



Exemptions for First Nations

Provincial Sales Tax Act

This bulletin provides information on the provincial sales tax (PST) exemptions that apply to sales and leases to First Nation individuals and bands.

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Overview

First Nation individuals and bands are generally exempt from PST when they purchase goods or services on First Nation land. To qualify for the exemption, the goods or services being purchased must be for the personal use of the First Nation individual, or for the use of the band. Personal use means for the beneficial use of the purchaser and does not exclude business or commercial use.

For example, a First Nation individual is exempt from PST when they purchase goods for business use in their sole proprietorship. However, a First Nation individual is not eligible for the exemption from PST on goods purchased for use by a person other than a First Nation individual or band.

Definitions

In this bulletin:

- **band** has the same meaning as in section 2 of the *Indian Act* (Canada)
- a **First Nation individual** is an individual who is an Indian under the *Indian Act* (Canada) and whose property is exempt from taxation under section 87 of the *Indian Act* (Canada) or a provision of a final agreement equivalent to that section.
- **First Nation land** means reserve land or former reserve land now part of treaty lands. For more information on when former reserve land that is now part of treaty lands may be considered as First Nation land, please see the definition of First Nation land in section 1(1) of the Provincial Sales Tax Exemption and Refund Regulation.

Note: First Nation land does **not** include Nisga'a lands. For more information, please see the section below, Nisga'a Lands and Nisga'a Citizens.

Procedures for Providing Exemptions

To provide exemptions to First Nation individuals and bands, you must:

- follow the documentation procedures provided below, and
- ensure the sale or lease meets the criteria for an exemption (see the relevant sections below for the criteria for each exemption).

If these requirements are **not** met, you must charge and collect PST.

Documentation Procedures: First Nation Individuals

Indian and Northern Affairs Canada issues a *Certificate of Indian Status* card to each individual qualifying as an Indian under the *Indian Act* (Canada). Only individuals who hold such a card are eligible for PST exemptions as First Nation individuals.

Please note: Citizens of the Nisga'a Nation have *Certificate of Indian Status* cards, but are not eligible for this exemption (other than for certain legal services relating to First Nation negotiations; see below). If you are presented with a *Certificate of Indian Status* card that states that the individual's band is the Nisga'a Nation, you must not provide a First Nation exemption to that individual. For more information on the application of consumer taxes to the Nisga'a Nation and its citizens, please see [Bulletin GEN 013](#), *Provincial Taxes on Nisga'a Lands*.

Each card bears the cardholder's photograph, name, signature, and either a band name and number or a registry number.

When presented with a *Certificate of Indian Status* card by an individual requesting exemption as a First Nation individual, you must ensure the individual qualifies for exemption and follow the documentation procedures listed below.

1. Ensure the photograph on the status card is that of your customer.
2. From the information on the card, record the individual's name, and their band's name and number or the registration number.
3. Obtain your customer's signature on the sales slip or invoice.
4. Ensure that this signature matches the signature on the card.

For some sales and leases, such as sales of goods where the seller delivers the goods to a purchaser on First Nation land, additional documentation procedures apply (see the relevant sections below).

Please note: For sales and leases that are conducted by phone or over the internet, you may accept a fax, mail or digital copy of the front and back of your customer's *Certificate of Indian Status Card* instead of following the four procedures referred to above. However, you must still ensure your customer is not a Nisga'a citizen by reviewing their *Certificate of Indian Status Card* (see below).

Bands

An individual who makes purchases and leases on behalf of a band must have written authorization from the band to act for the band. The authorization must show the band name and number, and be signed by an appropriate band official.

When presented with an individual's written authorization to act for the band, you must verify the individual's identification and follow the documentation procedures listed below.

1. Verify that the individual's identification matches the name of the individual authorized by the band.
2. Record the individual's name, the band's name and number, and the name of the band member who signed the authorization letter.
3. Obtain the individual's signature on the sales slip or invoice.

For some sales and leases, additional documentation procedures apply (see the relevant sections below).

Please note: For sales and leases that are conducted by phone or over the internet, you may accept a fax, mail or digital copy of the individual's identification and their written authorization from the band instead of following the three procedures referred to above.

Corporations, Cooperatives, Tribal Councils and Band-empowered Entities

Corporations or cooperatives with First Nation shareholders, tribal councils and band-empowered entities are not eligible for this exemption (other than for legal services relating to First Nation negotiations; see the section below, First Nation Negotiations). PST applies to sales and leases to these organizations.

Customer Does not Provide the Required Documentation at the Time of Sale or Lease

If your customer does not provide the required documentation to claim an exemption at the time of the sale or lease, you must charge and collect PST on the sale or lease. You may refund or credit your customer the PST paid if they provide the required documentation within 180 days of the date the PST was paid.

Books and Records

You must keep the documentation referred to above to show why you did not charge PST on sales and leases to First Nation individuals and bands. You must also have evidence that the sale or lease met the criteria for the exemption (e.g. for sales of goods, title to the goods must pass on First Nation land). Criteria for each type of sale or lease are provided in the sections below. If you do not keep these records, you may be assessed PST, plus penalties and interest.

Exemption for Purchases of Goods

General Goods

Goods purchased by a First Nation individual or band are exempt from PST if title to the goods passes on First Nation land. This includes goods purchased on First Nation land as well as purchases negotiated off First Nation land where the goods are delivered to First Nation land, provided that title to the goods passes on First Nation land.

When Title Passes on First Nation Land

Where the goods are delivered from a location off First Nation land, for title to pass on First Nation land the goods must be delivered by the seller or by a common carrier under contract with the seller, and the seller must retain ownership and responsibility for the goods until they are delivered to the First Nation individual or band on First Nation land.

Please note: Multijurisdictional vehicles (MJVs) that are purchased by a First Nation individual or band are exempt from MJV tax if title to the MJV passes on First Nation land. For more information on MJVs, please see [Bulletin PST 135](#), *Multijurisdictional Vehicles*.

Additional Documentation Procedures – Delivered Goods

If you are a seller located off First Nation land and you deliver goods to First Nation individuals and bands on First Nation land, to show why you did not charge PST you must keep evidence that:

- the goods were shipped or delivered to First Nation land (e.g. bills of lading, shipping invoices or similar documentation), and
- title to the goods did not pass to the First Nation individual or band until the goods were located on First Nation land (e.g. the sales contract or invoice states that the sale is made F.O.B. reserve land).

Energy Products

Energy products (e.g. electricity, natural gas, kerosene, non-motor fuel oil, heating oil, steam and heat) purchased by a First Nation individual or band are exempt from PST if title to the energy products passes on First Nation land. This includes energy products purchased on First Nation land, as well as energy products delivered to a location on First Nation land, provided that title to the goods passes on First Nation land.

The exemption also applies to the 0.4% tax on energy products (ICE Fund tax). For more information on the application of PST to energy products, and the ICE Fund tax, please see [Bulletin PST 203](#), *Energy and Energy Conservation*.

Exemption for Leases of Goods

Goods leased by a First Nation individual or band are exempt from PST if the interest in the lease is located on First Nation land.

For First Nation individuals, the interest in the lease is considered to be located on First Nation land if the individual resides on First Nation land.

The First Nation individual or band does not need to receive possession of the leased goods on First Nation land for the exemption to apply. However, for a lease buy-out to be exempt from PST, title to the goods must transfer on First Nation land.

Please note: If the item being leased is a passenger vehicle, the exemption also applies to the \$1.50 per day passenger vehicle rental tax (PVRT). For more information on the PVRT, please see [Bulletin PST 116](#), *Motor Vehicle Dealers and Leasing Companies*. If the item being leased is an MJV, the exemption also applies to the MJV tax. For more information on MJVs, please see [Bulletin PST 135](#), *Multijurisdictional Vehicles*.

For information on the application of PST to leases of goods, please see [Bulletin PST 315](#), *Rentals and Leases of Goods*.

Additional Documentation Procedures: First Nation Individuals

When a First Nation individual (the lessee) requests an exemption from PST on the lease of goods, you must ensure that:

- the lessee meets the criteria listed in the section above, Procedures for Providing Exemptions to First Nation Individuals and Bands, **and**
- the lessee can demonstrate that they reside on First Nation land. The lessee may do so by presenting identification that shows their current address on First Nation land, or by providing a letter from their band certifying that they reside on First Nation land.

You must record the information on the individual's identification (e.g. driver's licence number) and their address as shown on the identification, or retain a photocopy of the identification or letter from the band.

If the lessee cannot provide this identification, or you are unable to determine that the address is on First Nation land, you must charge PST.

Exemption for Services

Related Services

Related services are services provided to goods. Related services purchased by a First Nation individual or band are exempt from PST if the related services are provided wholly on First Nation land.

For information on the application of PST to related services, please see [Bulletin PST 301](#), *Related Services*.

Legal Services

Legal Services Provided to First Nation Individuals or Bands

Legal services purchased by a First Nation individual or band are exempt from PST if the legal services:

- relate to real property situated on First Nation land, **or**
- are performed on First Nation land (i.e. the lawyer is physically present on First Nation land while the legal services are performed).

First Nation Negotiations

Legal services purchased by an aboriginal organization representing the interests of Indians and bands under the *Indian Act* (Canada) are exempt from PST if the legal services relate to any of the following:

- Aboriginal treaty or land claims negotiations

- Consultations with the provincial or federal governments in relation to aboriginal rights or aboriginal title, or in relation to interim agreements that relate to aboriginal rights or aboriginal title
- Negotiations that relate to existing treaties or treaty rights
- Negotiations with other aboriginal organizations in relation to overlapping treaty or land claims

For information on the application of PST to legal services, please see [Bulletin PST 106](#), *Legal Services*.

Telecommunication Services

Telecommunication services purchased by a First Nation individual or band are exempt from PST if they are purchased for use on an electronic device that is ordinarily situated on First Nation land.

For information on the application of PST to telecommunication services, including how to determine where an electronic device is ordinarily situated, please see [Bulletin PST 107](#), *Telecommunication Services*.

Exemption for Software

Software purchased by a First Nation individual or band is exempt from PST if the software is purchased for use on an electronic device that is ordinarily situated on First Nation land.

For information on the application of PST to software, including how to determine where an electronic device is ordinarily situated, please see [Bulletin PST 105](#), *Software*.

Exemption for Accommodation

Sales of accommodation to a First Nation individual or band are exempt from PST and the up to 2% municipal and regional district tax (MRDT) if the accommodation is provided wholly on First Nation land.

For more information on the application of PST and MRDT to sales of accommodation, please see the [PST and MRDT Guide to Accommodation Providers](#).

Improvements to Real Property

Contractors are exempt from the PST on goods they obtain to fulfil a **written** contract to supply and affix, or install, affixed machinery or improvements to real property, if all the following criteria are met:

- under the terms of the contract, the goods will be used so that they cease to be personal property at common law (e.g. they will be incorporated into real property),
- the contract is with a First Nation individual or band, and
- the contractor obtained the goods in such a manner that if the First Nation individual or band had obtained the goods instead of the contractor, the First Nation individual or band would have been exempt from PST. For purchases of goods (e.g. building materials), **the contractor must receive title to the goods on First Nation land**. This applies regardless of whether the location at which the contractor will ultimately be affixing or installing the goods to real property is on or off First Nation land.

Contractors who are exempt from PST for the above reason may obtain the goods exempt at the time of sale by providing a *Certificate of Exemption – Contractor* form ([FIN 491](#)) that has been completed by both the contractor **and** the First Nation individual or band. Contractors cannot use their PST number to obtain this exemption.

Subcontractors who perform work for a general contractor who is exempt from PST for the above reason are also eligible for this exemption. To obtain the goods exempt at the time of sale, subcontractors must provide both of the following documents to their supplier:

- a *Certificate of Exemption – Subcontractor* form ([FIN 493](#)) completed by the subcontractor, **and**
- a copy of the *Certificate of Exemption – Contractor* form ([FIN 491](#)) that has been completed by both the general contractor and their customer who is exempt from PST.

Subcontractors cannot use their PST number to obtain this exemption.

For more information on the application of PST to improvements to real property, please see [Bulletin PST 104](#), *Real Property Contractors*.

Special Occasion Liquor Licences

The special PST rules set out below apply where liquor under a Special Occasion Licence is:

- purchased on First Nation land by a First Nation individual or band, where the liquor will be provided by the First Nation individual or band at no charge at an event (e.g. an open bar at a wedding), or
- for sale at an event on First Nation land.

In all other situations, the general PST rules apply. For more information, please see [Bulletin PST 300](#), *Special Occasion Liquor Licences*.

Liquor Purchased by First Nation Individuals and Bands on First Nation Land, Where the Liquor Will be Provided at No Charge

If a First Nation individual or band purchases liquor under a Special Occasion Licence on First Nation land, and the liquor will be provided at no charge at an event, the First Nation individual or band is exempt from paying PST on the liquor. This applies regardless of whether the event will be on First Nation land or the liquor will be consumed by First Nation individuals.

Liquor Purchased for Sale at an Event on First Nation Land

When you purchase a Special Occasion Licence to sell liquor at an event on First Nation land, you will be required to:

- estimate the amount and expected selling price of the liquor you will sell, and
- pay an amount equal to the PST (PST equivalent amount) on the markup (i.e. the difference between the price you pay for the liquor and the expected selling price) if you will be selling liquor above the price you pay for the liquor.

At or after the time you purchase the Special Occasion Licence, you can purchase liquor using that licence. When you purchase the liquor, you will pay PST at 10% on the purchase price of the liquor.

For more information on the tax payable under a Special Occasion Licence, please see [Bulletin PST 300](#), *Special Occasion Liquor Licences*.

During your event, you are required to:

- charge 10% PST on your sales of liquor to non-First Nation individuals, and
- follow the documentation procedures provided in the section above, Documentation Procedures: First Nation Individuals, for exempt sales of liquor to First Nation individuals. You must keep the required documentation to show why you did not charge PST.

If the PST you collect on your sales is equal to the PST you paid on the liquor plus the PST equivalent amount you paid when you purchased the licence, you are entitled to keep all the PST you collect on the sale of the liquor.

Actual Liquor Sales are Greater than Estimated

If your actual taxable liquor sales are greater than what you estimated when you purchased the Special Occasion Licence (e.g. you sold the liquor at a higher price), you must remit to the ministry the amount of PST collected **less** the total of:

- any PST you paid when you purchased the liquor, and
- the PST equivalent amount you paid on the mark-up when you purchased the licence.

You must remit the additional PST to the ministry on or before the last day of the month after the month in which the Special Occasion Licence expires. For example, if the licence expires on July 22, you must remit the additional PST on or before August 31.

If you are a PST collector who files monthly, you may remit the additional PST collected on your PST return for the reporting period that includes the month in which the Special Occasion Licence expires. However, if you are not a collector or if you are a PST collector who does not file monthly returns, you must self-assess the additional PST due using a *Casual Remittance Return (FIN 405)* on or before the last day of the month following the month in which the licence expires.

Refunds

Applying for Refunds

To apply for the refunds discussed below, complete the *Application for Refund - General* form ([FIN 355](#)) and include the following documents:

- a statement explaining the reason for claiming the refund,
- the Special Occasion Licence showing the PST equivalent amount you paid on the liquor,
- cash register tapes verifying the total liquor purchased for the event, and
- any additional documentation set out in the sections below.

Cancelled Events and Returns of Unsold Liquor

If your event is cancelled or you have unsold liquor at the end of your event, you can get a refund of the PST you paid on any liquor you purchased, provided you return the unsold liquor to the liquor store. The BC Liquor Store will refund the PST you paid on the liquor but you will need to apply to the ministry for a refund of the PST equivalent amount you paid on the mark-up.

When you apply for a refund, you must, in addition to the documentation listed above, include documentation from the BC Liquor Store confirming you returned the liquor (such as a copy of a refund receipt from the BC Liquor Store).

Actual Selling Price was Less than Estimated

You may apply for a refund from the ministry if the actual selling price of the liquor was less than you originally estimated. The ministry will refund the difference between the PST equivalent amount you paid on the mark-up and the amount that should have been paid based on the lower selling price.

When you apply for a refund, you must, in addition to the documentation listed above, include sales records indicating the quantity and price of each type of liquor sold at the event.

Exempt Sales to First Nation Individuals

As noted above, you must pay the PST and PST equivalent amounts when you purchase liquor for resale under a Special Occasion Licence. If you later make exempt sales to First Nation individuals on First Nation land under the licence, you may apply for a refund from the ministry of both the PST and PST equivalent amounts you paid in relation to the liquor you sold exempt.

When you apply for a refund, you must, in addition to the documentation listed above, include sales records indicating the quantity and price of each type of liquor sold at the event to First Nation individuals. You may also be asked for:

- records to show that at the time of making an exempt sale to First Nation individuals, you followed the documentation procedures provided in the section above, Documentation Procedures: First Nation Individuals, and
- proof the event occurred on First Nation land.

First Nation Farmers

A First Nation individual is a qualifying farmer if they:

- use First Nation land for a qualifying agricultural use (e.g. raising livestock), as defined under the *Assessment Act*, and
- earned at least \$2,500 in gross income from the qualifying agricultural use of the First Nation land in the previous calendar year.

For more information on the PST exemptions available to qualifying farmers, please see [Bulletin PST 101](#), *Farmers*.

Please note: The exemptions for First Nation individuals who are qualifying farmers described in [Bulletin PST 101](#), *Farmers* are in addition to the general exemptions available to purchases and leases by First Nation individuals described in this bulletin.

Exemptions from Other Taxes

First Nation individuals and bands are also exempt from carbon tax, motor fuel tax and tobacco tax, provided certain criteria are met. For more information, please see the following bulletins:

- carbon tax and motor fuel tax: [Bulletin MFT-CT 002](#), *Sales to Status Indians and Indian Bands, and the Exempt Fuel Retailer Program*
- tobacco tax: [Bulletin TTA 001](#), *Exempt Sales Made by Retail Dealers (ESRDs)*

Treaty First Nations

Treaty First Nation Governments

Currently, the following First Nation governments have a treaty in effect with Canada and BC that sets out a unique taxation structure:

- The Nisga'a Nation
- The Tsawwassen First Nation
- The Maa-nulth First Nations

Treaty First Nation governments do not qualify for the general exemptions for purchases and leases of goods or services on First Nation land. Therefore, they pay PST unless a specific exemption applies.

Treaty First Nation governments may apply for a refund of taxes paid under certain circumstances. For more information, please see the following:

- [Bulletin GEN 013, Provincial Taxes on Nisga'a Lands](#)
- [Tsawwassen Tax Treatment Agreement](#)
- [Maa-nulth First Nations Tax Treatment Agreement](#)

Nisga'a Lands and Nisga'a Citizens

Under the Nisga'a Final Agreement:

- Nisga'a lands do not qualify as "First Nation land" for the purposes of PST exemptions for other First Nation individuals and bands, and
- Citizens of the Nisga'a Nation do not qualify for PST exemptions as First Nation individuals (including sales on Nisga'a lands or on other First Nation lands).

For more information, please see [Bulletin GEN 013, Provincial Taxes on Nisga'a Lands](#).

Tsawwassen Lands and Tsawwassen Members

Under the Tsawwassen First Nation Final Agreement, the PST exemption for purchases and leases by First Nation individuals (including Tsawwassen members) on Tsawwassen lands continues to be in effect until April 30, 2017.

For more information, please see the [Tsawwassen First Nation Treaty website](#).

Maa-nulth First Nation Lands and Maa-nulth First Nation Citizens

Under the Maa-nulth First Nations Final Agreement, the PST exemption for purchases and leases by First Nation individuals (including Maa-nulth First Nation citizens) on Maa-nulth First Nation lands continues to be in effect until April 30, 2019.

For more information, please see the [First Nations of the Maa-nulth Treaty website](#).



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The information in this bulletin is for your convenience and guidance and is not a replacement for the legislation.

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

References: *Provincial Sales Tax Act*, sections 1 “accommodation”, “electronic device”, “improvement to real property”, “legal services”, “liquor”, “related service”, “telecommunication service”, 80.1, 86, 98, 111, 155 and 156; Provincial Sales Tax Exemption and Refund Regulation, sections 1 “band”, “First Nation individual”, “First Nation land”, “Indian”, “Nisga’a Nation”, “obtain”, “qualifying agricultural use”, “qualifying farmer”, “reserve”, “surrendered lands”, 77, 78 and 81; Provincial Sales Tax Regulation, sections 88 and 92.