

THE RETAIL SALES TAX ACT

INFORMATION FOR CONTRACTORS

This bulletin explains the retail sales tax (RST) requirements affecting contractors.

General information

- How RST is applied by contractors depends on whether the work performed by a contractor is in respect of real property or tangible personal property (TPP)
- Real property is land and buildings or structures (other than storage structures that are not buildings) permanently attached to land. Permanent additions or improvements to land or buildings are also considered to be real property.

Please note: Machinery, equipment, apparatus, storage structures (that are not buildings), and mechanical and electrical (M&E) systems (i.e., plumbing, heating, cooling, electrical, electronic and telecommunication systems and components) that are defined in the Act to be TPP, do not become real property even when installed on, under or in, or attached to land or buildings.

- To help you distinguish between real property and TPP, see Bulletin No. 008 – *Installation, Repairs and Improvements to Real Property*.

When must contractors pay RST, when must they collect RST?

- Contractors are required to pay RST on purchases of materials and taxable services that they install into real property. They should not charge RST on their billings for construction, installation, maintenance or repair of real property.
- Contractors are required to pay RST on purchases, rentals and leases of equipment; repairs to equipment; and supplies they use in performing work on real property. [See page 4 in this bulletin for tax payment on equipment temporarily brought into Manitoba by non-resident contractors].
- Contractors do not pay RST on purchases of materials or other goods for resale (i.e. supply only contracts). The contractor collects the RST from the customer and remits it to the Taxation Division.
- Contractors do not pay RST on their purchases of goods and services that are “supplied and installed” for a customer, whereby the goods remain TPP after installation (ex. production equipment, M&E systems).

Note: Revisions to contents of previous Bulletin (December 2010) have been identified by shading ()

In this case the contractor must collect the tax from the customer on the total contract price including the charges for installing the goods.

Please note: Contractors are required to pay tax on their purchase, rental or lease of all equipment (plus related repairs) and supplies *for their own use* in supplying and installing TPP. Goods for a contractor's own use are not considered to be resold to the customer, even when itemized as a (taxable) line charge on the invoice to the customer for the supply and install job. Tax still applies on the purchase to the contractor.

- Contractors do not pay RST on their purchases of goods or services that are installed into TPP as part of taxable services (ex., the repair, maintenance, testing or installation of production equipment or M&E systems). In this case, the contractor must collect tax from the customer on the total charge relating to the taxable service including parts and/or labour.

Please note: Contractors must collect RST on their labour charge for taxable services to TPP, such as repair, maintenance, installation and testing, even if the service does not require any parts.

- RST does not apply to 3rd party transportation charges (ex., airfare, bus, train or taxi), accommodation or meals, including per diem or living allowance charges as quoted in the contract, if they are segregated on the invoice and RST has been paid, where applicable.
- Earthwork related to real property contracts, whether inside or outside of a building is not taxable (including site preparation, excavation for basements, piling, underground parking structures, backfilling and surface restoration).

Earthwork performed outside of a building related to M&E work such as installation of telecommunication lines, electrical cables, conduit, sewer or waterlines, gas or oil pipelines, irrigation lines, underground tanks and septic tanks/fields is also not taxable.

Earthwork performed inside of a building in relation to M&E work is fully taxable.

What is the tax rate?

- The Manitoba retail sales tax rate is 7 per cent of the total purchase price or sale price of the taxable items before GST is added.

What is the taxable value of materials purchased by contractors for own use?

- When goods or services are purchased or leased in Manitoba, RST is paid on the total purchase price or lease charges.
- If the contractor purchases or leases goods outside Manitoba and brings them into the province for use, RST is payable on the total laid-down cost or total lease charges. The total laid-down cost (in Canadian funds) includes:
 - the basic cost of the goods
 - brokerage charges
 - transportation costs
 - any other costs (excluding GST) related to the goods

- If a contractor manufactures goods and installs the goods in a real property contract, RST is calculated and payable on the total of:
 - the cost of materials
 - the cost of direct labour
 - manufacturing overhead at 150 per cent of the cost of direct labour, or the actual overhead rate, whichever is less

Please note: Where a contractor manufactures and regularly sells the same or similar goods to purchasers with whom the contractor deals at arm's length, he/she may choose (for simplicity) to pay the RST on the regular selling price of the goods that are installed into real property instead of using the above calculation.

When is the RST payable on goods acquired for own use?

- When a contractor purchases or leases taxable goods or services for their own use from a Manitoba registered vendor, RST is payable to the vendor.
- In all other circumstances, or when the vendor has not collected the tax, the contractor is required to self-remit the applicable RST to the Taxation Division. The remittance along with a completed return may be filed through your financial institution, mailed or delivered, but must be received by the Taxation Division **no later than 4:30 p.m. on the 20th of the month** following the purchase or lease (or you may qualify to file your return quarterly, semi-annually or annually, depending on average remittances). If the 20th falls on a weekend or statutory holiday, the due date is the next working day after the 20th.
- Contractors registered for retail sales tax purposes will receive a return approximately ten days before it is due.
- Tax returns can also be completed and paid online using Manitoba's TAXcess service. Visit the site at Manitoba.ca/TAXcess for more information.

What is the requirement for registration?

- Contractors must be registered with the Taxation Division if:
 - you sell taxable goods or services (ex. you supply and install or repair goods that remain TPP after installation)
 - you install goods into real property that you manufacture or purchase tax exempt
 - you purchase taxable goods or services from businesses that do not collect RST (e.g., out-of-province businesses)
- Application forms for registration are available from the Taxation Division offices or Web site listed at the end of this bulletin. Applications can also be made on-line at Manitoba.ca/TAXcess. There is no charge for applying.

What are the responsibilities

- The general contractor or principal must provide the Taxation Division with the following information on all subcontracts awarded:

**of general
contractors,
subcontractors
and principals?**

- the name and address of each subcontractor
- the nature of each subcontract
- the value of each subcontract and who is responsible for the tax
- the proposed date of commencement and completion of each subcontract

Forms for submitting this information are available from the Taxation Division - Desk Audit Section or the website listed at the end of this bulletin.

- A **non-resident contractor** who uses goods or services to perform a contract in Manitoba is required to deposit cash or securities with the Minister, OR to enter into a bond, in an amount not exceeding 9.15 per cent of the total price to be paid under the contract in order to secure the contractor's obligation to pay or remit retail sales tax and/or health and post-secondary education tax levy (payroll tax).

Please note: The bond must be issued by an insurer who is licensed to carry on business under *The Insurance Act* of the province of Manitoba, and is to be in a form satisfactory to the Minister of Finance. (A sample form is available from the Taxation Division – Desk Audit Section).

- Before the final payment is made to a non-resident subcontractor, either the resident general contractor or principal must obtain a clearance letter from the Taxation Division – Desk Audit Section stating that the non-resident subcontractor's tax account is in good standing. If the general contractor is a non-resident, the principal must ensure that the clearance letter from the Taxation Division – Desk Audit Section has been obtained for each of the non-resident subcontractors and the general contractor.

If a non-resident contractor's account is not in good standing, either the resident general contractor or the principal is required to set apart from any holdback, an amount equal to the tax due and to remit that amount to the Taxation Division. If the general contractor is a non-resident, the principal must remit the tax due to the Taxation Division that has not been remitted by the non-resident contractors.

Please note: If the holdback is released without a clearance letter and a bond or deposit has not been provided, the general contractor or principal, as the case may be, will be held liable for any unpaid tax.

- Upon completion of the contract in Manitoba, the Taxation Division may perform an audit. The deposit or bond will be returned and a clearance letter issued if it is determined that the tax has been fully paid.

Tax on temporary use of equipment owned by non-resident contractors

- Non-resident contractors who have purchased equipment (other than a multijurisdictional vehicle or railway rolling stock) outside the province and bring it into Manitoba for a temporary period may, instead of paying RST at 7% of the 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 taxpayer owned equipment should be calculated on the following basis:

$$\text{Tax} = 7\% \times A \times B/1095$$

A = Taxable value of the equipment

B = Number of days in the province

Please Note: As done previously, taxpayers can continue to apply the tax at 7% of 1/36th of the taxable value of the equipment, which for a full month approximates the tax which would apply using the formula above. The self-assessed tax is due with a contractor's monthly RST return.

For this purpose, the **taxable value** of taxpayer-owned equipment must be established each time the equipment enters Manitoba, calculated as either:

- a) The price paid for the equipment when it was purchased, less 5 per cent depreciation per year owned (minimum taxable value 20 per cent of purchase price), or
- b) New replacement cost of similar equipment (in Canadian dollars), less 10 per cent depreciation per year the equipment has been owned (minimum taxable value, 20 per cent of new replacement cost).

Tax on temporary use of leased equipment

- If the equipment is being leased, the RST is payable on the total monthly lease payment 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.

Taxable lease payments include basic lease charges, royalties, license fees and any other consideration in connection with the equipment (excluding GST).

Additional costs associated with temporary use equipment

- The cost of crating, handling, transportation, installation, assembly and other costs related to bringing temporary use equipment (owned or leased) into Manitoba is fully taxable at 7%.

Likewise, any additional 3rd party charges to disassemble or uninstall TPP are taxable at 7%. Disassembly or uninstalling TPP for removal from Manitoba is not taxable, where the service provider ships the TPP out of province.

Tax calculation examples for temporary use equipment

- Examples of calculating the tax on temporary use of equipment:

Taxpayer Owned Equipment

Suppose equipment is brought into Manitoba on May 20, 2011 and is removed July 27, 2011. If the taxable value is determined to be \$100,000 and the cost of transportation and installation is \$2,500 the RST payable on the equipment is as follows:

May 2011:

- $7\% \times \$100,000 \times 12/1095 = \76.71
- Tax on the transportation and installation costs
 $7\% \text{ of } \$2,500 = \175.00
- Total RST due = $\$76.71 + \$175.00 = \$251.71$.

June 2011

- RST due = $7\% \times \$100,000 \times 1/36 = \194.44 .

July 2011

- RST due = $7\% \times \$100,000 \times 27/1095 = \172.60 .

Leased Equipment

Suppose equipment is brought into Manitoba on June 1, 2011 and is removed August 10, 2011. If the monthly lease payment is \$5,000 and the cost of transportation and installation is \$2,500 the RST payable on the equipment is as follows:

June 2011

- RST due = $7\% \times (\$5,000 + \$2,500) = \$525.00$

July 2011

- RST due = $7\% \times \$5,000 = \350.00

August 2011

- RST due = $(\$5,000 \times 10/31) \times 7\% = \112.90

Opting out of temporary use payments

- The calculation of tax on the temporary use basis, described above, assumes that the equipment will be in the province for a temporary period, no longer than three years. If the equipment remains in the province longer than three years, the contractor must continue to pay tax monthly on 1/36 of the taxable value, including all months beyond three years (36 months).
- Businesses may opt out of the temporary use payments if it becomes apparent, due to a contract extension or other circumstances that the equipment will remain in the province beyond 36 months.
- To opt out of temporary use payments, the business will be required to make a lump sum final tax payment on the equipment, based on the following formula

$$\text{Final Payment} = (\text{TTV} + \text{I1}) - (\text{TTU} + \text{I2})$$

TTV = Tax on full taxable value of the equipment upon entering Manitoba

I1 = Interest on TTV from the entry date to the end of the immediately preceding month

TTU = Total temporary use payments made on the equipment

I2 = Interest on the monthly temporary use payments to the end of the immediately preceding month

- Interest is charged at the current prime rate available to the province plus 4%. Contact the Taxation Division for further information and the applicable interest rate.

Does tax apply to government contracts?

- RST applies on taxable TPP and services sold to **the Province of Manitoba, cities, towns and municipalities.**
- RST does not apply on taxable TPP and services (including mechanical and electrical contracts) sold to the **Federal Government**. In this case, the contractor allows the exemption to the Federal Government by recording the government's RST number on the billing.
- In the case of **real property contracts**, the contractor is the consumer of the goods and services installed into real property. Therefore contractors who perform real property work for governments (including the Federal Government) do not collect RST on the contract price, but must pay RST on all taxable services and goods they acquire and install into real property or use for performing the work.

How does tax apply to supply only contracts with Indians or Indian Bands?

- Indians or Indian Bands do not pay RST on the "supply only" of goods or services if the sale of the goods or services takes place on the reserve or the goods are purchased by an Indian or Indian Band off reserve and the goods are all shipped by the contractor to the reserve.

Contractors must record the purchaser's Certificate of Indian Status number on the sale invoice (or in the case of an Indian Band, its band

number) including the reserve's address and document the mode of delivery of the goods to the address on the reserve.

Please note: The exemption does not apply to corporations that are owned by Indians or Indian Bands.

How does tax apply to supply and install contracts with Indians or Indian Bands?

- When carrying out “supply and install” **real property** contracts with Indians or Indian Bands, contractors must pay the tax where applicable on services and goods that they acquire and install into real property or use for performing the work on or off reserve.

Note: M&E systems (e.g., plumbing, heating, cooling, electrical, etc.) are defined in the Act to be TPP. See Bulletin 031 – *Mechanical and Electrical Trades* for more information. Therefore contracts to supply and install or repair these systems for Indians and Indian Bands are not taxable when provided on a reserve.

- An Indian or Indian Band may acquire materials RST exempt and subsequently provide them to a contractor for installation into real property on a reserve. In this case there is no RST to be paid by the contractor unless the contractor purchases additional materials for their own use to perform the contract.

Please note: In order to qualify for the tax exemption, an Indian or Indian Band must have purchased or received delivery of the materials on the reserve before they are installed into real property.

How does tax apply on out-of-province contracts?

- Manitoba RST generally does not apply on materials or services used to perform contracts out of province where the contractor takes possession of the materials or services outside Manitoba.
- Contractors who purchase materials in Manitoba and then remove them for use outside the province, may be allowed a refund of the RST paid in Manitoba, if they are able to provide satisfactory evidence that:
 - the materials have been removed for use outside the province (and will not be subsequently returned for use in Manitoba), and
 - the provincial sales tax (where applicable) on those materials has been paid to the province of destination
- Manitoba contractors should contact the applicable out-of-province jurisdiction regarding their tax responsibilities when performing work outside Manitoba.

How does tax apply to contracts involving both real property and TPP?

- When a real property building construction contract includes the supply and/or installation of M&E systems, the general contractor pays RST on the M&E system and includes the RST in their total price for the real property contract. Please refer to Bulletin No. 031 - *Mechanical and Electrical Trades*.
- When a real property building construction contract also includes the supply and installation of other items that remain TPP (ex., production equipment), the contract price must be split appropriately between real

property and this TPP.

- a) The contractor must pay RST as outlined in this bulletin, on goods and services installed into real property (including the installed M&E systems).
- b) For the supply and installation of production equipment, the contractor must collect and remit the RST on the total selling price related to this portion of the contract price. The TPP and real property must be separately billed or segregated on a combined invoice; otherwise the total contract would be taxable.

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
Desk Audit Section Fax (204) 948-2470

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.