

**Saskatchewan Provincial Sales Tax
Provincial Budget 2017-2018**

Changes to Real Property Explained



April 4, 2017

Table of Contents

Flowchart – Old and New Rules..... 4

Services to Real Property..... 5

New Contracts 6

Transition Rules 8

Grandfathered Contracts 9

General Comments – Other Services..... 10

Business Operations..... 13

MNP Indirect Tax Contacts in Saskatchewan:

Jeff Harrison, CPA, CMA
Senior Manager, Indirect Tax
900 – 2010 11th Avenue
Regina, SK S4P 2Z2
306-751-7998
jeff.harrison@mnp.ca

Patty Hnidy, B. Comm.
Senior Manager, Indirect Tax
800 – 119 – 4th Avenue South
Saskatoon SK, S7K 5X2
306-665-6766
patty.hnidy@mnp.ca



Summary of Flow Chart

General/Principal Contractor

- Taxable services to real property requires PST to be collected (related purchases are PST exempt when acquired for further resale);
- Contractor **not** the final consumer (unless truly for their own use);
- Contractor **does not** pay or self-assess PST on purchase of materials and taxable services (unless truly for their own use);
- Contractor must pay PST on purchases of tools, equipment and supplies for their own use;
- Labour, overhead, and profit **are subject to PST** – retail selling price of supply is being taxed;
- The supply of taxable real property services and supply of new buildings (net of land) is now PST taxable;
- ***Sale of land remains exempt under new rules;*** and
- Invoicing to final customer is now taxable on the retail selling price (before GST – remains side-by-side tax).

Subcontractor Contractor

- Service to real property is taxable (must obtain purchaser's PST license # to exempt sale);
- Sale/rental of taxable tangible personal property (goods) at retail remains subject to PST
- Subcontractor no longer consumer of materials used to provide service; does not pay PST on the taxable inputs (issues PST license # to supplier to obtain exempt);
- Contractor does not pay PST on purchase of materials and taxable services acquired for resale to their customer;
- The supply of the real property services is taxable, but no PST charged to purchaser when acquired for further resale (e.g.; general/principal acquiring for consumption, use, supply of the taxable sale such as a new house); and
- Invoicing to general/principal contractor is PST exempt (PST license # obtained from general/contractor).

If the subcontractor sold taxable goods or services, PST is not collected (General contractor/principal contractor could acquire on PST exempt basis by providing PST license #);

Saskatchewan PST – Services to Real Property

As announced on March 22, 2017 in the Saskatchewan 2017-18 Budget, the taxation of contracts for the construction, alteration, repair, erection, demolition, remodeling or improvement of real property is subject to PST on the retail selling price.

The Saskatchewan *Revenue and Financial Services Act*, *The Provincial Sales Tax Act*, *The Provincial Sales Tax Regulations*, and other related Regulations or Remission orders to reflect the changes announced in the 2017-18 Budget have not been published. While it is anticipated the changes will be enacted through as announced, we are able to only rely on the information as being published by Saskatchewan Finance through their public website. This is a significant caveat to our advice.

The information contained in this document contains a general overview of the subject, is provided solely for educational and informational purposes, and may not be applicable to a specific case, set of circumstances or facts. This material is based on laws and practices that are subject to change and may not represent the views of MNP LLP and/or The Ministry of Saskatchewan Finance. This general information is current as of the date of the document and should not be regarded as a substitute for professional advice.

Although the information has been carefully prepared, MNP LLP accepts no responsibility or liability to the Saskatchewan Construction Association Inc., any of its members or any other third-parties for any loss or damage caused by any reliance on information contained in this presentation. Any party relying on the information provided by MNP LLP does so at their own risk and any use or reliance upon same is done so on the basis that MNP LLP shall be held harmless by such party.

With the amount of uncertainty of the changes at this stage and going forward, if there is doubt as to the expected PST application a written ruling or interpretation from Saskatchewan Finance should be obtained, or seek professional advice with respect to the specific situation.

New Contracts

New contracts entered into on or after April 1, 2017 will be subject to PST on the total contract price to the purchaser. Estimates, fee quotes and similar arrangements will not be considered a contract in place as of April 1, 2017, to be grandfathered under the old tax base rules. There must be certainty to the services being agreed upon before April 1, 2017. Project work that is tendered **and** closed on or before March 31, 2017 will be grandfathered under the old tax base rules.

The change will now provide the contractors the ability to be able to purchase tax-free building materials of use in completing the contract. The purchaser of the real property services, or the newly constructed building or structure will pay 6% PST. Previously the purchaser paid an embedded amount of PST on just the material costs. Essentially, PST is now applicable on the supply of materials, labour, overhead and profit, which is what the retail selling price represents.

There is not much difference now between a contract to provide retail supply of goods and a retail supply of real property for PST purposes, with both types of supplies requiring PST to be collected on the retail selling price of the supply being made.

Taxable services are considered to include construction, alteration, repair, erection, demolition, remodeling, improvement, or any other service in relation to real property or a building or other structure on real property. The sale of used buildings, structures, or land will not become subject to PST. Some maintenance services, such as snow clearing and lawn care, remain exempt from PST.

As per the changes announced, the following summarizes what is changing

- ❖ Contractors performing services to real property are now licensed as vendors rather than consumers. Existing registered consumer numbers will be considered a vendor licence – a new PST account would not be issued to replace the existing account. Contractors not licensed must become licensed.
- ❖ Contractors are required to collect PST on the total charge to construct, alter, repair, erect, remodel, demolition, or improve real property. Effective April 1, 2017, these charges, which were previously exempt from PST, become taxable and PST must be shown as a separate line item on the invoice to the customer.
- ❖ Contractors will purchase materials exempt from PST and collect the tax from their customer on the total contract, rather than paying PST on the purchase cost of the materials. PST paid that were not acquired on a PST-exempt basis can be obtained as a credit against current or future PST collectible.
- ❖ Contractors building residential, commercial, industrial premises or structures for resale must collect PST on the retail selling price of the premises, excluding the value of the land. Caution must be taken to value the land on a reasonable FMV basis.

A contractor engaged in services to real property is required to collect PST on the total charge to the customer for the services, including all charges for labour, materials, transportation, insurance, service fees, overhead expenses and any tax, levy or duty, other than the GST. PST must be shown as a separate line item on the invoice to the customer.

Contractors acquiring materials that are resold as part of their contract may purchase these

items exempt from PST by quoting their vendor's licence number to their suppliers. This relieves the supplier from having to collect PST. A cover letter to serve as a blanket exemption certificate provided to the supplier has been acceptable in the past, providing it contains clear information who the purchaser is and what supplies are continually being acquired on an exempt basis.

As we now have a mix of registered consumer numbers and actual vendor license accounts in the system, the supplier providing the purchaser an exemption is required to verify the number quoted by their customer is an active vendor's licence number by accessing the PST On-Line Registry (<http://www.skpstregistry.gov.sk.ca/>). If the number is valid, the supplier supports the exemption was relieved for the purposes it was intended. If the number is not valid, the supplier is advised to collect the PST.

Contractors may claim a credit for any PST that has been paid on materials sold or incorporated into a real property contract where PST is collected on those contracts. Credits claimed will be subject to audit verification and can be used to reduce the tax reported and remitted. *Refund claims submitted directly to Saskatchewan Finance will not be processed.*

The PST credit is claimed on the next available return by reducing PST collectible but it cannot generate a refund. Any excess PST credits will be claimed on subsequent PST returns.

When materials are taken from an exempt resale inventory for the contractor's own personal or business use, the PST must be self-assessed on the cost of the materials. This is not a new rule, but one to be aware of as PST is due on the use and consumption of taxable goods and services not acquired for further resale. As well, the PST continues to apply to new and used equipment, supplies and taxable services purchased for use in the contractor's business operations. The specific rules and/or exemptions to the good or service acquired must be reviewed at that time (e.g. used light vehicle, a good unconditionally exempt, etc.).

Renovations

Renovation services will be subject to PST on the retail selling price when under the new rules in effect after March 31, 2017. Contractors providing these services are able to acquire the materials on a PST-exempt basis.

Where renovation services are being done for a business' own use, or in a business of improving real property for subsequent resale, ensure PST is being paid on the cost of own consumption. Materials and labour will be subject to PST on the taxable inputs as the subsequent sale of the property is PST exempt.

Transition Rules

This will be an area where considerable guidance still needs to be provided by Saskatchewan Finance. There will also be a point in time where the grandfathered contracts are likely to be forced into the new rules. The following is what has been provided through documentation and information obtained from Saskatchewan Finance:

Agreements for services to real property, other than real property Master Service

Agreements, that are **entered into prior to April 1, 2017**, are subject to the old tax base rules in place for the application of PST prior to April 1, 2017, as we outlined below under “Grandfathered Rules”. This includes change orders that occur on or after April 1, 2017 but amount to no more than a cumulative 10% amount of the original contract price.

Where a cumulative change orders on or after April 1, 2017, exceeds 10 per cent of the original contract amount, the entire services under the change order are subject to tax based on the new base rules and new 6% PST rate (the original contract would remain under the old tax base rules). Written agreements provide one of the strongest forms of support to the intent and purpose of the transactions. *Our understanding is written, signed agreements that include dollar amounts and clear terms and conditions would meet this requirement of an agreement. Purchase orders by themselves would not meet this threshold.* Project work that is tendered and closed on or before March 31, 2017 will be grandfathered under the old tax base rules.

Transactions initiated April 1, 2017 or later in relation to real property Master Service Agreements are subject to tax based on the application of PST effective on April 1, 2017. These services are considered to be new services provided on or after April 1, 2017, and taxed under the new rules and 6% PST rate. Per Saskatchewan Finance, this includes open-ended contracts and contracts containing stages or phases that are to commence on or after April 1, 2017. **We recommend seeking a written ruling or professional advice in respect of contracts containing stages or phases to comment after March 31, 2017 to be clear on the PST treatment under the old tax rules or new tax rules.**

It is understood Saskatchewan Finance is contemplating that subcontractors will be grandfathered under the old tax base rules providing the main real property contract is also grandfathered under the old tax base rules. The subcontractor would continue providing the grandfathered service on the PST-included basis. The subcontractor is strongly cautioned to obtain sufficient support the person who has hired their services is under the grandfathered rules. PST would continue to be paid on the materials used in providing the services using the rate in place at the time of purchase. Invoice as “PST-Included”.

For non-grandfathered contracts, the materials and taxable services acquired for further resale would be acquired on a PST-exempt basis, or recover a credit of the PST paid as the case may be.

Note: Any reference to the PST rules in place for the application of PST prior to April 1, 2017, does not include the PST rate in effect in place prior to March 23, 2017. For information regarding rate transition rules, see Information Notice IN 2017-01, Provincial Sales Tax Rate Transition Rules. The 6% PST rate will be in effect on March 23, 2017 onward and applies to related taxable purchases after this date.

Grandfathered Contracts

The old tax base rules are provided to use as a base line to the changes that will be in effect for new real property contracts beginning April 1, 2017. Materials purchased for use in these contracts after March 22, 2017 are subject to PST at the 6% rate.

The old tax base rules are based on the premise the contractor providing services to real property was the consumer of the materials used in providing the contract. This required the PST to be paid to the supplier of the materials, or self-assessed by the purchaser if PST was not paid but otherwise taxable materials were provided.

PST was required to be paid on the manufactured cost of fabricated goods that were provided as part of a supply and install real property contract. This was intended to have the contractor bear a similar cost of being able to acquire the same fabricated good 'off the shelf' from a supplier.

The final customer of the contract for services to real property was not charged PST, but understood they paid an embedded PST cost on the materials used. PST was not applicable to labour, overhead or profit. Invoicing was done on a "PST-included" basis.

Existing Inventory

- New construction underway before April 1, 2017 – old tax base rules being followed
 - Example: New home started November, 2016; not completed and not yet for sale; No PST credits available on materials used. Subsequent sale is treated PST exempt.
- New construction that is completed before April 1, 2017 – old rules being followed; No PST credits available on materials used. Subsequent sale is treated PST exempt.
 - Example: New strip mall built on speculation. Completed Jan 15, 2017. Listed for sale (not for lease).
- New construction completed before April 1, 2017. Builder could not sell a new property and decides to lease to tenants; Old rules apply; no change in use for builder. Subsequent sale of the building is exempt. No PST credits available on materials used.

Other situations may exist. The examples were reflecting the impact of existing construction underway or completed buildings allowed to continue under the old tax base rules. Be aware of the 10% cumulative change order impact as well as paying the 6% PST rate on materials acquired after March 22, 2017.

General comments

The tax application on services to real property has changed. The application is to now treat the service as taxable, with PST applying on the retail selling price. This is like the general treatment of the retail sale of many taxable goods. You would acquire the inventory PST exempt and collect PST on the outgoing retail sale.

Relief for PST applies on supplies within the supply chain until supplied to the final user or consumer. The PST is not embedded in the supply chain as it has been under the old tax base rules.

Taxable services to real property, buildings, or other structure on real property include:

- Construction,
- Alteration,
- Repair,
- Erection,
- Demolition
- Remodeling/renovation,
- Improvement to real property (changes to land, building or structure on land) and
- Other related services
 - Extended warranties, maintenance contracts, insurance premiums, etc.

Some services to real property will remain exempt on the supply (the old tax base rules of the contractor being the consumer remains):

- Snow clearing,
- Lawn maintenance, {installation of lawn, sprinklers, etc. is taxed on the retail sale}

The difference in maintenance is that the value of the property is not being improved.

Example: a bobcat used to clear snow is an exempt maintenance service. A bobcat used to fill potholes in a road is a supply of a taxable service to real property. The difference is the latter improved the value of the real property (e.g.; a repair in this case).

Manufacturing for own use

- PST is no longer paid on the taxable inputs used to determine PST on manufactured cost of goods when those items are to be included in a taxable supply to real property;
- PST on manufactured cost will still apply in some cases. Example: An asphalt business paved its own parking lot with its own materials. It would be required to determine the PST on the manufactured cost of the asphalt mixed and laid down.

Renovations/Improvements to real property buildings

- The renovations will be subject to PST under the new rules (e.g.; tax on retail selling price). Intent is to tax the inputs on own use under the new rules.
- Used buildings will **not** become subject to PST on the retail selling price.
- The renovations being done to the existing building require PST to be paid on the retail purchase price of the taxable services. The person acquiring the renovation services is the consumer.
- This will be the case whether the person is renovating the property for their own use or for resale or rental purposes → PST will not apply on the sale or rent of the existing building.

Land Development Costs

Intent is to keep land sales exempt. The owner of the land will be required to ensure PST is paid on the improvements that go into the land. This will be the case even if the owner/developer is intending to resell the land. Land is not subject to PST. The owner/developer is the final consumer in this situation.

Land development services such as excavating, road/bridge building, water/gas/sewer line installation, etc. are taxable on the retail selling price of the services to real property. The final

purchaser of the services would be required to pay PST (should not be able to acquire PST exempt). Generally, this is the owner or land developer.

In situations where specific services will be rebilled to the city or town, the land developer may quote their vendor number to the contractor in order to purchase the service exempt from PST. The PST must be collected by the land developer on these services rebilled to the city or town.

Architectural/Engineering Fees

No changes on these services, other than;

- 6% PST applying to the applicable portion of taxable services, and
- Fees billed to the customer for construction management services are now subject to PST as a service to real property.

Multi-year Service Contracts

Other transitional services rules apply:

- PST at 5% applies **to all payments in relation to taxable services that were made or became payable before** March 23, 2017, even if the services are provided on or after March 23, 2017, or during a period that spans March 23, 2017.
- PST at 6% applies **to all payments for taxable services that are made or become payable on or after March 23, 2017,** even if the contract was entered into before March 23, 2017.
- **Services completed prior to March 23, 2017, are taxable at the 5 per cent rate, regardless of billing or payment date.**

If a pre-existing contract is in place like a Master Services Agreement, whereby services are agreed to be provided but a service date is typically not established (e.g. as needed basis), the above rules would be considered to apply. Example: MSA in place since 2010 for a 10-year period. Services provided as requested by contractor. Taxable services made on or after April 1, 2017 are under the 6% PST rate according to the type of goods or services being provided.

Note: Any reference to the PST rules in place for the application of PST prior to April 1, 2017, does not include the PST rate in effect in place prior to March 23, 2017. For information regarding rate transition rules, see Information Notice IN 2017-01, Provincial Sales Tax Rate Transition Rules. The 6% PST rate will be in effect on March 23, 2017 onward and applies to related taxable purchases after this date.

Business Operations

A) What needs to be done

1) PST Account

- Those with an **existing registered consumer account** (starts with a '5') keep this number and is now used as a PST licensed vendor account. This will now allow the collection of PST, as well as purchasing taxable supplies on a PST exempt basis.

- The exemption is obtained by quoting the PST account to the supplier to signal the purchases are being acquired for further resale.
- Sask Finance will advise existing registered consumers of these changes shortly.
- Those with an existing **PST vendor license account** (starts with a '0', '1', or '2') would already be identified as a PST licensed vendor. What will be different is being able to purchase taxable goods and services on a PST exempt basis when being acquired for supply in the taxable real property services.
- If a PST account is required, it should be obtained as soon as possible.
- **As of April 1, 2017**, there is no longer the ability to earn commissions for collecting the PST on retail sales. Any returns with a reporting period ending after April 1, 2017 will not be eligible for commissions.

2) Internal Accounting Systems – PST

- Make sure there is a liability account set up for PST collectible to record PST due on all taxable sales.
- If a PST self-assessment liability account does not exist, we recommend one be set up. This is for taxable purchases where PST was not paid, either the vendor did not charge PST or the goods were brought in from out-of-province for your own use or consumption in Saskatchewan. This is tied to purchases. *It is not recommended to record both PST on taxable sales and PST on self-assessment into a single PST liability account. It is more difficult to separate out and report correctly as these are separate lines on the PST return form.*
- For each PST reporting period, reconcile the PST collectible to taxable revenues and reconcile the PST self-assessed to the taxable purchases on which PST was not charged by the vendor. **NOTE:** Taxable purchases which are acquired for further resale are not subject to PST, except for what you might remove from inventory for your own use or consumption.

3) Working with suppliers

- Make sure your suppliers are licenced for PST where possible. This manages your risk of being assessed for PST not paid on taxable purchases. The obligation for PST rests with the purchaser.
- Non-resident subcontractors working in Saskatchewan should be requested to obtain a PST account and demonstrate they are licensed for PST. This helps manage your risk of being assessed for PST not paid on purchases. The non-resident will still have a requirement to report PST on equipment, tools, and vehicle brought into Saskatchewan temporarily for use in the contract.
- Purchase taxable goods and services being acquired for further sale on a PST exempt basis. This is done by quoting your PST license account to the supplier. The supplier must collect the PST unless you have instructed them not to by way of the PST license account.

4) **Bonding and Clearance Process**

Under Section 29 of *The Provincial Sales Tax Act*, non-resident and resident contractors carrying on business in Saskatchewan are required to post a guarantee bond or cash deposit in an amount equivalent to 6% of the total amount to be paid under the contract with respect to the sale of:

- a taxable service related to real property, or
- a taxable service related to real property where tangible personal property is installed in conjunction with a taxable real property service.

It is the responsibility of the principal to ensure that contractors comply with this provision. Failure to do so can leave the principal liable for any taxes which the contractor fails to remit, in addition to possible fines and penalties.

Alternatively, contractors required to demonstrate to a principal that their security obligation has been fulfilled can request a clearance letter from Finance. If approved, the letter obtained from Finance can be provided to the principal. It is recommended that principals maintain a holdback of 6 per cent until a clearance letter is provided or proof of bonding is obtained.

Before the final payment is made on a contract, the sub-contractor must obtain a clearance letter from the Revenue Division and provide a copy of the letter to the general contractor or principal. To obtain a clearance letter, please call 1-800-667-6102, extension 0956. If the contractor's account is not in good standing, the general contractor or principal will be requested to withhold from any hold back an amount equal to the tax due and remit this amount to the Revenue Division.

5) **Supplies and Inventory**

The change in tax application begins after March 31, 2017. At this point, contractors will be able to purchase eligible supplies PST exempt.

Inventory on hand as of March 31, 2017, will be eligible for a credit of PST paid (e.g. on the original rate of PST paid) providing this inventory will form part of the supply to your customer on a PST taxable basis.

You can claim a PST credit for that inventory. It is claimed on the next available return by reducing PST collectible but it cannot generate a refund. Any excess PST credits will be claimed on subsequent PST returns.

6) **Contracts under the retail sales method (e.g. new contracts after March 31, 2017)**

- PST is no longer being paid on the taxable inputs used in the real property services (e.g. materials, and subcontracted services);
- Retail supply concept – buy PST exempt; tax on final supply;
- Generally, PST no longer a true embedded cost in the construction contract;
- PST applies on labour, overhead and profit → retail selling price of the service is being taxed;

- PST is paid on taxable materials by final consumer (no longer the contractor/subcontractor);
- PST continues to be paid on taxable equipment, tools, etc. used by contractors (no change);
- Sale of new buildings (commercial, residential, industrial) subject to PST, excluding land;
- Construction/repair services to real property – subject to PST;
- Contractor must manage purchases → acquire taxable goods/services on exempt basis (acquire for further resupply); and
- No PST credits required for exempt supplies to First Nations on reserves; PST would not be charged on retail sales (through out supply chain);

a) Determine who your customer is in the contract.

- If the customer is the end user (e.g.; a new home buyer), they will be paying PST and you must charge PST on the retail selling price of the building. The land is not subject to PST.
- If you are a subcontractor to another contractor, you need to charge PST on the taxable supplies unless they provide you with their PST account number (7-digit number).
 - It must be recorded on each sales invoice, or
 - Obtain a letter from the contractor which identifies the contractor, the PST account number, and what supplies you provide to them that are exclusively PST exempt when sold to them. NOTE: Confirm on a regular basis the exemption still applies.

b) Price your product as a retail sale (PST is not embedded in your costs)

- Charges must be identified on the invoice to minimize the cost of PST to your customer (e.g.; lump sum invoices could be taxed on the full price even when certain charges could have been PST exempt if itemized separately on the invoice);
- The total charge to the customer is subject to PST and includes:
 - i. Labour, materials, transportation/freight/shipping, insurance, service fees, overhead expenses, and any tax/levy/duty, other than the GST
 - ii. PST charged must be shown as a separate line item on the invoice to the customer
- PST that may have been paid on taxable purchases acquired for further resale can be claimed as a credit (reduction of the PST collectible). A refund cannot be generated. Any excess credit not used would be carried forward to the next available PST return.

NOTE: Be cautious on accepting the purchaser's PST license number. Not all purchases can be acquired on a PST exempt basis. The purchaser must be able to demonstrate they are acquired the goods or services for purposes of further resale.