



Provincial Sales Tax (PST) Notice

Notice 2013-003

Issued: February 2013

Real Property Contractors

Provincial Sales Tax Act

This notice provides an overview of how the provincial sales tax (PST) applies to goods purchased, brought, sent or received in BC by real property contractors and used to improve real property.

This notice does not provide information related to owners of real property who purchase, bring, send or receive goods in BC for their own use, including when they hire a contractor to install those goods. For information on goods purchased in BC, see [Notice 2012-011](#), *Purchases of Tangible Personal Property (Goods) in British Columbia*, and for information on goods brought, sent or received in BC, see [Notice 2012-013](#), *Tangible Personal Property (Goods) Brought Into British Columbia*.

For additional information on how the PST applies to real property contracts and to purchases and use of materials and equipment in BC that straddle April 1, 2013, please see PST [Notice 2012-010](#), *General Transitional Rules for the Re-implementation of the Provincial Sales Tax*.

Definitions

Improvements to Real Property

Real property is land and any items permanently attached to the land (buildings and structures). Goods that become permanently attached to the land, buildings or structures on installation are called improvements to real property.

Improvements to real property include integral components of buildings or land, such as windows, doors, plumbing, electrical and heating systems structures permanently affixed to land, including concrete driveways and sidewalks.

Improvements to real property may also include very large machinery or equipment that is constructed on site, such as machinery used in sawmills, pulp mills or other industrial locations, unless the machinery or equipment is affixed machinery (see below).

Affixed Machinery

Affixed machinery is machinery, equipment or apparatus that is used directly in the manufacture, production, processing, storage, handling, packaging, display, transportation, transmission or distribution of goods, or in the provision of software or a service, and is affixed to, or installed in, a building, a structure or land so that it ceases to be personal property at common law.

Although affixed machinery as defined ceases to be personal property at common law upon installation (i.e. it would normally be considered to be an improvement to real property), for

purposes of the PST it is, with the exceptions noted below, generally taxable as tangible personal property (goods).

The following are specifically excluded from the definition of affixed machinery so, for purposes of the PST, they are taxed as improvements to real property (see General Rule below):

- machinery, equipment or apparatus that is affixed to, or installed in, a building, structure or land for the purpose of heating, air conditioning or lighting a building or structure, sewage disposal for a building or structure, or lifting persons or freight within a building or structure by elevator or escalator; or
- machinery, equipment or apparatus that is:
 - of such a size that it must be constructed on the site where it is to be used,
 - by its nature or design, would normally be expected to remain, for its useful life, on the site at which it is constructed,
 - does not run on rails or tracks, or does not otherwise move around on or from the site at which it is constructed, and
 - cannot be moved from the site at which it is constructed without
 - dismantling the machinery, equipment or apparatus, or
 - dismantling or causing substantial damage to the building or structure to which it is affixed or in which it is installed.

Therefore, sales or leases of affixed machinery, other than the specific exceptions outlined above, are generally taxable for PST purposes as tangible personal property. More information on how PST applies to affixed machinery will be provided in the near future.

Real Property Contractors

You are a real property contractor if, under a contract, you construct buildings, or supply and affix or install goods that become improvements to real property or affixed machinery. This includes contractors and subcontractors in the construction industry, as well as other businesses that make improvements to real property under a contract.

Real Property Contractors and PST

General Rule

If you are a real property contractor, you are required to pay PST on the goods you purchase, bring, send or receive delivery of in BC for the purposes of fulfilling a contract for the supply and installation of affixed machinery or improvements to real property, unless a specific exemption applies.

As a real property contractor, you must pay PST because you are the user of the goods used to fulfill the contract. For the purposes of the PST, supplying and installing goods under a contract to improve real property is NOT a sale of those goods to your customer. Therefore, you are not eligible for the exemption for goods acquired for resale.

You must pay PST regardless of whether your contract is a time and materials contract or a lump sum contract, unless a specific exemption applies.

Real Property Contractors who Sell Goods at Retail

A person who acquires goods for the sole purpose of resale (i.e. in retail operations) is exempt from PST. Real property contractors who also operate a retail or wholesale facility selling goods may purchase goods for resale exempt from PST.

If a person acquires goods for resale and then subsequently uses the goods for another purpose, including fulfilling a contract as a real property contractor, the person using those goods is required to self-assess PST on the goods, unless a specific exemption applies.

The PST must be self-assessed by the last day of the month following the month in which the goods are first used or, if you are a PST registrant, with the return for the reporting period that includes the date the goods are first used.

Exemptions for Real Property Contractors

Agreements that Specifically Require the Customer to Pay PST

A real property contractor is exempt from the PST on goods the real property contractor purchases, brings, sends or receives delivery of in BC for the purpose of fulfilling a contract to supply and affix, or install, affixed machinery or improvements to real property where, under the terms of the contract, the goods are used such that they cease to be personal property at common law, if:

- the contractor and their customer enter into an agreement that specifically states that the customer is liable for the PST on the goods, and
- the agreement sets out the purchase price of the goods.

There must be written evidence of the agreement that specifically states that the customer is liable for the PST on the goods. The customer must pay PST on the greater of the contractor's purchase price of the goods (i.e. the contractor's cost) and the purchase price set out in the agreement.

Real property contractors who enter into agreements that specifically state that their customers are liable for the PST must be registered as PST collectors before the goods are supplied. As collectors, real property contractors must collect and remit PST to the government that their customers are required to pay, whether collected or not.

For more information on PST registration, please see [Bulletin PST 001](#), *Registering to Collect Provincial Sales Tax (PST)*. For more information on the requirement to charge and collect PST, please see [Bulletin PST 002](#), *Charging, Collecting and Remitting PST*.

Contracts with Persons Exempt from PST

A real property contractor is exempt from the PST on goods the real property contractor purchases, brings, sends or receives delivery of in BC for the purpose of fulfilling a **written** contract to supply and affix, or install, affixed machinery or improvements to real property where, under the terms of the contract, the goods are used such that they cease to be personal property at common law, if the contract is with:

- the Government of Canada (except where the Government of Canada has entered into an agreement with the government under which the Government of Canada has agreed to pay PST), or

- a person who would be exempt from PST if they had purchased, brought, sent or received the goods instead of the contractor under:
 - the *Provincial Sales Tax Act*, or
 - Section 87 of the *Indian Act* (Canada).

More information on these exemptions will be provided in the near future.

Documenting Exemptions for Real Property Contractors

Where a real property contractor is exempt from the PST on goods in the above circumstances, the contractor may purchase the goods exempt at the time of sale, provided that the contractor provides the required information to their supplier at or before the time of sale.

Where there is a specific agreement transferring liability for the PST to the customer, a contractor must provide their PST registration number or, if the real property contractor has not yet received a PST registration number, they must provide an exemption certificate.

Where the contractor has entered into a written agreement with a person who is exempt from PST (as noted above), the contractor must provide their PST registration number or, if the real property contractor is not registered, an exemption certificate **and** a declaration completed by their customer that states the person is exempt from PST.

More information about exemption certificates will be provided in the near future.

Transitional Rules

PST Payable on Goods Used by a Real Property Contractor to Improve Real Property on or after April 1, 2013

A real property contractor must pay PST on goods purchased or brought, sent or received in BC prior to April 1, 2013 that are used for the purpose of fulfilling a contract under which the real property contractor is required to supply and affix, or install, affixed machinery or improvements to real property on or after April 1, 2013 such that the goods cease to be personal property at common law, unless a specific exemption applies.

The PST must be paid by the last day of the month following the month in which the real property contractor uses the goods. If the contractor is a PST registrant, the PST must be paid with the return for the reporting period that includes the date the goods are first used.

The amount of PST payable is calculated on the purchase price (regardless of when the consideration was paid or payable) of the goods and is reduced by the amount of:

- PST otherwise paid under the *Provincial Sales Tax Act*,
- tax paid under the *Social Service Tax Act* (i.e. PST paid before July 1, 2010) if the real property contractor has not obtained and is not eligible to obtain a refund, and
- tax paid as the provincial portion of the HST if the real property contractor has not obtained and is not eligible to obtain a refund, rebate or credit, including input tax credits.

PST Payable by Customers

A real property contractor will be exempt from PST on goods used to supply and affix, or install, affixed machinery or improvements to real property on or after April 1, 2013 if there is a specific agreement transferring liability for the PST on those goods to the customer as set out above (see Agreements that Specifically Require the Customer to Pay PST).

As set out above, there must be written evidence of the agreement transferring liability for the PST to the customer. The PST payable by the customer is the greater of the contractor's purchase price of the goods and the purchase price set out in the agreement. The PST will be reduced as noted above (see PST Payable on Goods Used by a Real Property Contractor to Improve Real Property on or after April 1, 2013).

The PST payable by the customer must be paid on or before the last day of the month after the month in which the contractor uses the goods such that they cease to be personal property at common law, regardless of when the customer is required to pay the real property contractor under the terms of the contract.

Real property contractors who enter into agreements that specifically state that their customers are liable for the PST must be registered as PST collectors before the goods are supplied. As collectors, real property contractors must collect and remit PST to the government that their customers are required to pay, whether collected or not.

For more information on PST registration, please see [Bulletin PST 001](#), *Registering to Collect Provincial Sales Tax (PST)*. For more information on the requirement to charge and collect PST, please see [Bulletin PST 002](#), *Charging, Collecting and Remitting PST*.

PST Payable on Goods Incorporated into Certain Residential Homes that are Subject to Tax under the *New Housing Transition and Rebate Act*

A person who purchased goods or brought, sent or received goods in BC that are incorporated, on or after April 1, 2013 into property that could be the subject matter of a taxable sale or taxable self-supply under the *New Housing Transition Tax and Rebate Act* must pay PST on the purchase price of the goods, unless a specific exemption applies.

The amount of PST payable is reduced by the amount of:

- PST otherwise paid under the *Provincial Sales Tax Act*,
- tax paid under the *Social Service Tax Act* (i.e. PST paid before July 1, 2010) if the person has not obtained and is not eligible to obtain a refund, and
- tax paid as the provincial portion of the HST if the person has not obtained and is not eligible to obtain a refund, rebate or credit, including input tax credits.

The PST must be paid by the last day of the month following the month in which the goods are incorporated into the property, or if the person is a PST registrant, with the return for the reporting period that includes the date the goods are incorporated into the property.

The PST on these goods will be eliminated on April 1, 2015 with the repeal of the *New Housing Transition Tax and Rebate Act*.

PST Payable on Mobile Homes Affixed to Real Property on or after April 1, 2013

Unless a specific exemption applies, a person must pay PST on the purchase price of the mobile home if the person:

- acquired or manufactured a mobile home as defined in the *Excise Tax Act* (Canada) before April 1, 2013, and
- the mobile home is affixed to land in BC for the purpose of use and enjoyment of the mobile home as a place of residence for an individual within the meaning of Part IX of the *Excise Tax Act* (Canada).

The amount of PST payable is reduced by the amount of:

- PST otherwise paid under the *Provincial Sales Tax Act*,
- tax paid under the *Social Service Tax Act* (i.e. PST paid before July 1, 2010) if the person or real property contractor has not obtained and is not eligible to obtain a refund, and
- tax paid as the provincial portion of the HST if the person or real property contractor has not obtained and is not eligible to obtain a refund, rebate or credit, including input tax credits.

The PST must be paid by the last day of the month following the month in which the mobile home is affixed to land in BC, or if the person is a PST registrant, with the return for the reporting period that includes the date the mobile home is affixed to land in BC.

The PST on these mobile homes will be eliminated on April 1, 2015 with the repeal of the *New Housing Transition Tax and Rebate Act*.

Further Information

If you have questions about the *New Housing Transition Tax and Rebate Act*, please call the Canada Revenue Agency at 1-800-959-5525 (English) and 1-800-959-7775 (French) or see www.cra-arc.gc.ca for more information.

If you have any questions, please call us toll free at 1 877 388-4440 or email your questions to CTBTaxQuestions@gov.bc.ca

You can also find information on our website at gov.bc.ca/pst

The information in this notice is for your convenience and guidance and is not a replacement for the legislation. You can access the legislation and regulations on our website under **Forms and Publications**.

For up to date information on the return to PST, subscribe to our What's New page at sbr.gov.bc.ca/msbr/whats_new/consumer_taxes/whatsnew.htm