

Tax memo

Canadian tax updates

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Re-implementation of British Columbia Provincial Sales Tax: Transitional rules

Summarizes rules governing the re-implementation of Provincial Sales Tax (PST) in British Columbia.

October 19, 2012

On October 15, 2012, the British Columbia government released *Notice 2012-010*, announcing many new transitional rules concerning the province's re-implementation of a Provincial Sales Tax (PST). This *Tax memo* provides a high-level overview of some of the key rules.

Purchases of taxable goods

The purchase of tangible personal property (goods) in British Columbia for personal or business use will be subject to PST, unless a specific exemption applies. The general rule is that PST will apply to consideration in respect of the purchase of goods that becomes due on or after April 1, 2013 and is not paid before April 1, 2013. Specific rules apply to determine when a consideration is "due."

In certain circumstances, PST may become payable before the consideration for the goods becomes due or is paid. This can occur when ownership or possession of the goods is provided before all of the consideration has been paid. However, PST will not apply if:

- all or any portion of the consideration has not been paid or become due before the last day of the month immediately following the first month in which:
 - ownership or possession of the goods is transferred to the purchaser; or
 - the purchaser acquires ownership of the goods or makes the goods available to any other person, other than the seller; and
- that first month is before April 1, 2013.

Leases of taxable goods

For leases of taxable goods, the general rule is PST will apply to consideration in respect of the lease payments of the goods that becomes due on or after April 1, 2013, and is not paid before April 1, 2013. PST will apply to leased taxable goods brought or sent into British Columbia on or after April 1, 2013.

Taxable goods brought into British Columbia

Taxable goods brought, sent or delivered into British Columbia in the following circumstances will be subject to PST:

- a British Columbia resident brings, sends or receives into the province goods for its own use or the use of another person at the British Columbia resident's expense;

- a person that is not a British Columbia resident brings, sends or receives into the province goods for the use of a British Columbia resident or another person at the British Columbia resident's expense
- a person brings, sends or receives into British Columbia goods for use in the course of the person's business, whether or not the person's business is carried on in the province; a person brings, sends or receives into the province a vehicle for its own use or the use of another person at the first person's expense and the vehicle is registered for use in British Columbia; or
- a non-resident, who owns real property in the province, or leases, in certain circumstances, British Columbia real property, brings, sends or receives into the province goods to be used primarily in British Columbia during the year following the entry of the goods, for the non-resident's own use or the use of another person at their expense.

For goods delivered into British Columbia by a seller **from within** Canada and received by one of the persons mentioned above, PST will apply to consideration in respect of the purchase that becomes due on or after April 1, 2013 and is not paid before April 1, 2013.

PST will apply if the goods are brought or sent into the province, or delivered into British Columbia by a seller **from outside** Canada on or after April 1, 2013. PST will apply for any non-commercial taxable goods brought, sent or delivered into British Columbia or accounted for under the relevant provision of the *Customs Act* (Canada) on or after April 1, 2013.

Taxable goods used in improvements to real property

If PST is not already otherwise payable on taxable goods and the goods are used in British Columbia by contractors to supply and affix, or install, affixed machinery or improvements to real property, PST will apply if the goods are used such that the goods

cease to be personal property at common law on or after April 1, 2013, by a contractor for the purpose of fulfilling a contract under which the contractor is required to supply and affix, or install, affixed machinery or improvements to real property.

Unless PST was otherwise already payable, for goods incorporated on or after April 1, 2013, into:

- property subject to tax under the *New Housing Transition Tax and Rebate Act*; or
- property that would be subject to tax under the *New Housing Transition Tax and Rebate Act*,

if ownership or possession of the property is transferred before April 1, 2015, PST will apply if the goods are incorporated on or after April 1, 2013.

Taxable software

Software, for the purposes of the PST, 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.

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

PST will apply to consideration in respect of the purchase of software that becomes due on or after April 1, 2013 and is not paid before April 1, 2013.

Change of use rules could also apply for software not acquired for use on, or with an electronic device ordinarily situated in British Columbia, and which is subsequently (on or after April 1, 2013) used on, or with an electronic device ordinarily situated in the province.

Taxable related services

Related services for the purpose of the PST are services provided to taxable goods or services provided to install taxable goods unless a specific exemption applies.

PST will apply to consideration in respect of the purchase of related services that becomes due on or

after April 1, 2013, and is not paid before April 1, 2013.

Unless specifically exempt, related services provided outside British Columbia acquired by a person who resides, ordinarily resides or carries on business in the province will be subject to PST if the goods are:

- taken out of the province primarily to have the service performed; and
- brought, sent or received in the province after the related service has been provided.

In these circumstances, PST will apply to the related services if the goods re-enter British Columbia on or after April 1, 2013.

Various taxable services

British Columbia has set out general rules for the following taxable services:

- telecommunication services;
- accommodation; and
- legal services.

PST will apply to consideration in respect of the purchase of these services that becomes due on or after April 1, 2013, and is not paid before April 1, 2013.

Other taxes

Notice 2012-010 also addresses general rules for the following taxes:

- Passenger Vehicle Rental Tax;
- Multijurisdictional Vehicle Tax; and
- Tax on Energy Products.

Specific transitional rules regarding mobile homes are forthcoming.

Need more help?

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