

THE RETAIL SALES TAX ACT

FILM, VIDEO AND AUDIO PRODUCTIONS

This bulletin explains the application of Retail Sales Tax (RST) relating to film, video and audio productions.

Section 1 - GENERAL INFORMATION

- Film, video or audio productions, and media used to record these productions, are exempt from RST when purchased for the purpose of exhibition or broadcast to the public, as outlined in Section 2 of this bulletin.
- All other film, video or audio productions are generally subject to RST on the selling price of the production.
- Equipment, repairs and other miscellaneous materials purchased/rented to produce film, video or audio productions are subject to RST.

Section 2 – SALES OF FILM, VIDEO AND AUDIO PRODUCTIONS

Exemption for broadcast productions

- Film, video, or audio productions that are produced for exhibition or broadcast to the public are not subject to RST. This includes the sale, rental or production of commercials, feature films and other programming.
- “Exhibition or broadcast to the public” means:
 - Through a radio or television station or pay television system, or
 - In a theatre or cinema accessible to the general public where, in the normal course of business, motion picture films are exhibited or theatrical performances are staged, and an admission is usually charged.
- The exemption also applies to recording media such as motion picture film, video tape, audio tape and other media used directly to record the production (including spoilage). Similarly, production services incorporated into a film, etc. for exhibition or public broadcast are tax exempt.

Note: Revisions to content of previous Bulletin (April 2004) have been identified by shading ().

- To allow a tax exemption on the above items, the seller must obtain and record the purchaser's RST number on the sales invoice.
- Where the purchaser is not normally required to be registered for RST purposes, the vendor may still allow the exemption if the purchaser certifies on the sales invoice that the production (or the recording media) will be used for public exhibition or broadcast.

Exemption for films, etc. and services purchased for resale

- Film, video or audio productions purchased for the purposes of resale, may be purchased tax exempt. Similarly production services that are incorporated into a production or acquired for resale are not taxable. Examples of items that are commonly purchased for resale or incorporated into a finished production include:
 - Audio tracks and services
 - Camera work (filming services)
 - Dubbing
 - Editing services
 - Film processing
 - Special effects/computer enhancements.
- To allow a tax exemption on these items, the seller must obtain and record the purchaser's RST number on the sales invoice.

Films, etc. shipped for use outside Manitoba

- Film, video or audio productions, or related production services, sold and delivered to a purchaser outside the province are not subject to RST.
- To allow the exemption the seller must deliver the goods or services to the purchaser outside the province, or have them shipped by a common carrier for delivery outside Manitoba. The seller must retain proof of delivery outside the province (i.e. the courier's delivery bill, certified mail receipt, or an equivalent document) to support the non-collection of tax.

Taxable film, video or audio productions

- All sales (or rentals) of film, video or audio productions (except those that qualify for the tax exemptions listed above) are subject to the 8 per cent RST on the selling price (excluding GST). The following are some examples of productions that are subject to tax:
 - Demos of film, video or audio productions.
 - Internal training productions.
 - Promotional productions (e.g., to promote goods and services at a retailer's premises).
 - Industrial productions for in-house use (e.g., a video of a company's production process).
 - Educational productions for use in schools, libraries, etc.
 - Slide productions (except when for exhibition or broadcast to the public).
 - Wedding videos.

Section 3 – PURCHASES OF MATERIALS, SERVICES AND EQUIPMENT**Exempt materials and services**

- Recording media and services that are incorporated into a film, video or audio production (including packaging materials) may be purchased tax exempt if the production is produced for sale or for public exhibition or broadcast. In this case, the following goods and services may be purchased tax exempt:
 - Motion picture film, video tape, audio tape and other recording media (including recording media that is destroyed, wasted or cut).
 - Media cases and labels that become a direct part of the final production.
 - Video, film and audio productions purchased for incorporation into a final production for sale.
 - Editing, colorizing, duplicating, dubbing, mixing, special effects, audio tracking and other similar services.
 - Film developing and processing.

Please note: These materials and services are taxable when purchased for a purchaser's own use, i.e. they are not used to produce a film, etc. for purposes of sale, or public exhibition or broadcast.

Taxable purchases

- RST is payable on equipment, equipment repairs, supplies and other items (except recording media used for public exhibition or broadcast) that are used in connection with producing the film, video or audio production. The following are examples of items that are always subject to tax:
 - Audio equipment, including audio boards, headsets, microphones and video libraries.
 - Camera equipment, including camera cases, lenses, tripods and video heads.
 - Computer equipment and software, including charges to maintain, modify, install or upgrade software. But software that is custom-developed solely to meet the requirements of a specific person is exempt, e.g. software developed for a producer of a film to create certain images for his/her films. If this software program is also sold to other film producers, it does not qualify for the exemption. For additional information, see Bulletin No. 033 – *Computer Software & Programming Services*.
 - Editing equipment including digital switchers, media composers, special effect packages, recording equipment and caption makers.
 - Equipment repairs including parts and labour.
 - Stage equipment including cables, generators and lighting.
 - Costumes, clothing, jewellery, wigs and makeup.
 - Props, sets, and materials and tools to construct props and sets.
 - Promotional materials including posters and brochures.
 - Motor vehicles, trailers, etc.
- See Section 4 for equipment rentals.

Taxable costumes props and sets

- The RST applies to all costumes, props and sets used in making film, video, and audio productions as follows:
 - Where the costumes, props or sets are purchased or rented from a retailer, the full purchase/rental price is taxable, including such items as vintage automobiles, aircraft and other equipment displayed in the production.
 - The rental of any animal without its owner/trainer is taxable. The charge for use of an animal that is accompanied and controlled by its owner/trainer is not taxable. In the latter case, the owner/trainer is responsible for paying the applicable tax on the purchase of the animal.
 - Where the costumes, props and sets for a production are constructed or sewn by the producer's employees (or contract employees), the tax is payable only on the cost of the materials purchased for the costumes, props and sets, but not on the employee or contract labour costs.

Purchases from out-of-province suppliers

- When taxable goods or services are purchased from a supplier who has not collected the Manitoba RST (e.g. an out-of-province supplier), the purchaser must self-assess the tax at 8 per cent of the purchase price (excluding GST) and remit it to the Taxation Division. For taxable items purchased outside Manitoba, the tax is payable on the total laid down cost, including freight, currency exchange, duty, brokerage, installation and other related charges, but not GST.

Temporary use of equipment brought into Manitoba

- Out of province businesses that bring equipment or vehicles (which they owned at least 30 days previously in another jurisdiction) into Manitoba for a temporary period may, instead of paying RST at 8% of the full taxable value, pay RST based on the number of days that the property is temporarily used or available for use in Manitoba.

Temporary use tax on out of province taxpayer owned equipment should be calculated on the following basis:

$$\text{Tax} = 8\% \times A \times B/1095$$

A = Fair value of the equipment upon entering Manitoba

B = Number of days used/available for use in the province

- If the equipment is being leased, the RST is payable on the total monthly lease payment (includes the basic lease charge, royalties, license fees, transportation and all other related costs, excluding GST) for each full month that the equipment is used or available for use in Manitoba. Where the equipment is only in Manitoba for part of a month, the taxable lease payment can be reduced in proportion to the number of days it was not used or available for use in the province.

Refer to Bulletin No. 005 – *Information for Contractors*, for additional information regarding temporary use of equipment.

Section 4 – EQUIPMENT RENTALS

General meaning of rental

- Equipment supply companies commonly use the term “rental” to represent either of the following two situations:

- (1) Rental of equipment **with** an operator, or
- (2) Rental of equipment **without** an operator.

However, since the application of RST for each of these situations is different, suppliers and purchasers should refer to the following information to apply the tax correctly.

Equipment supplied with an operator (service)

- Where equipment is supplied with an operator to provide functions such as editing, filming, special effects, or dubbing, the provision of such functions is considered to be a **service** and not a rental of equipment (even if the invoice describes the charge as a rental of equipment). Therefore, the amount charged for the service will either be totally taxable or totally exempt depending on the use as outlined in Section 2 of this bulletin.
- Equipment is considered “operated by the supplier” when the supplier accompanies the equipment and controls its functions during the task for which it was designed.
- In this case, businesses providing filming, editing, special effects or dubbing services (equipment supplied with an operator) are required to pay RST on their purchase, rental or lease of the equipment used to provide the service and any repairs to this equipment.

Please note: Where the services are provided by a non-resident supplier, the Manitoba purchaser is responsible to insure that the supplier has paid the applicable Manitoba tax on any equipment brought into the province as discussed in Section 3. Where the supplier fails to remit the applicable RST, the Manitoba purchaser will be required to do so.

Equipment supplied without an operator (rental)

- Equipment supplied without an operator (i.e. customer operates the equipment) is a **rental** of equipment, and the RST must be collected on the total rental charge, including charges for:
 - Assisting the customer to set up and take down the equipment.
 - Technical support to ensure the equipment functions without interruptions.
 - Instruction to customer’s staff on how to operate the equipment.
- Businesses that acquire and use equipment **exclusively for rental** to others (i.e. not supplied with an operator) may purchase the equipment and any repairs to this equipment exempt of tax by providing their supplier with their RST number.

Section 5 – OTHER INFORMATION

Manitoba film and video production tax credit

- The Manitoba Film and Video Production Tax Credit is a refundable corporate income tax credit available to qualifying producers of eligible Manitoba productions and co-productions. Originally set to expire March 1, 2011, the credit has been extended to December 31, 2016.
- Canada Revenue Agency and Manitoba Film and Music jointly administer the Film and Video Production Tax Credit. For further information contact:

Manitoba Film and Music
Suite 410-93 Lombard Avenue
Winnipeg, Manitoba R3B 3B1
Telephone: (204) 947-2040

FURTHER INFORMATION

This bulletin is intended to serve as a guideline and is not all-inclusive. For the specific wording of the law, please refer to *The Retail Sales Tax Act* and *Regulations*. Further information may be obtained from:

Winnipeg Office

Manitoba Finance
Taxation Division
101 - 401 York Avenue
Winnipeg, Manitoba R3C 0P8
Telephone (204) 945-5603
Manitoba Toll Free 1-800-782-0318
Fax (204) 948-2087

Westman Regional Office

Manitoba Finance
Taxation Division
314, 340 - 9th Street
Brandon, Manitoba R7A 6C2
Fax (204) 726-6763

E-mail: MBTax@gov.mb.ca

ONLINE SERVICES

Our Web site at manitoba.ca/finance/taxation provides tax forms and publications about taxes administered by Taxation Division, and a link to Manitoba's laws and regulations. Forms and publications can also be obtained by contacting the Taxation Division.

Our online service at manitoba.ca/TAXcess provides a simple, secure way to apply for, and to file, pay and view your Taxation Division tax accounts.