

## Real Property Contractors

### *Provincial Sales Tax Act*

This bulletin provides information for contractors on how the PST applies to goods they obtain to fulfil contracts to supply and affix, or install, goods so that they become part of real property.

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### Definitions

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In this bulletin:

- **contract** means an agreement under which goods are supplied and affixed, or installed, so that they become part of real property (see What is Real Property? below)
- **obtain** means:
  - purchased or leased in BC,
  - brought or sent into BC, or
  - received in BC.

### What is Real Property?

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Real property is land and anything that is attached to the land so that it becomes part of real property upon installation (i.e. cease to be personal property at common law). This would normally include buildings, structures, and things, such as machinery or equipment, that are attached to the land (or to buildings or structures) by some means other than their own weight.

For the purpose of the PST, things that are attached so that they become part of real property are either:

- improvements to real property, or
- affixed machinery (see [Bulletin PST 503](#), *Affixed Machinery*).

Improvements to real property include:

- buildings and integral components of buildings or land, such as windows, doors, plumbing, electrical and heating systems, and structures affixed to land, including concrete driveways and sidewalks,
- topsoil, sod, gravel and other materials that have been installed (e.g. spread) on real property, and
- certain very large machinery or equipment that is constructed on site, such as machinery used in sawmills, pulp mills or other industrial locations, that is specifically excluded from the definition of affixed machinery.

As a contractor, it does not matter whether your contract is for the supply and affixation, or installation, of an improvement to real property or affixed machinery. In either case, you must pay PST on the goods you obtain to fulfill the contract as outlined below (see How PST Applies to Contractors below).

## **Determining Whether Goods Become Part of Real Property**

To determine whether a good becomes part of real property, use the guidelines below. However, each situation may be different as the rules are based on common-law principles (i.e. by court decisions).

### **General Rule – Goods That are Attached Become Part of Real Property**

Generally, goods that are attached to real property, even minimally (except simply being plugged in), become part of real property.

### **Exception – Attachment for the Better Use of the Good**

The general rule does not apply if the purpose of the attachment is for the better use of the good itself (e.g. bolting a free-standing bookshelf to the wall for stability). In this case, a minimal degree of attachment would generally mean that the good does **not** become part of real property.

However, a more substantial attachment (e.g. an attachment that would cause significant damage to the real property if the good were removed) would generally result in the good becoming part of real property, even if the good might have been attached for the better use of the good itself.

For examples of goods that generally become part of real property upon installation, see [Bulletin PST 502](#), *Goods that Generally Become or Do Not Become Part of Real Property*.

If you are unsure whether a particular good becomes part of real property, please contact us.

## **Who is a Contractor?**

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You are a **contractor** if you supply and affix, or install, goods that become part of real property. This includes contractors and subcontractors in the construction industry, and businesses that:

- supply goods with installation services if the goods become part of real property upon installation
- supply goods as part of providing services to real property in which the goods become part of real property as part of that service (e.g. painters, landscapers)

The following are examples of contractors:

- Bricklayers
- Cabinet installers
- Carpenters
- Carpet layers
- Drywallers
- Excavators
- Electricians
- Fence builders
- Foundation contractors
- Framing contractors
- Glass and glazing contractors
- Heating system installers
- Home builders
- Kitchen installers
- Landscapers
- Locksmiths
- Masonry contractors
- Mechanical contractors
- Painters
- Pavers
- Plumbers
- Roofers
- Sheet metal contractors
- Siding contractors
- Sundeck builders
- Window installers

## **How PST Applies to Contractors**

If you are a contractor, you must pay PST on taxable goods you obtain to fulfil a contract. You do not charge your customers PST.

As a contractor, you must pay PST because you are the user of the goods used to fulfil the contract. You are not selling those goods to your customer and you are not eligible for the PST exemption for goods obtained for resale.

You must pay PST regardless of whether your contract is a time and materials contract or a lump sum contract.

**Exception:** As a contractor, you are exempt from PST on goods you use to fulfil a contract if you have a specific agreement with your customer that states your customer pays the PST. You may also be exempt if the contract is with certain persons who are exempt from PST (see Exemptions for Contractors below).

### **Installing Goods that Do Not Become Part of Real Property**

If the goods you supply and install do **not** become part of real property upon installation, you must register as a PST collector and charge your customers PST on the goods and on the installation services.

For example, services to install or maintain ornamental plants in portable or freestanding containers are subject to PST as related services.

For information on registering for PST, see [Bulletin PST 001](#), *Registering to Collect PST*. For information on related services, see [Bulletin PST 301](#), *Related Services*.

## Supplying and Installing Both Goods that Become and Do Not Become Part of Real Property

If you supply and install both goods that become part of real property and goods that do not become part of real property upon installation, you must:

- pay PST on the goods that become part of real property, and
- register as a PST collector and charge your customers PST on the goods that do not become part of real property **and** on the related services you provide to those goods, such as installation services. You are exempt from PST when you obtain these goods if they were obtained solely for resale.

## Contractors Who Also Sell Goods Without Installation

If you are a contractor who also operates a retail or wholesale facility (i.e. you also sell goods without installation), you are a contractor for the goods you supply and affix, or install, that become part of real property. If this applies to you and you use goods from your retail or wholesale inventory to fulfil your contracts, see [Bulletin PST 504](#), *Contractors Who are Also Retailers or Wholesalers*.

## Exemptions for Contractors

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### Agreements that Specifically Require the Customer to Pay PST

As a contractor, you are exempt from the PST on goods you obtain to fulfil a contract to supply and affix, or install, goods that become part of real property in BC if:

- you and your customer enter into an agreement that specifically states that the customer is paying PST on the goods, and
- the agreement states the purchase price of the goods.

There must be written evidence of the agreement that specifically states that the customer is paying PST on the goods. The customer must pay PST on the greater of your purchase price of the goods (i.e. the contractor's cost) and the purchase price stated in the agreement. To qualify for the exemption, it is not sufficient to have a contract that simply states the purchase price, "plus applicable taxes."

**Please note:** To claim this exemption, you must have the agreement in place at or before the time you obtain the goods.

### Registering for PST and Charging PST

If you enter into agreements that specifically state that your customers are paying the PST, you must:

- be registered as a PST collector before the goods are supplied, and
- charge and remit the PST that your customers are required to pay, whether or not the PST has actually been collected from the customer (e.g. sales on credit). The PST is payable by your customers at the same time that the purchase price of the goods is paid or becomes due, whichever is earlier.

For more information, see [Bulletin PST 001](#), *Registering to Collect PST* and [Bulletin PST 002](#), *Charging, Collecting and Remitting PST*.

**Please note:** If you enter into a contract to supply and affix, or install, goods that become real property situated outside BC, you must pay PST on the goods you obtain to fulfill the contract. You cannot transfer the PST liability to your customer by agreeing that your customer will pay PST. However, you may be eligible for a refund of the PST if no use whatsoever is made of the goods while they are in BC, except to store them in and ship them out of BC. For more information, see [Bulletin PST 506](#), *Real Property Situated Outside British Columbia*.

## Contracts with Persons Exempt from PST

As a contractor, you are exempt from PST on goods you obtain to fulfil a **written** contract if the contract is with:

- the Government of Canada (unless the Government of Canada has agreed to pay PST), or
- one of the following persons who would be exempt from PST if they had obtained the goods instead of the contractor:
  - a First Nation individual or band (see [Bulletin PST 314](#), *Exemptions for First Nations*)
  - a person eligible for the production machinery and equipment (PM&E) exemption (see [Bulletin PST 110](#), *Production Machinery and Equipment Exemption*)
  - a qualifying aquaculturist (see [Bulletin PST 103](#), *Aquaculturists*)
  - a qualifying farmer (see [Bulletin PST 101](#), *Farmers*)
  - a member of the diplomatic or consular corps (see [Bulletin CTB 007](#), *Exemption for Members of the Diplomatic and Consular Corps*)

**Please note:** To claim this exemption, you must have the written contract in place at or before the time you obtain the goods.

## Documenting Exemptions for Contractors

To claim an exemption, you must provide the following information to your supplier at or before the time of sale:

- If you have a specific agreement stating that the customer is paying the PST, you must provide your PST number or, if you do not yet have a PST number, you must provide a completed *Certificate of Exemption – Contractor* ([FIN 491](#)).
- If you have entered into a written agreement with a person who is exempt from PST (as noted above), you must provide a *Certificate of Exemption – Contractor* ([FIN 491](#)) that has been completed by both you **and** your customer. You cannot use your PST number to claim this exemption.

## Subcontractors

If you are a subcontractor performing work for a general contractor who is exempt from the PST (as noted above), you must provide both of the following documents to your supplier, even if you have a PST number:

- A *Certificate of Exemption – Subcontractor* ([FIN 493](#)) that you have completed, **and**
- A copy of the *Certificate of Exemption – Contractor* ([FIN 491](#)) that has been completed by the general contractor that you are working for and their customer who is exempt from PST.

## Transitional Rules

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As a contractor, you must pay PST on goods you obtained prior to April 1, 2013 that you use to fulfil a contract on or after April 1, 2013, unless a specific exemption applies.

For more information, see [Bulletin PST 599](#), *Real Property Transitional Rules*.



### Need more info?

Online: [gov.bc.ca/PST](http://gov.bc.ca/PST)

Toll free in Canada: 1 877 388-4440

Email: [CTBTaxQuestions@gov.bc.ca](mailto:CTBTaxQuestions@gov.bc.ca)

Access our forms, publications, legislation and regulations online at [gov.bc.ca/PST](http://gov.bc.ca/PST) (go to [Forms](#) or [Publications](#)).

Subscribe to our [What's New](#) page to receive email updates when new PST information is available.

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

References: *Provincial Sales Tax Act*, sections 1 “affixed machinery”, “apparatus”, “band”, “collector”, “First Nation individual”, “improvement to real property”, “related service”, “sale”, “tangible personal property”, “use”, 11, 26, 28, 34, 37, 49, 55, 79-80.8, 137, 170, 179 and 192; Provincial Sales Tax Regulation, sections 44-46 and 79.