

Graphic Designers

About this Guide

This *Guide* provides tax information to help graphic design firms and independent graphic designers understand how RST applies to their business operations.

For general RST information that applies to all businesses such as registration for vendor permits, general exemptions, and how to charge and collect tax, see ***Small Business Pointer 901 - The Basics of Retail Sales Tax***.

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Nature of the Agreement

A graphic design firm or freelance graphic designer may be required to register as a vendor to charge, collect and remit RST depending on the type of products and services it provides to its customers. The nature of the agreement entered into between the customer and the designer determines who is liable for the payment of RST.

Designers may provide services only, products only, a combination of products and services, or may enter into real property contracts with their customer.

Graphic design services may include:

- advertising and marketing communications design
- broadcast design
- corporate communication/promotional materials (e.g. brochures, flyers, annual reports)
- editorial design (e.g. book illustrations)
- environmental graphic design (e.g. signage)
- exhibit design (e.g., trade booths, display cases)
- information design
- new media and web design
- packaging design (e.g. labels, bottles, boxes)

Provision of Non-Taxable Services

Graphic design services that do not result in the production of tangible personal property are not subject to Retail Sales Tax (RST). Designers must however, pay RST on any taxable goods and services acquired to provide these non-taxable services. This section outlines those services which are considered non-taxable and provides examples of exempt and taxable purchases made by persons providing the design services.

Initial Consultations

Designers providing consulting services only are not required to charge RST on their fees. Similarly, charges for market research/analysis and project planning/scoping are also not subject to RST. Where such services include the provision of one copy of a report or study, the charge is not subject to RST. If more than one copy is provided, RST applies to the amount charged for the reports/studies.

Design Development

Charges for the creation of designs used solely for the purpose of demonstrating an idea, concept or message to a customer are not subject to RST provided that the designs are produced before an agreement is reached for the sale of a tangible product.

Design development may include charges for:

- copywriting
- drawings
- editing, translation, proofreading
- illustrations
- layouts
- market research proof sheets
- media planning
- meetings
- mock-ups
- story boards

Media Placement

Charges for the supply and placement of advertising through various forms of media are not subject to RST as the customer is not receiving a tangible product but rather an advertising service.

Examples of advertising media include:

- billboards
- bus stop kiosks
- magazines
- newspapers
- radio
- television

If the customer takes possession of a tangible product and arranges for its own placement, RST is payable on the total amount charged to the customer.

Website Design

The design and development of a website is the provision of a non-taxable service provided that all of the following conditions are met:

- the design is transferred to the customer electronically or is placed directly on the Internet
- the design is not provided in hard copy format (e.g., disk, CD, paper copy)
- the website does not contain a taxable computer program.

For additional information regarding computer programs and Internet services please refer to ***RST Guides 650 - Computer Programs and Related Services*** and ***651 - Internet Related Services***.

Taxable Purchases

Retail Sales Tax (RST) is payable on any supplies or services used by designers in the provision of non-taxable services. Examples include:

- art supplies
- cameras
- computers
- computer programs (excluding custom)
- desks
- fax machines
- general office supplies
- graphic tablets
- presentation equipment
- printers
- scanners
- telecommunication services

Non-Taxable Purchases

Designers are not required to pay RST on the cost of designs which will become part of exempt media such as books and magazines.

Electronic Transfer of Materials

Designs that are only provided to a customer electronically or via the Internet are not tangible products. Under these circumstances, RST should not be charged on the sale to the customer. Designers are required to pay RST on any taxable services or taxable goods used to produce these designs including any transmission equipment.

Copies of designs are often supplied on tangible media such as disks or other hard copy formats in addition to the electronic version. In cases where the design is supplied both electronically and in hard copy, RST must be charged on the total selling price billed to the customer as this is the sale of tangible personal property. RST applies even if the charges are listed separately on the bill of sale.

Provision of a Tangible Design

Vendors of Tangible Designs

Designers are vendors when they agree to supply their customer with a tangible design. This includes designs which are transferred onto a tangible medium supplied by the customer.

Where tangible designs are sold, vendors must collect RST at the rate of 8 per cent on the fair value unless the customer provides a valid PEC. Fair value includes all of the elements that together form the cost of goods on which the tax is calculated.

Sales of tangible designs include:

- brochures
- business cards
- CD-ROMs
- disks
- DVDs
- free-standing signage
- pamphlets
- paper copies
- photographs
- portable display units
- posters
- video tapes

When is RST Applicable to the Sale?

RST applies to all charges billed to a customer after an agreement is entered into for the sale of a tangible product. At this point designers begin their production or preparation for a tangible product and must charge RST on the fair value of the goods produced for sale. The agreement date must be clearly documented in the vendor's books and records. Where this point cannot be determined, RST is applicable to the entire amount charged.

For example: A customer may visit 2 separate design firms to obtain input on the development of a brochure. Each firm pitches their ideas as to how they visualize the final product. The customer is provided with a copy of each design firm's analysis. No Retail Sales Tax (RST) is charged to the customer by the designers as the designers are only providing a non-taxable service.

The customer considers both views and decides to conduct business with the first designer. The customer then enters into an agreement with the first designer for the supply of a brochure. It is at this point that the designer has contracted for the provision of a tangible product. The first designer must now charge, collect and remit RST on the fair value of the goods produced to fulfill the agreement.

Fair value may be comprised of:

- copywriting
- delivery/set up of goods
- further consultations
- further edits to proof sheets
- further mock ups
- further modifications to designs
- handling fees
- mailing charges
- printing costs
- proof reading
- transportation costs
- third party production fees

Exempt Purchases

Certain customers may be exempt from paying RST on the purchase of their goods. Examples of exemptions include:

- items purchased for resale purposes
- recording media used for the purpose of exhibition or broadcast to the public in a theatre or cinema or through a radio or television station or pay television system
- qualifying publications purchased by a school, school board, community college, university or public library that are not for commercial exhibition for profit
- qualifying publications purchased or produced by a religious, charitable or benevolent organization and used to promote the objectives of a religious, charitable or benevolent organization and not for commercial exhibition or profit
- designs purchased by individuals for placement in other exempt publications
- designs purchased by individuals for placement on non-returnable containers or packaging material which become part of the goods for resale.

A valid PEC must be obtained from the customer and retained by the designer to support the non-collection of RST.

For additional information please refer to ***RST Guides 204 - Purchase Exemption Certificates*** and ***507 - Publications***.

Delivery of Materials Outside of Ontario

RST should not be charged to the customer if:

- The designs are shipped directly by a vendor for delivery outside Ontario or to a third party in Ontario for trans-shipment with other goods
- The designs are transmitted via the Internet or electronically via a modem to an out of province address and the sale of hard copy formats such as disks, and paper are shipped directly by the vendor for delivery outside Ontario or to a third party in Ontario for trans-shipment with other goods outside the province.

Documentation such as bills of lading or other shipping documents identifying removal of the goods from Ontario must be retained by the designer to substantiate the non-collection of Retail Sales Tax (RST).

Non-taxable Purchases

Vendors purchasing goods to be incorporated into a design may acquire the goods exempt from RST by providing their supplier with a valid PEC at the time of purchase. Such goods include:

- CDs
- DVDs
- ink
- labels
- packaging materials
- paper

Taxable Purchases

Vendors must pay RST to suppliers on purchases of taxable goods and taxable services acquired for own use. If a supplier does not collect the applicable RST or if the goods are obtained from an out-of-province supplier, vendors must self-assess and remit RST on the fair value of the goods acquired, on line 3 of their RST return.

Bundled Charges

Charges for taxable goods and services should be clearly identified from goods and services which are non-taxable. Where these charges are not listed separately on the bill of sale to the customer, RST must be collected on the total fair value of the goods and services sold.

Real Property Contracts

Definitions

“Real property” means land and any item permanently attached to land.

“Fixtures” are items that are considered to be permanently attached to real property when installed.

“Attached” means by screws, nails, bolts, or embedded in concrete or permanently affixed in some way to real property.

Supply and Installation of a Fixture

Designers entering into contracts for the design, supply and installation of tangible personal property which becomes a fixture to real property, are acting in the capacity of a real property contractor. As the end consumer of the goods, designers are liable for the payment of RST on their cost of materials used to fulfill the contract. The RST paid by the designer should be included as an element of cost when setting the contract price and should not be shown on the invoice issued to the customer. Charges for installation labour are not subject to RST.

Examples of real property contracts include:

- design and application of murals on ceilings, walls, floors
- supply and installation of advertisement or design on shop windows
- supply and installation of signs or signage systems permanently affixed to real property
- supply and installation of retail interiors permanently attached to ceilings, walls or floors of a building.

For additional information on real property contracts please refer to ***RST Guide 206 - Real Property and Fixtures***.

Manufacturing

Manufacturing Designers may qualify as manufacturers provided that their:

Exemptions

- total sales of manufactured tangible designs sold to others exceed \$5,000 in a fiscal year, or
- “manufactured cost” of taxable designs produced for own use exceeds \$50,000 in a fiscal year.

Own use operations may include:

- the production and placement of a poster on a billboard
- the production and placement of an ad on a bus kiosk
- the manufacture and installation of signage as real property.

Once a threshold has been met, manufacturers may purchase production equipment and processing materials which are used primarily (more than 50%) and directly in the manufacture or production of goods, exempt from Retail Sales Tax (RST) by providing a valid PEC to their supplier at the time of purchase.

Qualifying equipment and materials may include:

- | | |
|-------------------|----------------------|
| • computers | • photographic paper |
| • design software | • plates |
| • digital cameras | • printers |
| • graphic tablets | • scanners |
| • ink cartridges | • transparencies |

General office supplies such as tables for computers and printers, stationery, filing cabinets, chairs, calculators, paper trays and telephones are taxable.

Accounting for RST on

Manufactured Cost

Where the manufactured cost of taxable designs produced for own use exceeds \$50,000 in a fiscal year, designers must pay RST on their manufactured cost of the designs produced.

Manufactured cost is comprised of:

- direct labour
- direct materials
- manufacturing overhead.

RST Not Due on

Manufactured Cost

When creating a design for a customer who is entitled to an exemption on the purchase, RST is not payable on the manufactured cost. Examples include:

- the production of commercials for placement through radio or television stations for public broadcast
- the production of print advertisements placed in exempt publications
- the production of signage systems incorporated into real property located outside Ontario.

To determine whether a customer qualifies for an exemption, please contact the Ministry of Revenue. For additional information on manufacturing operations please refer to **RST Guides 400 - Manufacturers, 402 - Printing** and **507 - Publications**.

Refunds

Where Retail Sales Tax (RST) has been paid in error on goods and/or services that qualify for an exemption, a refund may be claimed by the party that paid the tax in error. All refund claims must be received by the Ministry of Revenue within four years from the date the RST was paid. See ***RST Guide 700 – Refunds, Rebates and Adjustments*** for more details.

More Information



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Written Interpretation:
To obtain a written interpretation on a specific situation not addressed in this publication, please send your request in writing to:

Ministry of Revenue
Tax Advisory Services Branch
Retail Sales Tax Section
33 King Street West, 3rd Floor
Oshawa ON L1H 8H5

Disclaimer and References

The information contained in this publication is provided only as a guideline and is not intended to replace the legislation.

Legislative References

- *Retail Sales Tax Act*, section 1, subsection 2(1), paragraphs 7(1)40, 41, 42, 44, 45, 46, 47, 47.1, 55
- Regulation 1012 under the *Retail Sales Tax Act*, section 14
- Regulation 1013 under the *Retail Sales Tax Act*, section 1; section 20(1)

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