



# Provincial Sales Tax (PST) Notice

Notice 2012-024

Issued: December 2012

## Software

### *Provincial Sales Tax Act*

During the summer of 2011, British Columbians had the opportunity to participate in a province-wide referendum on the harmonized sales tax (HST). On August 26, 2011, Elections BC announced that British Columbians had voted in favour of eliminating the HST and returning to the provincial sales tax (PST) plus federal goods and services tax (GST) system.

Following the referendum results, government committed to make the transition back to the PST/GST system as quickly as responsibly possible. The *Provincial Sales Tax Act* received Royal Assent on May 31, 2012, and the PST will be re-implemented on April 1, 2013.

This notice provides a general overview of the application of the PST to purchases of software. This notice does not apply to software acquired on a physical medium on which PST is payable as tangible personal property (goods).

**Please note:** Some of the rules and requirements described in this notice are subject to legislative and regulatory approval.

For information on how PST applies to purchases of taxable software that straddle April 1, 2013, please see PST [Notice 2012-10](#), *General Transitional Rules for the Re-implementation of the Provincial Sales Tax*.

## What is Software?

For the purpose of the PST, software means a software program that is delivered or accessed by any means, or the right, whether exercised or not, to use a software program that is delivered or accessed by any means. Examples of software include source code, executable code, operating system software, application software, “apps” and gaming software.

Electronic device means a device by which a person may use software. It does not matter whether the software is downloaded to the electronic device or accessed remotely by the electronic device.

Examples of electronic devices include desktop computers, gaming devices and mobile devices, such as smart phones, tablets and laptop computers.

## Purchases of Software – General Application

The purchase of software in BC for use on or with an electronic device ordinarily situated in BC for personal or business use will be subject to PST, unless a specific exemption applies.

The personal or business use of software on or with an electronic device ordinarily situated in BC by a BC resident, or by a non-resident who owns (or leases in certain circumstances) real property in BC, will be subject to PST regardless of where the software was purchased, unless a specific exemption applies.

## **Purchases of Software by Business – Specific Application**

Unless a specific exemption applies, the purchase of software by a business where the software is for use, or is used, in the course of business in BC will be subject to PST payable on a pro-rated basis in the following circumstances.

- The business purchases software in BC for use on or with an electronic device ordinarily situated inside BC **and** on or with an electronic device ordinarily situated outside BC.
- The business purchases software (anywhere in the world) and uses the software, or allows the software to be used, on or with an electronic device ordinarily situated inside BC **and** on or with an electronic device ordinarily situated outside of BC.

In these circumstances, the amount of PST payable will be calculated based on the amount of BC usage of the software.

More information about determining BC usage and the obligation to pay tax on software in these specific circumstances will be provided in future bulletins and notices.

## **Exemptions**

Exemptions for software under the previous PST will be re-implemented with the PST, including but not limited to, exemptions from tax on software in the following circumstances.

- Custom and custom modified software
- Software used for the purpose of being processed, fabricated, manufactured or incorporated into:
  - other software for the purpose of retail sale, or
  - goods for the purpose of retail sale or lease.

Services provided to software, including installation and modification services, will not be subject to PST.

More information about exemptions will be provided in future bulletins and notices.

## **Paying and Collecting Tax**

In most cases, the seller of software in BC will charge and collect the PST payable on the purchase of taxable software. However, where the seller of the software is located outside of BC, purchasers may be required to self-assess tax. Similarly, where businesses purchase software for multijurisdictional use, the business will generally be required to self-assess the tax. More information on the requirement to self-assess will be provided in the near future.

## **Further Information**

If you have any questions, please call us toll free at 1 877 388-4440 or email your questions to [CTBTaxQuestions@gov.bc.ca](mailto:CTBTaxQuestions@gov.bc.ca)

You can also find information on our website at [gov.bc.ca/pst](http://gov.bc.ca/pst)

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

You can access *Bill 54-Provincial Sales Tax Act* on the Legislative Assembly of British Columbia website at [leg.bc.ca/39th4th/3rd\\_read/gov54-3.htm](http://leg.bc.ca/39th4th/3rd_read/gov54-3.htm)

The *Provincial Sales Tax Act* Regulations will be posted to our website as soon as they are available.

For up to date information on the return to PST, subscribe to our What's New page at [sbr.gov.bc.ca/msbr/whats\\_new/consumer\\_taxes/whatsnew.htm](http://sbr.gov.bc.ca/msbr/whats_new/consumer_taxes/whatsnew.htm)