



PST-63

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THE PROVINCIAL SALES TAX ACT

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INFORMATION REGARDING SALES TO FIRST NATIONS INDIVIDUALS AND ORGANIZATIONS

This bulletin has been prepared to help you apply, collect or administer the Provincial Sales Tax. It is a general guide and not a substitute for the legislation.

The contents of this bulletin are presented under the following sections:

- A. General Information
- B. Sales and Leases of Goods to Indians, Indian Bands and Band-Empowered Entities
- C. Services Provided to Indians, Indian Bands and Band-Empowered Entities
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A. GENERAL INFORMATION

First Nations individuals and bands are referred to as “Indians” and “Indian bands” in this bulletin as those are the terms used in the *Indian Act* (Canada), which establishes the tax exemptions for First Nations people and organizations. For the purposes of administering the Provincial Sales Tax, an Indian is a person who falls within the legal definition of an “Indian” under the *Indian Act* (Canada) and who is in possession of a Certificate of Indian Status identification card issued by the federal government. These cards are numbered and contain a photograph, name and the Indian band or registry number of the card holder. Métis, Inuit or First Nations people from the United States do not meet the definition of an Indian under Canadian legislation.

Land that qualifies as reserve land under the *Indian Act* (Canada) includes designated reserve land. This also includes designated urban reserves.

Under the *Indian Act* (Canada) Indians and Indian bands are exempt from provincial taxation on tangible personal property situated on reserve or designated reserve land.

Since a corporation is a legal entity that is separate and distinct from its shareholders, most corporations do not qualify for the Provincial Sales Tax exemption. The exceptions relate to non-commercial band-empowered entities and corporations that act as the general partner on behalf of certain Indian-owned Limited Partnerships.

B. SALES AND LEASES OF GOODS TO INDIANS, INDIAN BANDS AND BAND-EMPOWERED ENTITIES

A vendor is not required to collect Provincial Sales Tax on the sale or lease of tangible personal property to an Indian, Indian band or non-commercial band-empowered entity provided the goods are delivered to a reserve by the vendor. The customer must present their Certificate of Indian Status identification card issued under the *Indian Act* (Canada) and the complete 10 digit card number must be recorded on the sales invoice. The vendor must retain documentation to support the exemption. If the card number is less than 10 digits, the number and the band name must be recorded. The vendor is required to maintain proof of delivery such as a waybill, freight bill or postal receipt.

The exemption applies to Indians whether or not they reside on a reserve providing the vendor ships the goods to a reserve. If the customer takes possession of the goods off-reserve, tax must be collected in all cases.

C. SERVICES PROVIDED TO INDIANS, INDIAN BANDS AND BAND-EMPOWERED ENTITIES

When services are provided to an Indian, Indian band or non-commercial band-empowered entity, the tax status depends on the nature of the service provided. Professional services are generally exempt if the service relates to an activity or location on a reserve. Repair services are only exempt from tax when the service is performed on a reserve.¹

Legal services that relate to an activity or real property located on a reserve or that relate to treaty or land claim issues are not subject to tax.² The service does not have to be performed on a reserve.

Accounting services related to on-reserve activities are not subject to tax.³ The service does not have to be performed on a reserve.

Engineering services with respect to a facility or project on a reserve are not subject to tax.⁴ The service does not have to be performed on a reserve.

¹ Information Bulletin PST-57, *Information for Businesses Providing Repair and Installation Services*

² Information Bulletin PST-64, *Information for Lawyers*

³ Information Bulletin PST-62, *Information for Businesses Providing Accounting Services*

⁴ Information Bulletin PST-65, *Information for Businesses Providing Engineering, Geoscience and Architecture Services*

Telecommunication services, such as cable television services and telephone services, are exempt from tax provided the services are delivered to a location on a reserve.⁵ Telecommunication services provided off-reserve to an Indian, Indian band or band-empowered entity, are subject to tax.

D. SUPPLY AND INSTALL CONTRACTS ON INDIAN RESERVES

Contractors are considered to be the consumers of materials used in supply and install contracts.⁶ However, a construction contract on a reserve may be structured so that the Indian customer is the consumer of the materials and therefore not subject to tax. Contractors who have paid Provincial Sales Tax on materials used in such a construction contract may apply for a refund of the tax paid provided the contract with the Indian customer specifically excludes the tax. Only the contractor who has the contract directly with the Indian customer may apply for a refund. Subcontractors are not eligible as their contracts are with the general contractor and not the Indian customer.

The general contractor may include the tax paid by the subcontractors in the refund application. The subcontractor's quote should state that the tax is included in the contract price and the amount of tax paid should be disclosed to the general contractor. When applying for a refund, the contractor must submit a copy of the contract with the Indian customer and copies of all purchase invoices.

If the contract is with an Indian-owned corporation or if the construction site is located off-reserve, tax is payable by the contractor and no refund is available.

E. BAND-EMPOWERED ENTITIES

Band-empowered entities including corporations and other organizations are entitled to the same exemption as Indian bands providing they meet the following requirements:

- The band-empowered entity is formed for the sole purpose of non-commercial activities related to band administration or for providing on reserve services, including health centers, churches and schools;
- The band-empowered entity is comprised solely of Indians and/or Indian bands; and
- The expenses are incurred on a reserve.

Vendors should obtain the following certification on invoices for exempt sales to band-empowered entities:

"This is to certify that these goods or services are being purchased by (name of band-empowered entity) on (name of reserve) for band management activities and are exempt from tax."

Signature of Authorized Official

⁵ Information Bulletin PST-8, *Information for Vendors Providing Telecommunication Services*

⁶ Information Bulletin PST-12, *Information for Contractors*

F. TRIBAL COUNCILS

A tribal council is a grouping of two or more Indian bands with a common interest that have joined together to provide advisory or program services for their members. Some tribal councils become incorporated; however, many remain unincorporated. Purchases by incorporated tribal councils are subject to tax in all cases while purchases by unincorporated tribal councils are exempt from tax. To qualify for the exemption the goods must either be purchased on a reserve or delivered to a reserve by the vendor.

G. INDIAN BUSINESSES

Unincorporated businesses located on a reserve and owned by individual Indians or an Indian band are not required to pay the tax on goods or services purchased for business use provided the goods or services are billed to an Indian or Indian band and are delivered to a reserve by the vendor.

Unincorporated businesses located off the reserve and owned by an Indian or Indian band are required to pay the tax on purchases of goods and services for business use.

Incorporated Indian businesses, whether located on or off reserve, are required to pay the tax on purchases of goods and services for business use with the exception of limited partnerships that qualify as outlined below.

H. LIMITED PARTNERSHIPS

Although limited partnerships include an incorporated partner as the operating or general partner, and corporations are not legally entitled to the tax exemptions established by the *Indian Act* (Canada), an exemption is allowed on purchases made by certain Indian-owned limited partnerships providing they meet the following requirements:

- All limited partners are Indians, Indian bands or unincorporated tribal councils;
- Any incorporated general partner, established for the purpose of carrying on the business of the limited partnership, is wholly owned and controlled by the Indian limited partners and has less than a 5% equity interest in the limited partnership; and
- The limited partnership does not engage in commercial activities off of a reserve and complies with all other requirements relating to the tax exemptions under the *Indian Act*.

I. URBAN RESERVES

An urban reserve is land that has received official Indian reserve status from the federal government and is located within an urban municipality.

A vendor located on an urban reserve is not required to collect tax on goods sold to an Indian, Indian band or non-commercial band-empowered entity when the goods are picked up by the customer on the urban reserve. Sales made on an urban reserve to all other customers are subject to tax.

J. SASKATCHEWAN ELECTRONIC TAX SERVICE (SETS)

Saskatchewan's Ministry of Finance has made it possible to report and remit tax electronically through the use of a standard Internet connection. The Saskatchewan Electronic Tax Service (SETS) offers a secure, fast, easy and convenient alternative to filing returns in paper format. Several E-File services are currently available through SETS.

Businesses may use SETS to file and pay returns for Provincial Sales Tax and other provincial taxes.

SETS allows businesses to:

- File and pay returns or make payments on account.
- File a return and post-date the payment to the due date.
- View account balance and statement information.
- Authorize your accountant to file on your behalf.
- Subscribe to an E-mail Notification Service that allows the option to be notified by e-mail that a tax return should be filed (replaces the paper forms normally received in the mail).

FOR FURTHER INFORMATION

<u>Write:</u>	Ministry of Finance Revenue Division PO Box 200 Regina, Saskatchewan S4P 2Z6	<u>Telephone:</u> Toll Free 1-800-667-6102 Regina 306-787-6645
	<u>E-mail:</u>	sask.tax.info@gov.sk.ca
	<u>Fax:</u>	306-787-9644

Internet: Provincial Sales Tax bulletins, forms and information are available on the internet at:

<http://www.finance.gov.sk.ca/taxes/pst>

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