



Legal Services

Provincial Sales Tax Act

This bulletin provides information on how the provincial sales tax (PST) applies to purchases of legal services, effective April 1, 2013.

If you provide legal services in BC, you must register for PST and charge the PST payable on the purchase of legal services. For information on how to register for PST, please see [Bulletin PST 001](#), *Registering to Collect Provincial Sales Tax (PST)*. For information on charging PST, see [Bulletin PST 002](#), *Charging, Collecting and Remitting PST*.

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What Are Legal Services?

Legal services are services that come within the meaning of the practice of law under the *Legal Profession Act* and services described in section 18 of the *Notaries Act*.

Examples of legal services include, but are not limited to, the following services:

- Legal counselling (providing legal advice)
- Acting as legal counsel in negotiations, including settling terms of a purchase of a business in BC
- Legal services provided via a 1-900 number
- Tax or estate planning that includes the provision of legal advice
- Providing legal advice or acting as counsel or advocate to a party in a court proceeding, or in a legally mandated arbitration or mediation
- Preparing documents, including conveyance documents and documents to maintain a company’s registered office and records office (i.e. minutes, resolutions, bylaws, annual reports and returns)

Services That Are Not Legal Services

Some services performed by lawyers or notaries are not legal services, including:

- Acting as an arbitrator or mediator
- Acting as a member of a tribunal
- Acting as a trustee, executor or director
- Negotiating collective agreements
- Providing immigration or emigration services
- Providing general record-keeping for a corporation
- Speaking at seminars on general legal topics

However, if any of these services include or result in legal advice or legal services being provided, they are taxable regardless of whether they are separately listed on the bill.

Services provided by a person to that person's employer in the course of employment are not legal services for PST purposes.

Legal Services Provided in BC

Legal services provided in BC to a person who resides, ordinarily resides or carries on business in BC are subject to PST, unless a specific exemption applies.

Legal services provided in BC to a person who does not reside, ordinarily reside or carry on business in BC are subject to PST, unless a specific exemption applies, if the legal services relate to:

- Real property situated in BC
- Tangible personal property that is, or that is contemplated to be, ordinarily situated in or delivered in BC
- Any other property that is, or that is contemplated to be, owned, possessed or used in BC, or a right to use such property in BC
- A court or administrative proceeding in BC or a possible proceeding
- The incorporation or contemplated incorporation of a company under the *Business Corporations Act* or *Society Act*
- The registration or contemplated registration of a corporation as an extra-provincial company or society under the *Business Corporations Act* or *Society Act*

For example, a person who does not reside, ordinarily reside or carry on business in BC hires a BC lawyer to represent them in an insurance dispute that relates to a motor vehicle accident in BC. The legal services are taxable because they relate to a proceeding in BC (or a possible proceeding). This applies even if the matter is settled out of court.

Legal Services Provided Outside of BC

Legal services provided outside of BC to a person who resides, ordinarily resides or carries on business in BC are subject to PST, unless a specific exemption applies, if the legal services relate to:

- Real property situated in BC
- Tangible personal property that is, or that is contemplated to be, ordinarily situated in or delivered in BC
- Any other property that is, or that is contemplated to be, owned, possessed or used in BC, or a right to use such property in BC
- A court or administrative proceeding in BC or a possible proceeding
- The incorporation or contemplated incorporation of a company under the *Business Corporations Act* or *Society Act*
- The registration or contemplated registration of a corporation as an extra-provincial company or society under the *Business Corporations Act* or *Society Act*
- The interpretation or application of an enactment as defined in the *Interpretation Act*, or a former or proposed such enactment
- The interpretation or application of any enactment, or a former or proposed enactment of any jurisdiction, or the analysis and application of any law, if it relates to:
 - A physical or legal presence in BC
 - Any activity or transaction in BC
 - The contemplation of a presence, activity or transaction in BC
- A contract or covenant (or the contemplation of a contract or covenant) related to a physical or legal presence, activity or transaction in BC, or the contemplation of a presence, activity or transaction in BC

For example, a person who resides in BC hires an Alberta lawyer to purchase property in BC. The legal services are taxable, because the legal services are purchased by a person who resides in BC and relate to real property situated in BC.

Persons who purchase taxable legal services outside of BC from a lawyer or notary not registered under the PST will be required to self-assess the PST due.

To self-assess the PST due, you need to complete and send in a *Casual Remittance Return (FIN 405)* with the PST due by the last day of the month following the month during which the legal services were purchased. For example, if the legal services were billed on May 15, the self-assessment would be due by June 30.

Purchase Price of Legal Services

PST at a rate of 7% applies to the purchase price of legal services. The purchase price includes all fees, charges and disbursements for legal research and secretarial or other support services. However, the purchase price does not include fees and charges for the transmission, printing or copying of documents if the amount of the fees or charges is reasonably related to the cost of the transmission, printing or copying incurred by the provider of the legal services.

Fees Billed on a Cost-Recovery Basis

The purchase price of legal services does not include fees and charges for services that are not legal services, legal research, secretarial or other support services which are billed on a cost-recovery basis, including any taxes paid. This applies if the amounts are billed for the precise recovery of the actual cost of the services and are separately listed on the bill.

For example, this includes out-of-pocket travel expenses (e.g. airfare or fuel costs) billed for the precise recovery of the actual cost of the expenses that are separately listed on the bill (e.g. the cost of a tank of fuel). This does not include mileage disbursements (e.g. so many cents per kilometre) or charges for travel time.

Legal Services Provided Outside BC That Relate to BC and Another Jurisdiction

If a person who resides, ordinarily resides or carries on business both in and outside of BC purchases legal services outside of BC, and a part of the legal services relate to BC and a part relate to a jurisdiction outside of BC, PST will only apply to the portion of the purchase price that is for the legal services that relate to BC.

For example, a national chain store purchases legal services outside BC that relate to a matter that affects all of its stores across Canada. The chain will only have to pay PST on the portion that relates to its store(s) in BC.

Exemptions

Legal Aid

Legal services provided to an individual are exempt from PST if they are at least partly paid for by the Legal Services Society or by a funded agency within the meaning of the *Legal Services Society Act*.

Legal Services Provided Under Contract

Legal services are exempt from PST if the legal services are provided to a law firm or notary firm if all of the following criteria are met:

- The legal services are provided by:
 - an individual who is employed solely by the law firm or notary firm under a contract for services or as an associate, but who is not an employee for the purposes of the *Income Tax Act (Canada)*, or
 - a corporation that is providing services solely to the law firm or notary firm under a contract for services, and
- The purchase price of the legal services to the law firm or notary firm is recovered directly in its sale price of the legal services to their client, in respect of whom the legal services are provided.

Legal Services Provided to First Nations

Legal services purchased by a First Nation individual or a First Nation band are exempt from PST if the legal services relate to real property situated on First Nation land, or are performed on First Nation land.

The exemption does not extend to tribal councils, band empowered entities, corporations or cooperatives.

For more information on exempt sales to First Nations individuals and First Nations bands, please see [Bulletin PST 314](#), *First Nations*.

First Nation Negotiations

Legal services purchased by an aboriginal organization representing the interests of Indians and bands under the *Indian Act* (Canada) are exempt from PST if the legal services relate to any of the following:

- Aboriginal treaty or land claims negotiations
- Consultations with the provincial or federal governments in relation to aboriginal rights or aboriginal title, or in relation to interim agreements that relate to aboriginal rights or aboriginal title
- Negotiations that relate to existing treaties or treaty rights
- Negotiations with other aboriginal organizations in relation to overlapping treaty or land claims

Legal Services Provided to a Related Corporation

Corporations are exempt from PST in relation to legal services provided to that corporation by an employee of a related corporation.

For more information, please see [Bulletin PST 210](#), *Related Party Asset Transfers*.

Members of the Diplomatic and Consular Corps

Legal services purchased by certain members of the diplomatic and consular corps are exempt from PST if the purchaser holds a valid diplomatic or consular identity card issued by the Department of Foreign Affairs and International Trade of the Government of Canada.

For more information, please see [Bulletin CTB 007](#), *Exemption for Members of the Diplomatic and Consular Corps*.



Need more info?

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

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.html

References: *Provincial Sales Tax Act*, sections 1 “legal services”, “taxable service”, 20, 28, 126, 127, 128, 129 and 169; *Provincial Sales Tax Exemption and Refund Regulation*, sections 79-82 and 148; *Provincial Sales Tax Regulation*, section 9.