



Information Bulletin

PST-64

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THE PROVINCIAL SALES TAX ACT

INFORMATION FOR LAWYERS

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

The changes to this bulletin are indicated by a (I).

The contents of this bulletin are presented under the following headings.

- A. Taxation of Legal Services
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- H. Solicitor-Client Privilege
- I. Sales of Used Business Assets
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A. TAXATION OF LEGAL SERVICES

Lawyers who provide legal services related to Saskatchewan are providing a taxable service and are required to collect tax from their clients on fees rendered for those services.

B. LEGAL SERVICES PROVIDED TO RESIDENT AND NON-RESIDENT CLIENTS

Fees charged to residents of Saskatchewan for legal services that relate to Saskatchewan, whether such legal services are provided by a lawyer within the province or outside Saskatchewan, are subject to tax.

Legal services provided to a non-resident client or by a lawyer within the province or outside Saskatchewan are subject to tax only if the legal services relate to one or more of the following:

- Tangible personal property that is ordinarily situated in Saskatchewan or that is to be delivered into Saskatchewan, including the right to use such property or a contemplated act respecting such property;
- The ownership, possession, or use of real property in Saskatchewan or a contemplated act respecting such property;
- A court or an administrative proceeding in Saskatchewan or a possible action or proceeding;
- The incorporation or contemplated incorporation of a corporation carrying on business in Saskatchewan or the registration of a corporation as an extra-provincial corporation in Saskatchewan;
- A matter that involves the interpretation or application of a law, where the subject matter, activity or contemplated activity governed by the law is located in Saskatchewan;
- A contract or legal agreement where the subject matter, activity or contemplated activity of the contract or agreement is located in Saskatchewan.

C. LEGAL SERVICES RELATING TO MORE THAN ONE JURISDICTION

Legal services provided to a client who is resident in more than one jurisdiction or who carries on business in Saskatchewan and one or more other jurisdictions are subject to tax only on the portion of the legal services that relate to Saskatchewan.

D. LEGAL SERVICES RELATING TO SASKATCHEWAN

Legal services relate to Saskatchewan if they relate to any of the following services:

- Those provided to a non-resident client or by a non-resident lawyer as described above;
- Those involving the interpretation, application or enforcement of an enactment as defined in The Interpretation Act, 1995; and
- Those involving the interpretation, application, negotiation or enforcement of:
 - (1) A contract or covenant; or
 - (2) An enactment or other law of a jurisdiction other than Saskatchewan,

and such services are in relation to:

- (1) A physical or legal presence or a contemplated presence in Saskatchewan;
- (2) An activity or a contemplated activity in Saskatchewan; or
- (3) A transaction or a contemplated transaction in Saskatchewan.

Examples of services that do not relate to Saskatchewan include:

- Services related to the purchase of real property in another jurisdiction by a Saskatchewan resident;
- Services related to the purchase of goods outside of Saskatchewan, except where the goods are to be delivered to or used in Saskatchewan.

E. EXEMPT SERVICES

The following are examples of services provided by lawyers and law firms that are not subject to tax:

- Providing advice relating to investments, financial planning or estate planning are exempt when segregated from taxable legal services;
- Acting as a trustee, executor, director or administrator of an estate, Commissioner for Oaths or Notary Public;
- Mediation services;
- Acting as a member of a tribunal;
- Legal services covered by The Legal Aid Act;
- Maintaining the records of a corporation;
- Teaching or providing courses or seminars;
- Providing immigration or emigration services;
- Providing labour standards arbitration services pursuant to The Labour Standards Act;
- Acting as an officer or director of a corporation;
- Legal services provided by a person to that person's employer in the course of employment;
- Legal services provided to a status Indian, Indian band or band-empowered entity that relate to a business, real property or activity located on a reserve or that relate to aboriginal treaty or land claims issues.
- Legal services provided to federal government departments and agencies. Legal services provided to federal Crown corporations are subject to tax. Legal services provided to provincial government departments, agencies and Crown corporations are subject to tax.

Note: The legal services provided to band empowered entities must be provided for "non-commercial" on-reserve businesses or for band management activities, such as building schools or health centres on a reserve.

F. EXEMPT DISBURSEMENTS CHARGED TO THE CLIENT

The following disbursements are exempt from tax when itemized separately from legal services on an invoice provided to the client:

- Long distance telephone charges;
- Charges for facsimile transmission;
- Charges for printing or photocopying documents; and
- Fees for searches;
- Land Titles Office fees;
- Personal Property Registry fees;
- Corporate Registry fees;
- Courier charges;
- Conduct money provided to witnesses;
- Third party fees or charges that do not form part of the legal service that are charged separately on the client's invoice on a cost-recovery basis.

Charges or fees for legal research, secretarial services or other overhead costs are considered to form part of the legal service and are not exempt even if charged separately on the client's invoice.

A lawyer who obtains legal services from another lawyer on behalf of a client may include that expense as an exempt disbursement if the lawyer paid or pays the tax in respect of the legal services on behalf of the client.

G. TAX CREDIT FOR BAD DEBTS

A lawyer or law firm may claim a credit for the tax portion of their receivables that are written off as uncollectible. The tax credit should be taken as an internal adjustment in the lawyer's or law firm's records. Records of the accounts written off and tax credits claimed must be kept for audit verification by the Revenue Division.

H. SOLICITOR-CLIENT PRIVILEGE

No proceeding relating to the administration, enforcement or collection of tax will derogate from a client's rights to solicitor-client privilege under the common law.

I. SALES OF USED BUSINESS ASSETS

Businesses are required to collect tax on the sale of used assets, such as vehicles and equipment. When used assets are being sold as part of the transfer or closure of a business, the purchaser is required to self-assess and report the tax.

Note: For information on the exemption of tax on "eligible used light vehicles" please refer to Information Bulletin PST-58.

J. GOODS AND SERVICES FOR YOUR OWN USE

Lawyers and law firms are required to pay tax on purchases of equipment, services, and supplies used in their business. If taxable goods or services are purchased from a licensed supplier, the tax must be paid to the supplier. If they are purchased from an unlicensed supplier located outside Saskatchewan, the tax must be self-assessed and submitted with your return on the laid-down cost, which includes currency exchange, transportation charges, customs and excise duties, and importation charges, but not GST.

K. SASKATCHEWAN ELECTRONIC TAX SERVICE (SETS)

Saskatchewan 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

Write: Ministry of Finance
Revenue Division
2350 Albert Street
Regina, Saskatchewan
S4P 4A6

Telephone: Toll Free 1-800-667-6102
Regina 306-787-6645

E-mail: sask.tax.info@gov.sk.ca

Fax: 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>

To receive automatic e-mail notification when this (or any other) bulletin is revised, go to www.finance.gov.sk.ca/taxes, click on the "What's New" information then click on the "subscribe" button.