Retail Sales Tax in Canada

March 22, 2017

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# Retail Sales Tax in Canada

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Reference Materials

British Columbia Bulletin PST 105, “Software”

British Columbia Bulletin PST 200, “PST Exemptions and Documentation Requirements”

British Columbia Bulletin PST 400, “RST Refunds”

British Columbia PST Bulletin 501, “Real Property Contractors”


British Columbia PST Bulletin 503, “Affixed Machinery”

Manitoba Information Bulletin No. 005, “Information for Contractors”

Manitoba Information Bulletin No. 008, “Installation, Repairs and Improvements to Real Property”

Manitoba Information Bulletin No. 030, “Summary of Taxable and Exempt Goods and Services”

Manitoba Information Bulletin No. 031, “Mechanical and Electrical Trades”

Manitoba Information Bulletin No. 032, “Web Site Services and Internet Services”


Saskatchewan Information Bulletin PST-12, “Information for Contractors”

Saskatchewan Information Bulletin PST-38, “Information for Non-Resident Real Property and Service Contractors”

Saskatchewan Information Bulletin PST-72, “Information for Rental Businesses”

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## Retail Sales Tax in Canada

### Glossary of Terms

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
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<tbody>
<tr>
<td>CBSA:</td>
<td>Canada Border Services Agency</td>
</tr>
<tr>
<td>CRA:</td>
<td>Canada Revenue Agency</td>
</tr>
<tr>
<td>ETA:</td>
<td><em>Excise Tax Act</em></td>
</tr>
<tr>
<td>GST:</td>
<td>Goods and Services Tax</td>
</tr>
<tr>
<td>HST:</td>
<td>Harmonized Sales Tax</td>
</tr>
<tr>
<td>ITA:</td>
<td><em>Income Tax Act</em></td>
</tr>
<tr>
<td>ITC:</td>
<td>input tax credit</td>
</tr>
<tr>
<td>ITR:</td>
<td>input tax refund</td>
</tr>
<tr>
<td>PSB:</td>
<td>public service body</td>
</tr>
<tr>
<td>PST:</td>
<td>Provincial Sales Tax</td>
</tr>
<tr>
<td>PSTA:</td>
<td><em>Provincial Sales Tax Act</em></td>
</tr>
<tr>
<td>PSTERR:</td>
<td><em>Provincial Sales Tax Exemption and Refund Regulation</em></td>
</tr>
<tr>
<td>PVAT:</td>
<td>provincial component of HST</td>
</tr>
<tr>
<td>QST:</td>
<td>Québec Sales Tax</td>
</tr>
<tr>
<td>QSTA:</td>
<td><em>an Act respecting the Québec sales tax</em></td>
</tr>
<tr>
<td>RITC:</td>
<td>recapture of input tax credits (provincial component)</td>
</tr>
<tr>
<td>RST:</td>
<td>Retail Sales Tax</td>
</tr>
</tbody>
</table>
### Effective October 1, 2016

<table>
<thead>
<tr>
<th>Province</th>
<th>PST/QST Rate</th>
<th>GST/HST Rate</th>
<th>Combined Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>British Columbia (BC)</td>
<td>7%</td>
<td>5%</td>
<td>12%</td>
</tr>
<tr>
<td>Alberta (AB)</td>
<td>N/A</td>
<td>5%</td>
<td>5%</td>
</tr>
<tr>
<td>Saskatchewan (SK)</td>
<td>5%</td>
<td>5%</td>
<td>10%</td>
</tr>
<tr>
<td>Manitoba (MB)</td>
<td>8%</td>
<td>5%</td>
<td>13%</td>
</tr>
<tr>
<td>Ontario (ON)</td>
<td>N/A</td>
<td>13%</td>
<td>13%</td>
</tr>
<tr>
<td>Quebec (QC)</td>
<td>9.975%</td>
<td>5%</td>
<td>14.975%</td>
</tr>
<tr>
<td>New Brunswick (NB)</td>
<td>N/A</td>
<td>15%</td>
<td>15%</td>
</tr>
<tr>
<td>Nova Scotia (NS)</td>
<td>N/A</td>
<td>15%</td>
<td>15%</td>
</tr>
<tr>
<td>Prince Edward Island (PE)</td>
<td>N/A</td>
<td>15%</td>
<td>15%</td>
</tr>
<tr>
<td>Newfoundland and Labrador (NL)</td>
<td>N/A</td>
<td>15%</td>
<td>15%</td>
</tr>
<tr>
<td>Yukon (YT), NWT (NT), Nunavut (NU)</td>
<td>N/A</td>
<td>5%</td>
<td>5%</td>
</tr>
</tbody>
</table>

1 British Columbia de-harmonized effective April 1, 2013. From July 1, 2010 to March 31, 2013 HST was 12%.
2 Effective July 1, 2013 Manitoba Retail Sales Tax increased from 7% to 8%.
3 QST increased to 9.975% effective January 1, 2013 and is no longer calculated on a GST-included basis.
4 Effective July 1, 2016, the HST rates in New Brunswick and Newfoundland and Labrador increased from 13% to 15%.
5 Effective April 1, 2013 PST was harmonized with GST, with an HST rate of 14%. Effective October 1, 2016, the HST rate increased from 14% to 15%.
References:

• British Columbia Bulletin PST 001, “Registering to Collect PST”

• Manitoba Information Bulletin No. 004, “Information for Vendors”

• Saskatchewan Information Bulletin PST-5, “General Information”
**Retail Sales Tax in Canada**

### BASIC CONCEPTS

**What is PST?**

- applies to TPP, software and certain taxable services
- tax should be collected by registered vendors
- PST rates
  - British Columbia – 7% (effective April 1, 2013)
  - Manitoba - 8% (increase from 7%, effective July 1, 2013)
  - Saskatchewan - 5%

- Retail sales tax, more commonly known as provincial sales tax ("PST"), is a single-stage use tax that generally applies on supplies of tangible personal property ("TPP") and certain specified taxable services. TPP includes any property (i.e., goods) that can be seen, weighed, measured, felt or touched. Taxable services predominantly include labour provided to install, assemble, dismantle, adjust, repair, or maintain TPP (e.g., car repairs) as well as other specifically-named services. Real property and services to real property are not subject to PST.

- The British Columbia 2017 budget announced a proposed phase out of PST on taxable electricity. The tax rate on electricity will be reduced to 3.5% from 7%, commencing on October 1, 2017, with electricity becoming fully exempt from PST on April 1, 2019. Currently, only residential electricity use is exempt from PST in British Columbia.

- Each of the provinces effectively tax software. Taxable computer programs generally include lease, license or “right to use” agreements, even where no formal agreement exists. Further details will be provided in our section on Software and Computer-Related Services.

- Registered vendors are required to collect tax on supplies of taxable goods and services. However, the end-user or consumer is ultimately responsible for the payment of the tax. Where a vendor fails to charge PST on a taxable supply, purchasers are required to pay the tax, by way of a self-assessment and remit the tax directly to the provincial tax authority. This includes imported goods and services used or consumed in a PST province that have been purchased from unregistered non-residents.

- In Canada, there are 3 provinces that administer a PST:
  - British Columbia – 7%;
  - Manitoba – 8%; and
  - Saskatchewan – 5%. 
**BASIC CONCEPTS**

**What is PST?**

- Additional PST rates
  - in British Columbia
    - Accommodation – 8% to 11%
    - Alcohol – 10%
    - Passenger vehicles – 7% to 10%
  - in Saskatchewan
    - Alcohol – 10%

- Some exceptions to the general PST rates are:
  - British Columbia
    - accommodations are taxable at a rate of 8% (up to an additional 3% tax, or 2% tax prior to September 1, 2015, may apply in certain municipal and regional districts);
    - alcohol is taxed at 10%; and
    - passenger vehicles have tax applied as follows:
      - 7% where the cost is less than $55,000;
      - 8% where the cost is from $55,000 to less than $56,000;
      - 9% where the cost is from $56,000 to less than $57,000; and
      - 10% where the cost is $57,000 or more.
  - Saskatchewan
    - alcohol is taxed at 10%.
Under a PST system, it is the final purchaser or consumer who pays the tax. As a result, the definition of a purchaser is an important term in determining the application of tax.

A purchaser generally includes any person who acquires taxable goods or services for the person’s own use, or for the use of others at their expense.

For example, a person is liable for PST on the purchase of taxable supplies (e.g., computers or desks) for their own use. However, a person is also considered to be the purchaser where they acquire a promotional item (e.g., a catalogue) for use by customers at their expense.

To ensure that tax is paid on all taxable supplies consumed in each PST province, the definition of a purchaser generally includes a person who acquires goods or services anywhere for consumption or use within the province. This requires the payment of tax not only on goods acquired within British Columbia, Manitoba or Saskatchewan, but also on goods imported or brought into each province.

Where a vendor fails to charge PST on a taxable supply, purchasers are required to pay the tax, by way of a self-assessment, directly to each province, in order to satisfy their obligation. Voluntarily paying the supplier, who originally failed to charge the tax, will not satisfy a purchaser’s responsibility, since there is no assurance that the vendor will actually remit the tax. Only tax that has been clearly charged by a vendor should be paid directly to the vendor.
• Generally, registered vendors will be required to charge and collect PST on taxable sales at the time that consideration for the supply is payable, provided a conditional exemption does not apply to the purchase.

• In British Columbia, consideration in relation to a purchase of goods is generally considered to become due on the earliest of:
  – the date that the seller first issues an invoice in respect of the supply;
  – the invoice date;
  – the date that the seller, if not for an undue delay, would have issued the invoice; and
  – the date that the purchaser is required to pay the consideration pursuant to a written agreement.

• In Saskatchewan and Manitoba, tax is generally due at the time a taxable sale is made. The terms of payment are normally irrelevant. However, in these provinces, following the British Columbia timing of liability rules will likely result in the correct timing of the liability for most supplies.

• For services supplied under a written agreement and goods provided by way of lease, licence or similar arrangement, the consideration becomes due on the date that the purchaser is required to pay under the written agreement.

• In British Columbia there is an exception to the general rule where British Columbia PST (“BC PST”) may become payable before the consideration for goods becomes due or is paid. Where the ownership or possession of goods is transferred to a purchaser, or delivered to a purchaser on a consignment or similar basis, BC PST will be deemed to be payable on the last day of the month immediately following the month in which ownership or possession was transferred to the purchaser, or the purchaser makes the goods available to a person other than the seller.
Generally, if your business is located in a PST province, registration is required if your business regularly supplies taxable goods, services, or software. Certain persons are also required to register, such as: liquidators, receivers, receiver-managers or trustees (under certain circumstances); real property contractors (where PST is paid by the customer on taxable material and equipment used by the supplier under the contract); and direct sellers.

If your business is not located in a PST province, but within Canada, registration is required if your organization performs all of the following:
- sells taxable goods or software to customers in the province;
- accepts purchase orders (including by telephone, mail, e-mail or Internet) from customers located in the province;
- delivers taxable goods or software to a location in the province, either physically or electronically (even if you deliver the goods through a third party, such as a courier); and
- solicits sales in the province (through advertising or other means, including mail, e-mail, fax, newspaper or the Internet) for orders to purchase taxable goods or software.

Note that if your business simply has a website that is accessible anywhere in the world and does not target the specific market, it is not considered to be soliciting sales in the province. However, if this website is available in addition to soliciting sales in the province, using targeted Internet advertisements, promotional flyers or newspaper advertisements, it is considered in-province solicitation and registration may be required.

The British Columbia February 2015 budget extended the conditions under which registration is required. Effective September 1, 2015, businesses outside British Columbia, including those located outside Canada, that sell and accept purchase orders for goods in British Columbia, as well as hold inventory in British Columbia for sale, are required to register for PST.

Manitoba followed suit, effective October 1, 2016, requiring an out-of-province business to register for RST if the business has an inventory of taxable goods in Manitoba that are available for sale to customers in the province.
Registration

- required where a person
  - regularly sells taxable supplies
  - regularly imports items for own use
  - is a manufacturing contractor (except British Columbia)
  - is a non-resident contractor
- small suppliers
  - British Columbia and Manitoba

- Registration is required in a PST province where, in the ordinary course of business:
  - taxable goods are sold or leased in the province; or
  - software or taxable services are provided in the province.

- Registration is not required when only non-taxable or exempt goods are sold, only non-taxable or exempt services are provided, or a person is a wholesaler.

- In Manitoba, any person carrying on a business (except for small businesses with annual taxable sales under $10,000) who sell taxable goods and services must register to collect PST. Businesses that are not residents of Manitoba that sell or lease taxable goods in Manitoba are also required to register, provided certain conditions are met. Registration is not required for non-residents who only sell/lease non-taxable goods in Manitoba.

- Businesses in Saskatchewan are required to register for PST. Businesses that sell taxable goods and services in Saskatchewan are required to obtain a Vendor’s Licence. Businesses that do not sell taxable goods or services are still required to register, as a “Registered Consumer” in order to remit self-assessed tax on imports.

- In British Columbia, small suppliers are not required to register. These businesses cannot have any commercial premises in the province and gross revenues from taxable sales cannot exceed $10,000 for the previous 12 months and are estimated not to exceed this amount in the next 12 months. Lessors, independent sales contractors, certain providers of short-term accommodations, and real property contractors cannot be considered small suppliers.
References:

• British Columbia Bulletin PST 001, “Registering to Collect PST”

• Manitoba Information Bulletin No. 004, “Information for Vendors”

• Saskatchewan Information Bulletin PST-5, “General Information”

• Saskatchewan Information Bulletin PST-15, “Information for Service Stations and Automotive Repair Shops”

• Saskatchewan Information Bulletin PST-72, “Information for Rental Businesses”
APPLICATION OF TAX

What is included in value for taxes?

- purchase price (fair value)
  - delivery charges
  - interest charges
  - royalty or licence fee
  - warranty

- Tax is calculated on the purchase or sale price of taxable goods and services, which is generally the price paid for the supply, including the value of services rendered and things exchanged as consideration (e.g., currency exchange, transportation charges, customs and excise duties, and importation/brokerage charges, but not the GST).

- In British Columbia, BC PST applies to all delivery charges where: they are incurred by either the vendor or purchaser up to and including the time title to the goods passes to the purchaser; or merchandise is purchased from an out-of-province vendor and shipped to a purchaser in the province. However, tax does not apply to delivery charges when ownership of the goods passes to the purchaser at the seller’s premises. In this case, the delivery charge should be separately stated on the invoice. Manitoba and Saskatchewan generally include freight in the fair value of imported goods, whether charged by a vendor or supplied by a third party.

- Finance, carrying and interest charges that are incurred up to the time title of the goods passes are considered to form part of the purchase price, even if segregated on the invoice. However, interest charges shown separately, on a conditional sale contract, or other contract allowing for deferred payment of the purchase price, do not generally form part of the taxable value of the goods. The interest component inherent in a lease payment forms part of the purchase price of the lease and, accordingly, is subject to tax, even if segregated on the billing.

- Royalty or licence fees relating to the use of TPP or the use of knowledge required to use the TPP where title passes on the sale will also form part of the purchase price.

- In addition, BC PST will apply to a mandatory warranty required to be purchased as part of the purchase of TPP, even if the charge is shown separately on invoice. However, PST does not apply to an optional agreement that does not provide scheduled or a specified number of services or provides exempt services. In Manitoba and Saskatchewan PST applies to most warranties, including extended warranties and maintenance contracts.
Leases and rentals of goods are considered sales and are, therefore, subject to PST when payment is required under the contract.

Additional charges under rental or lease contracts are regarded as additional consideration for the supply of the goods and are, therefore taxable, even where segregated under the contract. For example, drop-off, excess mileage and damage charges under a vehicle rental contract are taxable.

The supply of goods for a specified period of time (e.g., equipment rental) along with an operator of the goods is considered to be a non-taxable service, rather than the rental of TPP, unless the goods relate to a taxable service. This applies even where the operator’s labour is segregated from the charge for the goods on the invoice.

In addition, the following are not taxable:
- leased/rented exempt goods (e.g., helmet for scooter rental);
- containers and packaging material provided at no charge with leased/rented goods; and
- repair fees for leased/rented goods if under contractual obligation.

The following are examples of taxable rentals vs. non-taxable services:

<table>
<thead>
<tr>
<th>Taxable lease or rental</th>
<th>Non-taxable service</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vehicle lease/rental</td>
<td>Taxi service</td>
</tr>
<tr>
<td>Backhoe</td>
<td>Supply of backhoe with operator</td>
</tr>
<tr>
<td>Audio visual equipment rental</td>
<td>A/V equipment with operator</td>
</tr>
</tbody>
</table>
Saskatchewan specifically states that the provision of an on-site supervisor, technician or consultant who does not operate the equipment does not make the supply a non-taxable service.

Furthermore, in Saskatchewan, crane rentals are specifically excluded from the provision that exempts equipment rentals with operators from PST. However, if a crane is rented with an operator, the labour portion is not taxable as long as it is segregated on the invoice.
Promotional distributors are generally required to pay tax on the full fair value of any TPP or taxable service provided to any person by way of a promotional distribution. The person to whom the property or service is provided is not considered the consumer of the items received free of charge. Instead, the promotional distributor is considered to be the end-user or consumer of promotional goods or services. Examples include price lists, posters, banners, signs, brochures, advertising inserts, catalogues, display units, videos, premiums (e.g., shirts, pens, hats and bags, etc.) and samples given away free to customers.

“Full fair value” is defined as the price paid by the promotional distributor to acquire the property or service, or the promotional distributor’s manufactured cost if the property was manufactured by the distributor.

The value on which tax must be paid by the distributor will exclude any amount charged to the person to whom the distribution was provided. Where the goods are sold at an amount below cost, tax applies to the selling price and tax must be self-assessed by the vendor on the difference between the selling price and the cost of the product.

Only items that are given away at the time of a retail sale are eligible to be purchased exempt as goods for resale (e.g., samples attached to goods for resale). Mail-in offers, where customers have to send in to get a free item, are not considered to be attached to goods for resale and cannot be purchased exempt.
Most services performed in a PST province are not subject to tax. However, tax is imposed on purchases of certain services, either as a result of extended definitions or specific inclusions in each PST legislation.

The most common taxable service in a PST province is labour provided to install, assemble, dismantle, adjust, repair, or maintain TPP.

- However, in British Columbia, the concept of a taxable service in relation to TPP has the potential for much broader application. Its starting point is that all services to TPP are taxable and the service is only relieved from tax where an exemption is found in the Provincial Sales Tax Exemption and Refund Regulation (“PSTERR”).
- Common examples of taxable labour charges include motor vehicle repairs, and computer and business equipment repairs.
Taxable services — Saskatchewan

• labour in respect of TPP
  – used parts sold or itemized in repairs
• warranty/maintenance contracts
• telecommunication services
• computer services, including software
• transient accommodation
• professional services
• commercial building cleaning services
• employment placement services
• advertising services

• Taxable services in Saskatchewan include:
  – labour provided to install, assemble, dismantle, adjust, test, repair, or maintain TPP,
    including used parts sold or itemized in repairs for individuals for personal use on an
    amount in excess of $300;
  – extended warranty and maintenance contracts sold in the province;
  – telecommunication services – defined to include any transmission, emission or reception of
    signals data or images of any nature by wire, radio, visual or other electromagnetic or laser-
    based system;
  – software is considered a taxable service, including services to install, maintain, develop,
    configure and modify software;
  – lodging in hotels, motels, cabins, cottages, clubs and other similar accommodation for a
    continuous period of less than 30 days;
  – professional services – such as legal, accounting, architectural, consulting and engineering
    services;
  – commercial building cleaning services;
  – employment placement services; and
  – advertising services.
In Manitoba, only services which are specifically identified in the *Retail Sales Tax Act* are subject to tax. The taxation of labour in Manitoba can be divided into four categories:

- repair and maintenance of TPP;
  - the repairing, maintaining, testing, cleaning, washing, polishing, painting, decorating, refitting, refinishing, reconstituting, remodelling, upholstering or reupholstering of TPP; and
  - the service, maintenance or warranty of TPP.
- processing or installation of TPP;
- printing and related activities;
  - printing, binding, lithographing, multigraphing, duplicating, engraving, imprinting, typewriting, folding, addressing, collating, and related functions; and
  - photographing and microfilming activities.

Other taxable services in Manitoba include:

- telecommunications services, including security system monitoring;
- accommodations;
- accounting, legal, engineering and architectural services;
- security services; and
- personal services, such as hair-cutting services, spa services, and non-medical skin care and aesthetician services, excluding:
  - medical and reconstructive treatments provided by a medical doctor, nurse or dentist;
  - cosmetic injection procedures administered by a nurse or medical doctor; and
  - massage therapy, physiotherapy, reflexology, ear candling, and chiropractic treatments.
The general rule in British Columbia is that the provision of a service is not subject to tax. However, tax is imposed on purchases of certain services, either as a result of extended definitions or specific inclusions to the *Provincial Sales Tax Act* ("PSTA").

Taxable services include services provided to TPP. Under the BC PST, these services are now referred to as "Related Services", and may be interpreted much more broadly. Unless specifically identified in the regulations as exempt (Division 2, Part 4, of the PSTERR), related services provided to TPP are taxable. Exemptions available for “Related Services” will be discussed in the Exemptions section.

In addition, the following services are also subject to tax:
- maintenance and warranty contracts (except for optional maintenance contracts where services are provided on an as-needed basis);
- telecommunication services;
- accommodation at rate of 8% (an additional 3% tax, or 2% tax prior to September 1, 2015, may apply in certain municipal or regional districts);
- legal services; and
- parking within the TransLink service area (not administered under the PSTA).

The tax on parking rights within the TransLink service area, which generally covers the Greater Vancouver Transportation Service Region, is administered under the *South Coast British Columbia Transportation Authority Act*. This legislation is separate from the PSTA and, therefore, the tax paid on parking is not PST per se.

Prior to July 1, 2010, accommodation was taxable under the *Hotel Room Tax Act* (with the 2% additional tax remaining in effect during the HST). Effective April 1, 2013, this tax has been repealed and accommodation is taxed under the PSTA.
Most services performed in a PST province are not subject to tax. However, tax is imposed on purchases of certain services, either as a result of extended definitions or specific inclusions in each PST legislation.

All three provinces tax similar services, but there are also some services that are uniquely taxed in certain provinces.
It is not unusual for a vendor to supply taxable and non-taxable goods and/or services for a single price. These supplies are known as bundled supplies.

PST generally does not apply to the fair market value of the non-taxable component of a bundled supply. However, PST applies to the fair market value of the taxable component of a bundled supply.

In British Columbia and Manitoba, unless the value of the taxable component is $50 or less and represents 10 per cent or less of the total fair market value of the TPP or services sold as a bundle, PST will apply to the taxable component. The taxable component will only be exempt from tax under this exception where all of the following criteria are met:
- it is either pre-packaged with the non-taxable component, or not ordinarily sold by the seller separately from the non-taxable component;
- it is not being provided as a promotional distribution;
- it does not include a telecommunication or legal service; and
- it is not liquor.

BC PST applies to the total purchase price of a bundled supply if the package is sold for less than $500 and the fair market value of the taxable component is more than 90 per cent of the total bundled sales price or the non-taxable component is not ordinarily sold separately from the taxable components.

Administratively, Saskatchewan uses a 50% rule. Where the taxable portion is more than 50% of the value of the entire package, tax applies to the entire supply. Otherwise, the entire package is exempt. Where the value of the taxable component of the package is specifically noted, tax only applies to this amount.
In Ontario, Québec, Manitoba (effective July 15, 2012), and Newfoundland and Labrador (effective July 1, 2016), most insurance premiums related to risks situated in each province, respectively, are subject to a provincial sales tax (PST). PST charged on insurance premiums in each of these provinces is not recoverable, and should be treated as an expense in an organization’s accounts.

PST must be collected and remitted by registered vendors when the premium is paid, and under certain circumstances, vendors that are not insurance companies, but that arrange for insurance and resupply it to others, may also be required to register and/or remit the tax.

PST must be self-assessed on taxable premiums purchased from non-registered vendors (e.g., inter-company charges for insurance covering risks in the province from head offices located elsewhere).

Certain types of insurance policies are not taxable in one or more of the three provinces. Examples include commercial aircraft insurance, marine insurance and reinsurance.
A taxpayer, as the user or consumer, is required to pay PST on taxable goods or services consumed in a PST province. Where a vendor fails to collect tax, for whatever reason, on taxable supplies, the taxpayer is required to self-assess and remit the tax directly to the province on its tax return. This includes imported goods and services used or consumed in the province purchased from unregistered non-residents. It is not unusual for an organization to have a PST self-assessment requirement on purchases of a marketing/promotional nature, on IT (e.g., software) purchases and on purchases of packaging materials, as examples.

Organizations must develop a strategy to ensure that their obligation to pay or self-assess PST has been met. The following questions should be asked when attempting to determine if a self-assessment of PST is required:

- Has PST been charged on the invoice?
- If no PST was charged, is the supply generally taxable?
- If the supply is taxable, is an exemption from tax available?
- If no, self-assess PST.

It is important to remember that even though a supply may be taxable, a self-assessment of PST may not be required. This will be the case where the purchaser is entitled to a conditional exemption under the legislation (e.g., goods for resale).
• PST applies to taxable supplies consumed in a PST province, regardless of where they are acquired. GST is collected by the Canada Border Services Agency (“CBSA”), on behalf of the Canada Revenue Agency (“CRA”), at the border, but most provincial sales taxes on commercial goods are not. To ensure that tax is paid, where a vendor has failed to charge tax on taxable supplies, all three provinces require organizations to self-assess tax based on the fair value of the taxable supplies brought into the province.

• Interprovincial transfers of goods are considered imports for the self-assessment of PST purposes. Tax applies to the total value of the taxable goods or services brought into the province. The total value for provincial sales tax purposes generally includes:
  – the purchase price, in Canadian dollars;
  – any delivery, shipping or mailing charges, regardless of whether it is supplied by the vendor or incurred directly by the purchaser; and
  – customs duties and any federal excise taxes paid to bring the goods into Canada (including brokerage charges, but not GST).

• The definition of a “purchaser” includes a person who acquires TPP for their own consumption or use, or for the consumption or use of other persons at their expense.

• Accordingly, organizations importing (from anywhere) taxable supplies for use in the province from an unregistered supplier (or a registered supplier who fails to collect tax) are required to self-assess the applicable PST on the fair value of the items, unless specific exemptions are available based on the end use of the goods or the nature of the purchaser. Examples of supplies on which self-assessments are commonly required include: promotional materials; software; computer equipment; and office furniture.
British Columbia requires that tax on temporary use to be based on 1/3rd of the value of the property for each 12 month period during which the equipment is in the province for at least 6 days. Property that has not been owned for at least 15 days prior to entry into British Columbia is fully taxable. The tax on certain vehicles used in petroleum or natural gas exploration or development is based on 1/36th of the value of the vehicle for every month during which the vehicle is in the province for at least 6 days. This formula will apply to cementing, fracturing and seismic recording equipment.

Property that is brought into Manitoba for temporary use is subject to tax on either a daily or monthly basis at an amount equal to 1/1095th or 1/36th, respectively, of the taxable value of the equipment for the duration of time the property is used or available for use in Manitoba. Property that has been owned for less than 30 days prior to entry into Manitoba is fully taxable. In October 2016, Manitoba revised a number of bulletins to indicate that no RST is payable on equipment temporarily used in Manitoba for less than six days in a calendar year.

Organizations temporarily importing goods into Saskatchewan use a base of 1/36th of the value if PST is paid in another jurisdiction and 1/3rd if PST has not been paid in another jurisdiction. There is also an option to make a lump-sum payment on the depreciated value of the goods at the time of importation.

PST must also be self-assessed on taxable goods and services acquired from non-resident parents and affiliates that are included in intercompany management charges. The most common oversight in this area is the failure to self-assess the tax on promotional material and software.
• Purchasers acquiring goods for their own use must self-assess PST if they have not paid the tax to a registered vendor.

• The use of demonstration goods to show product features to customers is not considered to be taxable use. Demonstration goods may be displayed either in the store or “on the road” by sales representatives. However, the goods must remain in inventory and be available for sale in order to avoid the application of tax.

• In order to self-assess PST on goods removed from inventory, the value must be determined based on how the goods were acquired:
  – for goods acquired from a third party, the purchase price is the taxable value;
  – for goods that are manufactured by the supplier, tax applies on the manufactured cost (i.e., direct material, direct labour and manufacturing overhead); and
  – for imported goods, tax is payable on the cost of the goods imported, including brokerage charges and any delivery costs incurred to obtain the goods.

• Tax may be self-assessed on a reduced value if the goods are taken from inventory for temporary use. The application of tax on goods used temporarily varies by province. Where the goods are to be used temporarily for more than twelve months (except British Columbia), or if the goods are capitalized as fixed assets by the vendor (regardless of the length of the period of use), tax is generally payable on their full cost at the time they are first transferred from inventory.

• A change in use can also trigger a liability where goods previously used in an exempt activity are diverted to a taxable one. For example, a lift truck acquired exempt from tax by a manufacturer for use primarily in the production of goods will have a change in tax status when it is subsequently sent to the warehouse for non-production use. In this case, tax is due at the time the change in use occurs, based on the book value (i.e., original cost less reasonable depreciation) of the lift truck at that time.
References:

• British Columbia PST Bulletin 501, “Real Property Contractors”


• British Columbia PST Bulletin 503, “Affixed Machinery”

• Manitoba Information Bulletin No. 005, “Information for Contractors”

• Manitoba Information Bulletin No. 008, “Installation, Repairs and Improvements to Real Property”

• Manitoba Information Bulletin No. 031, “Mechanical and Electrical Trades”

• Saskatchewan Information Bulletin PST-12, “Information for Contractors”

• Saskatchewan Information Bulletin PST-38, “Information for Non-Resident Real Property and Service Contractors”
REAL PROPERTY

Definition

- not clearly defined under PST legislation
  - generally includes
    - land
    - buildings
    - fixtures permanently attached to land or buildings
    - heavy, unmovable objects (Saskatchewan)
- contractor considered the consumer
- manufactured cost of goods

- As each PST province does not clearly define real property in their legislation, the key is to determine what qualifies as real property for PST purposes, since PST does not apply to supplies of real property or labour related to real property.

- The general underlying principle for all of the PST provinces is that anything permanently attached to land is considered to be real property, including buildings, fences and utility poles. A fixture is TPP that loses its identity as such once incorporated into real property. This includes items such as furnaces, elevators, windows, cabinets, counters and built-in appliances. The BC PST legislation refers to some of these items as “affixed machinery”.

- In addition, in Saskatchewan, goods that are so heavy that they cannot be moved are often considered to be real property, even if they are not otherwise affixed to the land or a building.

- A contractor that supplies and installs real property is considered to be the ultimate consumer of materials used in the performance of a real property contract. Accordingly, the contractor is responsible for the payment of tax on materials, equipment and supplies used to complete a real property contract. This includes any materials used in the repair or alteration of real property. Charges for items qualifying as real property by a contractor are not subject to tax.

- Tax must be paid on the cost of the equipment and supplies; and the cost of the materials for on-site construction. Labour charges to repair, renovate or improve real property are not subject to tax.

- Contractors who install fixtures that they have manufactured are required to self-assess PST on the manufactured cost of the goods, except in British Columbia. The manufactured cost includes the cost of direct materials, direct labour, manufacturing overhead, and any federal duty or excise taxes not included in the cost of direct materials.
• Where a purchaser signs a time and materials contract or a lump-sum real property contract, the contractor is considered to be the consumer/user of the items that became an improvement to real property, and BC PST would not be applicable to the contract price. The contractor is fulfilling a contract to supply and install improvements to real property or the installation of affixed machinery to real property and is therefore not supplying goods to the customer. As such, the contractor is not eligible for the exemption for goods acquired for resale.

• However, a real property contractor may purchase goods exempt from BC PST, where the terms of the contract explicitly state, in writing, that the customer is responsible for the PST on the goods acquired as part of the contract. The agreement must set out the purchase price of the goods and the customer must pay BC PST on the greater of the contractor’s purchase price of the goods and the purchase price set out in the agreement.

• Real property contractors that enter into agreements that specifically state the customers are responsible to pay the PST must be registered as collectors of BC PST before any goods are supplied under the contract.

• An exemption from BC PST on goods that real property contractors acquire to fulfill a supply and install or improvement to real property contract is available where the contract is with one of the following:
  – the Government of Canada;
  – a person entitled to an exemption under the PSTA (e.g., manufacturers exemption); or
  – a status Indian entitled to an exemption under the Indian Act (Canada).
British Columbia’s definition of TPP includes certain fixtures or “affixed machinery”. Affixed machinery is defined as including machinery, equipment, or apparatus that is a fixture at common law, and used directly in the manufacture, production, processing, storage, handling, packaging, display, transportation, transmission or distribution of TPP, or in the provision of software or a service.

Examples of affixed machinery include: built-in ATMs, ovens and barbecues bolted to the floor, wall or counter in a restaurant or grocery store, and dispensers permanently affixed to a cabinet or counter in a restaurant.

Items that are considered to be mechanical or electrical in nature are excluded from being “affixed machinery”, including: furnaces; air conditioners; installed lighting; plumbing and sewage equipment; elevators and escalators. In addition, machinery or equipment that is so large that it must be built on-site, would normally be expected to remain where it is constructed during its useful life, does not run on rails or tracks, and cannot be removed without being dismantled or causing major alteration or damage to the building it is in, is not considered to be “affixed machinery”.

Items that qualify as “affixed machinery” are subject to BC PST when resupplied after being installed, in a similar manner to TPP, unless the item qualifies for a conditional exemption. However, affixed machinery is treated like real property when it is initially installed.

As outlined in section 73(1) of Part 4 of the PSTERR, a related service provided to affixed machinery may be acquired exempt of tax other than services provided for:

- travelling cranes and hoists that run on rails or tracks attached to a building and are attached to the rails or tracks by flanged wheels or rest on rails or tracks by their own weight; and
- affixed machinery or parts of affixed machinery that have been removed from the site where they were affixed or installed.
REAL PROPERTY

Manitoba

- real property is narrowly defined
- examples of items excluded
  - storage structures
  - mechanical and electrical work
  - machinery, equipment and apparatus

- In Manitoba, goods and improvements that are permanently installed into buildings or land are considered to become real property, but the following categories of items are defined to be TPP and do not become real property even when installed on, under or in, or attached to, buildings or land:
  - machinery, equipment and apparatus;
  - storage structures that are not buildings;
  - plumbing, heating, cooling, electrical, electronic, and telecommunication systems and components (i.e., mechanical and electrical work), including burglar alarm systems; and
  - devices for attaching the above property to a building or land.

- The following are examples of items that remain TPP after installation:
  - air conditioning and heating systems (unique to Manitoba);
  - cabinets, shelving, counters and other furnishings permanently attached to buildings used in a production process or to provide a service;
  - catwalks, walkways attached to production equipment;
  - elevators used for production;
  - plumbing fixtures (e.g. taps, toilet, shower, tub, etc.);
  - refrigeration coolers/freezers (self-contained); and
  - storage tanks (aboveground, as well as underground).
In certain situations, it may be difficult for an organization to determine whether property is truly a fixture to real property or TPP or “affixed machinery”. Furthermore, the legislation provides that certain goods, even when attached to real property, are taxable.

Wiring and cabling for computer networks is considered to be part of real property only when incorporated into the structure of a building. Wiring loosely placed above removable ceiling panels and from wall outlets to computers, even when stapled to baseboards, is not considered to be permanently attached to real property.

Labour with respect to real property or a fixture is exempt; however, in British Columbia, generally, services to affixed machinery are non-taxable, although there are some exceptions (see slide on Affixed Machinery for details).

Usually goods attached to real property cease to be personal property – even with minimal attachment, except if it is simply plugged in. However, if the purpose of the attachment is solely for the better use of the item, the item is not considered real property. An example would be a free-standing bookcase that is bolted to the wall for stability. A substantial attachment (e.g., an attachment that would cause major damage to the real property if the good was removed) would result in the good ceasing to be personal property. Examples of such items that are considered improvements to real property can be found in the bulletins listed as references (see section title page). Some common examples of real property include permanent fences, doors (entry, garage or loading dock), built-in countertops and shelving, attached lighting and attached security systems.
Generally, from a purchaser’s point of view, PST should be a non-issue when it comes to real property supply and install contracts. It is the contractor who is deemed to be the end user of the materials and the one required to pay any PST on their purchases.

It follows then, that purchasers may often ignore PST requirements when dealing with real property contracts, as they do not expect to see any charge for PST on the invoice.

With each province anxious to protect its revenue base, a contractor, who is a non-resident and not registered with a particular PST province, may create a situation for potential tax leakage where sales tax, ordinarily paid by a resident contractor on certain supplies, is circumvented by the non-resident.

The situation described above not only results in a loss of sales tax revenue for the province, but also renders resident contractors, who are paying sales taxes on materials and equipment, to suffer a competitive disadvantage by complying to the province’s sales tax legislation.

Most provinces define a non-resident contractor as a construction contractor located outside the province who has been awarded a contract to perform work inside the province, and who has not kept a permanent place of business in the province continuously over the 12-month period before signing the contract.

Generally, a contractor is a person who is in the business of constructing, altering, repairing or improving real property including:

- a general contractor and subcontractor; or
- a carpenter, bricklayer, stonemason, electrician, plasterer, plumber, painter, decorator, paver, and bridge builder.
REAL PROPERTY

Non-resident contractor obligations

- bonding requirements
  - Saskatchewan 5%
  - Manitoba 10.15%
- no bonding requirement in British Columbia

In general, most of the PST provinces have enacted legislation that force non-resident contractors to fulfill their tax obligations by requiring them to post a bond or cash deposit when involved in qualifying construction contracts. This security ensures the non-resident pays or remits taxes owing on taxable purchases or imported taxable equipment.

The following represent the bond or deposit rates applicable in those provinces requiring a contractor to post security before commencing the contract. The bond or cash deposit is calculated as the specified percentage multiplied by the total contract price:

- Saskatchewan 5.0 %;
- Manitoba 10.15 % (9.15 % prior to August 2014).

Manitoba and Saskatchewan require any principal to a construction contract (i.e., the purchaser) to notify the respective Ministry when a contract has been awarded, and to provide information regarding each contractor or subcontractor included under the contract.

In July 2016, Saskatchewan clarified the following:
- all non-resident contractors are required to register for PST;
- contractors must pay PST on the cost of all supplies brought into the province to be used in real property or service contracts;
- supply and install contractors may not opt to collect PST from their customers rather than paying the tax themselves;
- contractors are required to note that the contract price includes PST on the quote and invoice and PST should not be shown as a separate line item; and
- services acquired by non-resident contractors on equipment and components sent out of Saskatchewan for repair are also subject to the self-assessment of PST.

The province of British Columbia does not impose any requirements on non-resident contractors, different from those imposed on its resident contractors. Generally any non-resident contractor performing a supply and install contract in the province is required to be registered for PST in British Columbia.
References:

- British Columbia PST Bulletin 107, “Telecommunication Services”
- Manitoba Information Bulletin No. 032, “Web Site Services and Internet Services”
- Saskatchewan Information Bulletin PST-8, “Information for Vendors Providing Telecommunication Services”
Generally, the following telecommunications and telephone services are taxable for the purposes of MB PST and SK PST:

- telephone and telecommunication services that originate and terminate in the province;
- telephone services that:
  - begin or end in the province and billed to a phone number in that province (i.e. a Manitoba or Saskatchewan area code);
  - begin in the province and end outside the province, but are not taxable in the other jurisdiction;
- are in respect of a dedicated line;
- are prepaid through the purchase of a phone card;
- telecommunication services purchased by Indian corporations; or
- Internet (including access, registration, set-up, and configuration fees).

The following taxable services are specifically mentioned as taxable in Saskatchewan legislation in addition to the above:

- collect and 1-900 calls when paid for by a Saskatchewan resident or business;
- alarm services (including alarm signal monitoring and the lease of an installed alarm system);
- cable television (including pay per view and specialty channels, equipment rentals, subscription and installation fees); and
- satellite services (including subscription, uplink transmission services, and broker time charges).

The following services are exempt:

- coin-operated telephone services (where the charge is 50¢ or less);
- toll-free (1-800) telephone services;
- telecommunication services purchased by Status Indians or Indian Bands when in relation to telecommunication devices situated on reserves; and
- sales of telecommunications services to other vendors for resale.
• Telecommunication means signs, signals, writing, images, sound or intelligence of any nature.

• Telecommunication services for the purposes of BC PST are any of the following.
  – The right, whether exercised or not, to utilize a telecommunication system to send or receive one or more telecommunications by means of an electronic device ordinarily situated in British Columbia. This includes services such as phone (mobile or landline) and fax, television (TV), radio (including satellite radio), Internet access, email and text, and picture and video messaging services.
  – A dedicated telecommunication service.
  – The right, whether exercised or not, to download, view or access, via a telecommunication system by means of an electronic device ordinarily situated in British Columbia, the following telecommunications:
    ▪ audio books, music, ringtones (includes text tones and other alert tones) and audio programs (e.g. podcasts and radio programs), and
    ▪ TV programs, movies and other videos.
TELECOMMUNICATIONS

British Columbia

• exemptions
  – basic cable television
  – out-of-province services
  – educational
  – software related to telecommunications

• General exemptions include:
  – basic cable television provided by means of a wire or cable;
  – residential phone services (not including mobile, VoIP and long distance phone services);
  – services provided in relation to accommodation;
  – emergency communication services;
  – out-of-province services;
  – educational;
  – broadcasting, exhibition, or sale or lease; and
  – photographers and videographers, subject to certain criteria.

• As announced in the 2014 provincial budget, retroactive to April 1, 2013, the following are also exempt of BC PST:
  – software or telecommunication services contained in goods that are incorporated into other goods for retail sale or lease, or software and other telecommunication services for retail sale;
  – software purchased for the purpose of being processed, fabricated or manufactured into, attached to or incorporated into a telecommunication service for the purpose of retail sale; and
  – software purchased substantially for incorporating copies of the software into a telecommunication service for retail sale.
SOFTWARE AND COMPUTER-RELATED SERVICES

References:

• British Columbia Bulletin PST 105, “Software”

• Manitoba Information Bulletin No. 033, “Computer Software and Programming Services”

• Saskatchewan Information Bulletin PST-7, “Information for Suppliers of Computer Hardware, Software and Computer Services”
Organizations that acquire software are generally required to pay or, more often than not, self-assess the tax where the software has been acquired from an unregistered non-resident. Taxable computer programs generally include lease, license or “right to use” agreements, even where no formal agreement exists.

Saskatchewan taxes software (including custom software) by including it in the definition of taxable computer services. Regardless of whether the software is transferred electronically or as TPP (i.e., on a disk, CD, DVD or by other means), both new and used computer software is subject to PST.

In Manitoba, the taxation of software is accomplished by including the term “software” or “computer program” in the definition of TPP. As a result, all software is taxable unless it specifically qualifies for an exemption under the legislation. This includes packaged or prewritten software programs or modifications to such programs, or the right to use such programs or modifications, whether the software is delivered by disk or tape or by electronic or other means.

Under the PST rules in British Columbia, software has been specifically identified as a taxable supply. As a result, a software program that is delivered or accessed by any means, or a right acquired to use a software program that is delivered, or accessed by any means in British Columbia, is taxable.

Remote access to software is also subject to PST. The province of Manitoba taxes remote access fees for software located on a server outside of the province only when the software is downloaded on a computer in the province. Conversely, Saskatchewan and British Columbia (after March 31, 2013) tax fees paid by taxpayers to access or use software located on a remote server, network or other source located outside the province, regardless of whether or not the software may be downloaded to a computer located in the province.
• Saskatchewan provides a long list of items which are considered to be taxable computer services, including:
  − license or royalty fees;
  − development, maintenance, testing services;
  − software modifications and updates;
  − internet services, including hosting and storage, as well as website design and creation;
  − data entry and data processing;
  − imaging, scanning, retrieving and restoring data;
  − creating and maintaining back-up copies for storing client data;
  − electronically-processed accounting and transaction records;
  − maintenance and support agreements for software, including telephone support, and network management;
  − accessing a website or a database; and
  − consulting related to delivery of an automated solution.
The following items escape Saskatchewan’s very broad interpretation of computer services and are not subject to PST:
- printed materials, such as technical manuals, providing the charges are segregated on the customer’s invoice;
- charges for meals, travel time, mileage, fuel and accommodation (as long as they are itemized separately on a customer’s invoice);
- computer services that are acquired for use outside Saskatchewan (includes data stored on a server in Saskatchewan); and
- demonstration equipment, as long as it remains in inventory.

In Saskatchewan, consulting services are not subject to tax when the services are only to provide recommendations or analysis of business requirements and do not include the provision of taxable computer services.

Tax does not apply to training services that are segregated on the invoice and are not a mandatory part of the sale of taxable computer software or hardware or computer services.
In Manitoba, the application of PST to software includes: pre-written software; systems and operational software; a right to use software; and any software downloaded to a Manitoba computer for a person’s use. However, custom software is exempt, where the program is designed and developed to solely meet the specific requirements of the initial purchaser. Programming services related to custom software are also exempt.

Services provided to taxable software, such as modifying, upgrading, installing, configuring, eradicating viruses, maintaining, repairing, restoring, or providing any other corrective action to software, are taxable.

In Manitoba, as long as they are not provided as a condition of a software or hardware purchase, and are shown as a separate item on the invoice, the following are exempt:
- data processing;
- data back-up;
- information retrieval;
- accounting, auditing, consulting and engineering studies;
- procurement services;
- staff training; and
- help line or telephone support.

Tax does not apply to charges for airfare, bus, train, taxi, accommodation, meals, parking or living allowance charges as long as they are segregated on the invoice and the tax has been paid, where applicable, when originally purchased.
CUSTOM SOFTWARE is exempt. However, specific criteria must be met. In general, a program that is designed and developed for the specific needs of, and intended for the exclusive use of, the initial purchaser is exempt.

PST must be paid on the purchase of software for use on, or with, an electronic device ordinarily situated in British Columbia, unless a specific exemption applies. Software sold in a physical form (e.g., on a disk) is considered TPP and is subject to PST. In addition, purchases that do not qualify as software may also be caught by the broad definition of a telecommunication service.

Stationary electronic devices, such as desktop computers or televisions, are ordinarily situated in British Columbia if they are located at an address in the province. Mobile electronic devices, such as mobile phones, are considered to be ordinarily situated in British Columbia if they are assigned an area code for the province. If there is no area code or the area code is not known, another factor, such as the billing address, IP address or address where the software is provided may be used to determine where the device is ordinarily situated.

For bundled purchases, in general, PST applies to the fair market value of the taxable component of the package only, subject to the province’s special rules for bundled supplies. Under those rules, if the non-taxable component of the package is not ordinarily available for sale in the open market, or not ordinarily provided, separately from the taxable component for a price, then PST applies to the total price.

PST does not apply to software services, but it does apply to software updates. In general, mandatory maintenance agreements are taxable, optional agreements providing updates are taxable, and optional agreements providing only software services are exempt. Tax is only payable on charges for software maintenance under optional agreements for both software services and updates, subject to the charges being separately listed or the bundled supply rules.
SOFTWARE AND COMPUTER-RELATED SERVICES

British Columbia (cont’d)

- software services generally not taxable
- exemptions relieve application of tax as “related service” to an electronic device
  - installation, removal, modification
- web site hosting and web page development
- non-executable source code
- internet services and access to online databases

- Computer-related services are outside the scope of the BC PST. Therefore, services to test, install, configure, modify, repair or restore software are not subject to PST. In addition, services to software in a tangible format are also generally exempt from PST.

- In addition, services provided to software, including installation and modification services, are generally not subject to PST in British Columbia. For example, the following services provided to an electronic device are exempt by regulation from PST:
  - installing software on an electronic device;
  - removing software or data from an electronic device;
  - relocating, modifying or copying software or data to an electronic device; or
  - installing data on an electronic device, where the purpose is for the back-up of data on another electronic device.

- Website hosting or web page development are viewed as non-taxable services in British Columbia. Note that web page development may become taxable where it includes taxable software or if it is not delivered electronically.

- Access to a website that provides the ability to employ some degree of functionality beyond merely viewing content is considered a right to access software. The following indicators are provided by the province to identify the purchase of software:
  - functionality of the website goes beyond merely viewing content;
  - website can be used to manipulate files or create new files; and
  - website usage agreement specifically states that a licence to software is obtained.

- Software source code in a non-executable form is also exempt from PST in British Columbia.
Where software is purchased for use both inside and outside Saskatchewan, a reasonable allocation is allowed to account for the portion used outside Saskatchewan. For example, the tax may be prorated based on the number of users in Saskatchewan compared to the total number of users across company branches.

In British Columbia, organizations paying PST on a proportional basis are not required to pay PST to the software seller. Instead, they have been instructed to provide the seller with a completed Certificate of Exemption – Self-Assessment on Software (FIN 443), and then self-assess the PST owing according to the following formula: $\text{PST} = 7\% \times \text{purchase price} \times (\text{B.C. usage/total usage})$.

The relevant period depends on the type of software acquired. For purchases of software rights, it is generally three years from the date the software is purchased or begins to be used on a device in British Columbia. For a software license, the relevant period is the lesser of three years (as determined above) and the term of the right to use the software.

At the end of the relevant period, taxpayers are being asked to reconcile their estimate with the actual usage over the relevant period, using the same formula and actual usage levels. This could result in a further liability for PST or a potential refund.
SOFTWARE AND COMPUTER-RELATED SERVICES

Exemptions

- custom software
  - designed for a specific person
  - exclusive use
- custom modified software
  - modification costs exceed cost of original software
  - changes to source code
  - accumulation of costs subject to conditions
  - documentation is key
- custom software sold as part of a business

- Custom software is exempt in Manitoba and British Columbia. However, in order to qualify as custom software, specific criteria must be met.

- A program that is designed and developed to solely meet the specific requirements of the initial purchaser is generally exempt. In order to qualify for exemption, the initial program must be “intended for the exclusive use of the particular person” for whom it was designed.

- In Manitoba and British Columbia, taxable software may become exempt software if modifications (as defined in the legislation), generally exceeding the purchase price of the unmodified software, are acquired. “Modifications” are defined to apply only to modifications to source code.

- Historically, Manitoba and British Columbia will only permit an accumulation of modification charges in determining whether or not the custom modified software threshold has been met, if there is an agreement specifying what the software must be able to do after the modifications.

- Manitoba suggests that sales of modification services should be properly documented to justify the non-collection of tax. The consultant's documentation should indicate that the charge is for software modifications to meet the customer's specific requirements. The consultant should also obtain documentation from the software owner substantiating the original price of the pre-written software, to verify that the charge for the modifications is greater than the price paid for the unmodified software.

- Saskatchewan does not have an exemption for custom software.
**SOFTWARE AND COMPUTER-RELATED SERVICES**

**Summary**

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</tr>
<tr>
<td>Computer services</td>
<td>Exempt</td>
<td>Taxable</td>
<td>Taxable</td>
</tr>
<tr>
<td>Custom software</td>
<td>Exempt</td>
<td>Taxable</td>
<td>Exempt</td>
</tr>
</tbody>
</table>

- Under the PST rules in British Columbia, software has been specifically identified as a taxable supply. As a result, a software program that is delivered or accessed by any means, or a right acquired to use a software program that is delivered, or accessed by any means in British Columbia, is taxable. In addition, the province exempts custom software from PST, subject to certain conditions, and does not tax computer-related services.

- Saskatchewan taxes software (including custom software) by including it in the definition of taxable computer services. Regardless of whether the software is transferred electronically or as TPP (i.e., on a disk, CD, DVD or by other means), both new and used computer software is subject to PST. In addition, most computer-related services are taxable and exceptions only apply where the service is not a mandatory part of the sale of taxable computer software or hardware, and the charge is segregated on the invoice.

- In Manitoba, the taxation of software is accomplished by including the term “software” or “computer program” in the definition of TPP. As a result, all software is taxable unless it specifically qualifies for an exemption under the legislation (e.g., custom software). The province will also tax most computer-related services, including installing, configuring, and modifying and restoring taxable software.

- Remote access to software is also subject to PST. The province of Manitoba taxes remote access fees for software located on a server outside of the province only when the software is downloaded on a computer in the province. Conversely, Saskatchewan and British Columbia (after March 31, 2013) tax fees paid by taxpayers to access or use software located on a remote server, network or other source located outside the province, regardless of whether or not the software may be downloaded to a computer located in the province.
Reference:

• British Columbia’s *Provincial Sales Tax Exemption and Refund Regulation*

• British Columbia Bulletin PST 200, “PST Exemptions and Documentation Requirements”

• Manitoba Information Bulletin 030, “Summary of Taxable and Exempt Goods and Services”

• Saskatchewan Information Bulletin PST 5, “General Information”
• British Columbia, Manitoba and Saskatchewan provide for various exemptions from the application of the tax, and these exemptions can generally be grouped into conditional and unconditional exemptions.

• Unconditional exemptions apply to goods that are exempt, regardless of the status of the purchaser or the end use of the goods.

• Unconditional exemptions from PST have been granted on the purchase of goods including basic groceries, children’s clothing, newspapers, magazines, books, non-motorized bicycles, personal services (e.g., hair cuts, except Manitoba, where many of these services are taxable), vitamins, medications, and medical services.

• Goods shipped directly out of the province by the vendor, where the vendor retains sufficient documentary evidence of export, may be sold exempt. Any tax in the destination province may be applicable, where the vendor is a registrant. If the vendor is not registered, the purchaser may still be required to self-assess the tax.

• No exemption exists for goods exported by the recipient of the supply. For example, a vendor is required to charge BC PST on goods delivered to a place in British Columbia, regardless of whether the purchaser will subsequently ship the goods out of the province. However, a refund may be available to the purchaser, subject to certain conditions.

• The taxable status of fuel varies by province.
EXEMPTIONS

Conditional

- type of goods
  - goods for resale
  - goods for lease

- Conditional exemptions are available in respect of goods or taxable services that are purchased for a specific use or by particular purchasers in specific circumstances.

- Technically, there is no general exemption for goods for resale. However, the definition of purchaser does not extend to a person who acquires goods or services for resale, since such acquisitions are not for an organization’s own use, or the use of someone else at their expense. Goods sold to a retailer, wholesaler or manufacturer are exempt from tax if the goods are purchased for resale. The supplier is generally required to obtain the purchaser’s vendor registration/certificate number to support the non-collection of tax.

- Goods for resale include the actual product that is sold, plus any item attached to that product when sold to the customer, such as product packaging, labels and non-returnable containers. Examples of taxable items not considered to be part of goods for resale include: returnable containers; cleaning and maintenance supplies; and labels used for internal control purposes.

- The application of the goods for resale exemption to returnable containers has been the subject of litigation in several jurisdictions. To clarify its position, British Columbia legislation specifically states that reusable containers do not qualify for the manufacturing and goods for resale exemptions.

- The British Columbia legislation specifically includes an exemption on the purchase or lease of TPP where the TPP is acquired with the intention of being leased to others. For example, where a car leasing company acquires automobiles for the purpose of leasing the automobiles to its customers, the automobiles being leased may be acquired exempt from PST.

- In February 2016, British Columbia updated various bulletins to clarify that, retroactive to April 1, 2013, the PST exemptions for goods acquired for processing, fabricating, manufacturing, attaching or incorporating into other goods for resale or lease only apply when the items in question have been obtained solely for the stated purposes.
Federal government departments and agencies are able to purchase taxable goods and services exempt from PST. However, sales to provincial governments and both federal and provincial Crown corporations are subject to PST in all three provinces. Certain documentary requirements must be met.

Other goods and services are exempt from PST when sold to certain types of purchasers, including:
- manufacturers purchasing goods for resale
- Status Indians
- government bodies

Individual status Indians holding a Federal “Certificate of Indian Status” I.D. cards and Indian bands are generally able to purchase goods and services delivered or provided on an Indian reserve without the payment of PST. Goods and services acquired for use off a reserve will be taxable. Vendors are required to retain a record of the purchaser’s name/band name, card number/band number, and a brief description of the goods bought to substantiate these transactions. Note that this exemption does not extend to corporations owned by status Indians, tribal councils or band-empowered entities.

Finally, conditional exemptions are available in respect of goods or taxable services that are purchased for a specific use or by particular purchasers in specific circumstances, e.g. activities related to oil and gas production, farming, and the production of TPP. For example, machinery and equipment sold to qualifying manufacturers in British Columbia, for use primarily and directly in the production of TPP can be purchased PST-exempt.
• Goods sold to a manufacturer to be used primarily and directly in the production of qualifying TPP may be purchased exempt from BC PST, including eligible machinery and equipment (M&E) used in manufacturing, software development, logging, mining, mineral exploration, and oil and gas production.

• For British Columbia, the exemptions available to manufacturers are granted by sections 90 to 120 of Part 5 of the PSTERR. Under Part 5 of these regulations, a business is considered to be a manufacturer or producer if that person manufactures, fabricates, produces, or assembles a particular class of TPP for sale to others with a reasonable expectation of sales exceeding $30,000 per year or manufactures a particular class of TPP for their own use with a manufacturing cost in excess of $30,000 per year.

• In order to qualify for exemption, production machinery and equipment (“PM&E”) must be used “primarily” and “directly” in manufacturing. “Primarily” requires the equipment to be used more than 50% for the production of TPP. In addition, the equipment has to be used “directly” in the manufacture of qualifying TPP and must be used primarily (i.e., greater than 50%) at the manufacturing site. “Directly”, although not defined, means the equipment has to be part of, or an integral component of, the manufacturing process that transforms the raw material into the finished product.

• In Saskatchewan and Manitoba, exemptions for manufacturers are limited to purchases of catalysts, chemical reagents, direct agents, electricity (acquired at a reduced rate), and some fuel. In addition, Manitoba grants an exemption to the purchase of used manufacturing equipment attached to real property (land and/or buildings) when it is sold and it continues to be used in a manufacturing process for at least six months after it is purchased.

• In British Columbia, chemical substances, catalysts and direct agents are exempt from BC PST if purchased for use in producing or modifying a reaction that is essential for the processing or manufacturing of a product for sale or lease.
British Columbia defines the “manufacturing site” to commence at the point where the raw material is received, throughout the production process and up to the point where the finished product is first stored or is first placed on a vehicle, rail car, etc., for removal from the manufacturing site.

Waste management and pollution control equipment for use “directly” and “substantially” (i.e., > 90%) in carrying out refuse, waste or in the detection, prevention, measurement, treatment, reduction or removal of pollutants attributable to the manufacturing process are exempt.

Parts used in, or for the assembly of, production machinery or the assembly of a part for production machinery are also exempt. However, machinery and equipment used to repair or maintain qualifying manufacturing equipment are not considered to be used primarily and directly in the production process and are, thus, taxable. In addition, building maintenance supplies generally do not qualify to be purchased exempt (e.g., light bulbs, paint and general cleaning supplies).

Persons who are eligible for manufacturing exemptions must provide the seller with an exemption certificate in order to acquire the goods and services exempt from tax.

Safety equipment, first-aid supplies and fire extinguishers are unconditionally exempt. Safety clothing and other accessories such as safety gloves, safety boots, welding jackets, ear plugs, masks, safety glasses and safety hats provided free by a manufacturer to be worn by production employees, can be acquired exempt.
As noted on the previous slide, the “manufacturing site” commences at the point where the raw material is received, throughout the production process and up to the point where the finished product is first stored or is first placed on a vehicle, rail car, etc., for removal from the manufacturing site.

Chart found in British Columbia Provincial Sales Tax Bulletin 110, “Production Machinery and Equipment Exemption”.

<table>
<thead>
<tr>
<th>Not Exempt</th>
<th>Qualifying Part of a Manufacturing Site - Eligible for PM&amp;E Exemption</th>
<th>Not Exempt</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transportation of Raw Materials</td>
<td>Raw Materials Receiving and Handling</td>
<td>Production Line Product</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Finished Product</td>
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<tr>
<td></td>
<td>Self-Manufacture for Use in Production</td>
<td>First Storage Area</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Transportation from Site</td>
</tr>
</tbody>
</table>
• As noted earlier, generally PST applies to services provided to TPP. However, in British Columbia the regulations provide for specific exemptions for services that may otherwise be taxable as “Related Services” under the PSTA. These exemptions are found in sections 73 and 77 of Part 4 of the British Columbia PSTERR.

• The following are some examples of specific services that qualify for exemption from BC PST:
  - TPP acquired for resale or lease;
  - TPP that would have qualified for exemption at the time the service is performed;
  - TPP that was brought into British Columbia solely to have a related service performed and the TPP is immediately transported outside of the province on completion of the related service;
  - an animal;
  - a manufactured building;
  - affixed machinery other than:
    - travelling cranes and hoists that run on rails or tracks attached to a building and are attached to the rails or tracks by flanged wheels or rest on the rails or tracks by their own weight; and
    - affixed machinery or parts that have been removed from the site where affixed or installed;
  - household goods, including freestanding appliances, draperies, rugs and carpets;
  - clothing and footwear, other than blades for skates;
  - a multi-jurisdictional vehicle;
  - TPP that is typically attached or applied to an individual and remains attached or applied after the service; and
  - software.

• It is important to remember that generally, the person providing taxable or non-taxable services is considered the consumer of any goods purchased to provide the service, and is required to pay PST on the cost of such goods.
In each of the PST provinces, persons who, for commercial purposes, regularly engage in the exploration, discovery, or development of petroleum and natural gas deposits are eligible for exemption on the purchase or lease of qualifying machinery and equipment used substantially (i.e., greater than 90%) in such activities.

The provinces also permit oil and gas producers that regularly engage in exploration for petroleum or natural gas, or the development of petroleum or natural gas deposits, to claim an exemption for geophysical surveying equipment used in the exploration and development process. To qualify for this exemption, the machinery or equipment has to be used substantially in exploration and development.

Organizations engaged in the production or processing of petroleum or natural gas can qualify as manufacturers and are eligible for exemption from tax on qualifying PM&E, provided they meet the standard criteria.

The BC PST also exempts many types of work-related general safety equipment.

Qualifying farmers may purchase or lease specifically listed farm equipment and other goods exempt from PST.
- In British Columbia, a person is considered a qualifying farmer if they own or lease a land that is classified as a farm under the Assessment Act of British Columbia. Qualifying farmers also include beekeepers, or mushroom, egg, hog, poultry, rabbit or fur farmers (subject to certain conditions).
- In Manitoba and Saskatchewan farming includes the activities of a qualifying farmer in British Columbia, as well as the growing of field crops and raising livestock (animals that are raised or kept commercially for sale as food or for the sale of their products or hides).
- In Saskatchewan, a Farm Exemption Certificate may be required when acquiring items that may be taxable when used in operations other than farming.
EXEMPTIONS

Industry specific

- logging
- mining

• In British Columbia, businesses engaged in qualifying logging activities may be eligible for the PM&E exemption. Qualifying logging activities include:
  - felling or bucking trees;
  - removing and depositing logs from the stump at a loading or first accumulation point;
  - loading, unloading, sorting, storing or processing trees or logs at specific locations;
  - developing skidways; and
  - activities on a vessel substantially related to logging operations.

• A business that is involved in mining activities is eligible to purchase certain machinery and equipment exempt from BC PST under the PM&E exemption. Qualifying mining activities include:
  - geophysical surveying;
  - exploration for minerals or development of mines;
  - extraction or processing of minerals;
  - pollution control and waste management;
  - equipment used to transmit or distribute goods at the mine site (e.g., conveyor systems);
  - equipment to transmit or distribute electricity at the mine site; and
  - providing services to mine operators.

• In Saskatchewan and Manitoba, PST exemptions are available for certain inputs when used in mining activities. In Saskatchewan, the following are exempt from SKPST: electricity, natural gas and propane used in processing; chemical reagents and catalysts; and equipment used for mineral exploration. Whereas in Manitoba, the following are exempt from MBPST: drill bits and explosive materials; geophysical survey aircraft and exploration equipment; and certain goods used in mining or processing minerals for sale as mineral products.
British Columbia, Manitoba and Saskatchewan are members of the International Registration Plan (IRP), which is a multi‐jurisdictional licensing agreement that establishes a single uniform system for administering and collecting licence and other recurring fees and taxes from persons operating multijurisdictional vehicles for the commercial transportation of goods and passengers (e.g., trucks and buses).

Each province assigns a carrier prorate account number to each multijurisdictional fleet registered in the province. The province also issues a cab card and set of apportioned plates for each of the carrier's registered vehicles that permit the carrier to operate in IRP member jurisdictions. Each province collects all applicable registration fees and taxes on behalf of the other member jurisdictions where the carrier's fleet operates.

Vehicles that are operated solely in one province are not eligible for MJV tax. These vehicles are subject to PST at the general rate based on the full purchase or lease price.

Tax is calculated based on a formula: \( 	ext{MJV tax} = \text{vehicle taxable value} \times \text{tax rate} \times \text{provincial travel ratio} \times \text{travel months} \)

Carriers are permitted to purchase (or lease) the following items exempt from PST where the vehicle is a qualifying multijurisdictional vehicle including trucks (power units), trailers, buses, repair and maintenance service, and parts.

To support the exemption from tax, carriers must provide a supplier with their prorate account number. In British Columbia, if the carrier does not have a prorate account number, a completed Certificate of Exemption – Multijurisdictional Vehicle (FIN 441) may be given to the supplier.

To remain consistent with full reciprocity under the IRP, tax on MJVs for new fleets licensed in British Columbia on or after January 1, 2015 is calculated using a set travel ratio for each jurisdiction. The use of estimated distances to determine actual travel ratio will continue to be used for calculating tax on fleets registered prior to this date.
EXEMPTIONS

Support for non-collection

• vendor registration number
• out-of-province (export)
• exemption certificates
  – British Columbia

• Vendors, who sell taxable goods or services exempt for the purpose of resale or another valid conditional exemption must obtain and retain the purchaser’s PST number. In addition, British Columbia and Manitoba require vendors to record the purchaser’s PST number on the sales invoice. If the purchaser is not registered for PST in British Columbia, they can provide a completed Certificate of Exemption - General (FIN 490). Saskatchewan has verbally indicated that, while it is not a requirement to include the purchaser’s PST number on the sales invoice, it is recommended, as this will facilitate the audit process.

• When goods are sold PST exempt for export, the vendor must retain evidence that the goods were delivered out-of-province (i.e., bill of lading issued by a carrier).

• British Columbia has issued a number of specific exemption certificates. The vendor must keep the certificate on file to show why they did not collect PST. Examples of available exemption certificates include:
  – Certificate of Exemption – Contractors (FIN 491);
  – Certificate of Exemption – Subcontractor (FIN 493); and
  – Certificate of Exemption – Production Machinery and Equipment (FIN 492).
Lloydminster has the unusual geographic distinction of straddling the provincial border between Alberta and Saskatchewan, and is actually incorporated by both provinces as a single city with a single municipal administration.

Given its unique location, Saskatchewan provides specific tax rules to help facilitate retail sales within the city of Lloydminster. Businesses are subject to the same licensing, registration and tax return requirements as other businesses located in Saskatchewan.

Generally speaking, businesses are not required to collect Saskatchewan PST on sales intended for use or consumption within the city limits. However, PST applies to all taxable goods and services delivered in the province of Saskatchewan, outside of Lloydminster.

Businesses are required to collect PST on vehicles, lodging, telecommunication services and electricity for commercial users.

Businesses located in Lloydminster are not required to account for PST on TPP or services acquired for their own business use within the city limits, unless one of the exceptions previously noted applies.

**EXEMPTIONS**

Saskatchewan - Lloydminster

- geographic location
- use or consumption exempt within city limits
  - excluding
    - motor vehicles
    - lodging
    - telecommunication
    - electricity for commercial use

- Lloydminster has the unusual geographic distinction of straddling the provincial border between Alberta and Saskatchewan, and is actually incorporated by both provinces as a single city with a single municipal administration.

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**References:**

- British Columbia Bulletin PST 400, “PST Refunds”
- Manitoba Information Bulletin No. 004, “Information for Vendors”
- Saskatchewan Information Bulletin PST-5, “General Information”
REFUNDS AND RECOVERIES

Refunds by the vendor

- vendors are only permitted to refund tax in limited circumstances
  - clerical error
  - price adjustment
  - returns
  - exemption qualification issued after the fact (British Columbia)

- The vendor may refund tax to a purchaser where the tax payable and collected, or the price charged, has been overstated by reason of a clerical or arithmetical error in computation. For example, this would include a situation where tax has been charged on a GST-included amount.

- In addition, a vendor is permitted to refund tax to the purchaser where the price paid for the TPP, taxable service or admission is subsequently reduced, and the amount of the reduction is subsequently refunded or credited to the purchaser.

- The latter provision authorizes the refund of tax related to several types of adjustments, including cash discounts, volume or quantity discounts, trade discounts, and price adjustments to match competitor’s pricing. However, it does not exempt restocking charges, whether or not such charges are billed separately.

- In British Columbia, under certain conditions, a refund of tax may also be issued to a purchaser by a vendor where the purchaser acquired goods and, after the purchase, provides the vendor with appropriate documentation to support an exemption (i.e. Status Indian certification).
REFUNDS AND RECOVERIES

Refunds by the purchaser

- usually a 4-year time limit
- two situations
  - tax paid in error
  - rebate
    - certain groups of persons
    - certain specific purposes
- no adjustments to tax account generally permitted
  - exception
    - Manitoba

• Most refunds and rebates are subject to a four-year time limit. However, Manitoba only allows a two-year time limit. A province may disallow or reassess any rebate or refund claim to which a taxpayer is not entitled, subject to the usual rights of objection and appeal.

• The PST legislation in all provinces provides for the reimbursement of tax to taxpayers in two situations. The first is where tax, or an amount in respect of tax, has been paid in error and may be refunded. The second is where tax is properly payable at the time of purchase, but relief is available to certain groups of persons, or for certain specific purposes, by way of prescribed rebate.

• Tax collected by licensed vendors is deemed to be held in trust for the Crown. Thus, the vendor has no title to these receipts and must remit these funds to the taxation authority without deduction – even in cases where the tax has been collected from a purchaser in error. Only the purchaser, the person who paid the tax, has the right to pursue a refund for tax paid in error.

• Accordingly, taxpayers who have paid tax in error to suppliers may not generally deduct the amount from tax collected on their sales that is to be remitted to the taxation authority. Any recovery of tax paid in error must, with only a few exceptions, be sought directly from the taxation jurisdiction by way of a refund claim - such amounts may not be recovered by way of set-off against tax collected on sales. However, Manitoba allows a vendor to reduce the amount of tax collected by the amount of the credit for tax paid in error and report the net amount on line 1 of their RST return.
Where a customer has paid BC PST in error or because information required to support an exemption was not available at the time of sale, the BC PST may be refunded or credited to the customer within 180 days from the date when tax was charged, provided support for the exemption is provided to the vendor.

Where a vendor provides a full or partial refund or credit of the purchase or lease price to a customer for taxable goods (other than a motor vehicle), software or taxable services within four years of the purchase or lease, the vendor may also refund or credit the applicable BC PST. For example, if a vendor refunds 50% of the purchase price of a good to a customer, the vendor may also refund 50% of the BC PST to the customer. In order to be eligible for a refund of the BC PST, the vendor must provide the tax refund to the customer at the same time that the full or partial refund of the purchase or lease price is issued to the customer.

Where a refund or credit of BC PST is made to a customer in any of the above circumstances, the vendor may claim a refund of the BC PST remitted on the sale or lease by taking an adjustment on their tax return (deducting the amount of the customer’s refund from the amount of tax owing), provided the vendor is registered. Otherwise, the customer may apply for a refund directly to the Ministry by filing the relevant application form. The refund claim must be received by the Ministry within four years of the date the tax was paid or remitted.
All three PST provinces allow an adjustment of tax on early payment discounts taken by a customer.

If a cash discount of 2%, net 30 is available on early payment of a $100 purchase, plus $5 GST and $7 provincial sales tax for an invoice total of $112, the vendor may only take an internal deduction for the tax portion of a discount where it can be established that the 2% discount is calculated on $107 or $112.
REFUNDS AND RECOVERIES

Uncollectible accounts (bad debts)

• conditions for a bad debt rebate
  – original supply is taxable
  – original supply is at arm’s length
  – tax collectible was remitted by supplier
  – must be written off supplier’s books
• recoveries

• The PST provinces allow for a rebate of tax remitted by the vendor but never paid by the purchaser (i.e. bad debts).

• Each PST province allows the adjustment to be made on a monthly basis, as the bad debts arise. However, in British Columbia, a statement certifying that the amount was written off as a bad debt must be included with the return. The tax that may be recovered is the portion of the unpaid balance of the total selling price (including tax) which represents tax that has been remitted.

• The provision for uncollectible accounts includes situations where a payment for taxable supplies is subsequently dishonored (i.e., NSF cheques).

• No rebate is generally permitted where the amount of the sale and the tax are still shown as a receivable, or included as an asset of the vendor’s business, or if the parties are not dealing at arm’s length.

• If an amount is recovered by a vendor, either from the purchaser or through the sale or lease of repossessed TPP, subsequent to a rebate claim under these provisions, a portion of the rebate equal to the percentage of the indebtedness recovered must be repaid.
REFUNDS AND RECOVERIES

Refunds for goods removed from a particular province

• permanently removed
• refund claim must be filed
  – applicable PST must be paid in destination province

• TPP delivered to a purchaser in a particular province is subject to the destination province’s PST. As a general rule, tax follows the goods.

• If the goods are subsequently exported for permanent use outside the province, the purchaser may be eligible for a refund of any PST paid on those goods.

• Each of the PST provinces exempts goods that are exported directly outside of the province by the vendor, subject to certain conditions.

• Issues can arise where PST has been paid on goods which are delivered in a province and subsequently shipped out of that province. British Columbia permits a refund claim to be filed with the Ministry of Finance, where the goods are removed for permanent use outside the province. However, to be eligible for this refund, the goods cannot have been previously used in BC, other than being stored before their export. In addition, where the TPP shipped out of BC qualifies as a promotional distribution, it would have to be shipped out in bulk to be eligible for the refund.

• An organization must maintain adequate proof that the goods have been shipped to another jurisdiction in order to file a refund claim. For example, bills of lading, waybills, distribution lists and requisition forms should be retained as support. In addition, the jurisdiction providing the refund often wants proof the tax was paid in the jurisdiction to which the TPP was shipped.

• The remaining provinces do not, generally, provide for refunds on goods subsequently exported from the province. However, under an administrative policy, Manitoba may allow a refund where the request is made with adequate supporting documentation.
AUDITS AND ASSESSMENTS

Overview

- assessments
- penalty and interest
  - compounded daily
- voluntary disclosures
  - only waives certain penalties

- PST, in contrast with GST/HST and QST, is a use tax. As a result, a PST auditor is concerned with the collection of tax on taxable supplies made in the province. However, they are also responsible for ensuring that tax has been appropriately paid on taxable goods and services acquired for an organization’s own use.

- Each PST province has a number of different penalties that may be applied, including a penalty for failure to collect tax, generally equal to the tax not collected.

- British Columbia has a voluntary disclosure program to encourage taxpayers to settle tax liabilities by making a payment of the debt plus interest, and thereby avoid certain penalties or prosecution.

- Saskatchewan has adopted an administrative policy providing similar relief when making a voluntary disclosure.

- There is also relief available in Manitoba through an internal policy, but taxpayers are required to telephone the audit department on a no-names basis to initiate the process and will be given approval verbally based on the facts disclosed.

- In all cases, in order to qualify, the disclosure must be voluntary, complete and accurate. Note that disclosures will not be regarded as voluntary if the vendor has been contacted for an audit prior to the disclosure being received by the appropriate Ministry.
AUDITS AND ASSESSMENTS

Audit period

- British Columbia – 4 years
- Saskatchewan and Manitoba – 6 years
- waived for neglect, carelessness, wilful default or fraud
- waiver

- The audit period for British Columbia PST purposes is 4 years from the date the tax was due. In Manitoba and Saskatchewan, audit periods are generally six years.

- In each of these provinces, the time limit for assessments can be waived in cases of misrepresentation due to neglect, carelessness, wilful default or fraud. Organizations may also waive a particular province’s limitation period for audit assessments by filing a waiver. Signing a waiver is not recommended except in very special circumstances.
The best course of action when dealing with possible assessment items is to resolve the contentious issues with the auditor before they make it onto a Notice of Assessment. If that is not possible, and the auditor proceeds to assess the disputed items, organizations do have the right to object to the assessment. Each of the taxing authorities provides taxpayers with the right to object to an assessment, although the time limit to file the objection varies.

In British Columbia and Manitoba, assessments may be disputed by filing a Notice of Objection in the prescribed form and manner within 90 days of the date of mailing of the assessment. However, the time limits are shorter for Saskatchewan Provincial Sales Tax purposes, at 30 days.

In every jurisdiction, the Notice of Objection must set out the reasons for the objection and provide all relevant facts. Taxpayers should include a copy of the Notice of Assessment, and may also include letters, invoices or any other relevant supporting documents.
About Ryan

Ryan is an award-winning global tax services firm, with the largest indirect and property tax practices in North America and the sixth largest corporate tax practice in the United States. Since 1974, the Firm’s Canadian practice, headquartered in Toronto, Ontario, has supported multinational companies operating across Canada with a suite of provincial, federal, and international tax services. With global headquarters in Dallas, Texas, the Firm provides a comprehensive range of tax advisory and consulting services on a multi-jurisdictional basis, including audit defence, tax recovery, credits and incentives, tax process improvement and automation, tax appeals, tax compliance, and strategic planning. Ryan is a three-time recipient of the International Service Excellence Award from the Customer Service Institute of America (CSIA) for its commitment to world-class client service. Empowered by the dynamic myRyan work environment, which is widely recognized as the most innovative in the tax services industry, Ryan’s multi-disciplinary team of more than 1,900 professionals and associates serves over 9,000 clients in more than 40 countries, including many of the world’s most prominent Global 5000 companies. More information about Ryan can be found at ryan.com/Canada.