks

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Ontario native leaders are warning they will turn their reserves into tax-free shopping zones unless Queen's Park and Ottawa back down from a harmonized sales tax that would strip tax exemptions from the province's status Indians.

Selling more goods tax free and under the table would build on the existing practice of selling cheap cigarettes to non-natives on reserve – the so-called smoke shacks already causing major headaches for governments, police and the Canada Revenue Agency.

“If this is going to be imposed on our communities, I think you are going to see – and this is not a threat, by any means – but I would certainly as a business person look at the opportunity that exists,” said Blaine Commandant, the chief of Wahta Mohawk First Nation in Ontario's Muskoka region, north of Toronto.

Mr. Commandant notes that some reserves already waive the taxes on sales to non-natives and could expand the practice by creating “tax-free zones” to entice non-native shoppers.

“It's happening now. It could happen on a much larger scale, and why not? You want to buy a car, you come and get it from me and I'll not charge you the extra 10-15 per cent on a \$50,000 vehicle. That's a nice chunk of money.”

At issue is the fact that Ontario's 8-per-cent retail sales tax rules for status Indians are different than the exemption rules for the 5-per-cent federal goods and services tax. Ontario is one of the last provinces to have more relaxed rules than Ottawa when it comes to sales tax exemptions for natives.

To obtain a GST exemption in Canada, a status Indian must buy the product on reserve or have off-reserve goods shipped to an on-reserve address.

However, Ontario allows the RST to be waived on site for off-reserve purchases. The provincial policy essentially puts the onus on the individual, not the business, to bring the product back to the reserve, and there is no need to prove where a product ended up.

The Ontario government announced earlier this year that it would harmonize its retail sales tax with the federal goods and services tax starting on July 1, 2010.

While talks continue between native leaders, Queen's Park and Ottawa, officials confirmed that the current plan is for Ottawa to administer the harmonized tax under federal rules. That means Ontario natives would no longer receive the RST tax exemption at point of purchase off-reserve.

Ontario chiefs say the requirement to ship goods to a reserve effectively negates the tax credit, because businesses would charge a shipping fee.

A spokesperson for Ontario Finance Minister Dwight Duncan said the minister has urged his federal counterpart, Jim Flaherty, to find a more “flexible” arrangement for status Indians. Federal officials have said only that federal rules will apply to the HST, and Mr. Flaherty's office declined to comment specifically on the chiefs' concerns.

Angus Toulouse, who represents the chiefs of Ontario, said many natives are not aware of how the HST will affect their communities. He also notes that the change will impose higher costs on some of the poorest and most vulnerable people in the province.

“A lot of our people are below the poverty line and this is just going to be taxing them even more,” Mr. Toulouse said.

The issue is less controversial in British Columbia, the other province that is moving to an HST next July 1, because the province's sales tax rules are similar to the GST rules. Delivery to a reserve is also required in Quebec for a status exemption from provincial sales tax.

In 1996, Newfoundland, New Brunswick and Nova Scotia agreed to harmonize their sales taxes with the GST.

Regional chief Rick Simon, who represents native communities in Newfoundland and Nova Scotia, said most businesses and natives have found ways to avoid the shipping obligations.

Nonetheless, Mr. Simon said he supports the campaign of his Ontario colleagues on an issue that is considered a matter of native rights. “If you've got the right to do it, then policy doesn't override that, despite how much the federal government likes to shove it down our throats,” he said. “Just based on the experience you've seen out of Ontario – and especially the Mohawks – I know they'll stand up and take the government on on this one.”