

Tax memo

Canadian tax updates



British Columbia PST regulations released

New regulations reinstate exemptions that existed under the previous regime, with some changes.

March 4, 2013

On February 28, 2013, British Columbia's legislature gave royal assent to *The Provincial Sales Tax Transitional Provisions and Amendments Act, 2013*. This resulted in the March 1, 2013, release of:

- the unofficial consolidated *Provincial Sales Tax Act* (the PSTA);
- the *Provincial Sales Tax Regulation* (PST Regulation);
- the *Provincial Sales Tax Exemption and Refund Regulation* (Exemption and Refund Regulation);
- the consolidated *Motor Fuel Tax Act*; and
- the *New Housing Transition Tax and Rebate Act*.

Businesses and their advisers have been anxiously awaiting the release of regulations to complete the missing elements, in particular the provisions to reinstate key exemptions that existed under the previous British Columbia Social Service Tax (SST).

This *Tax memo* highlights significant provisions of the PST Regulation and the Exemption and Refund Regulation.

Overview

The B.C. Ministry of Finance (the Ministry) stated on numerous occasions that with the implementation of the B.C. PST on April 1, 2013, it intended to re-implement all permanent exemptions that were in place under the old SST. The PST Regulation and the Exemption and Refund Regulation are the fruit of that promise and provide exemptions relating to specific consumer products, industry and business, various services and intercompany transactions.

PST Regulation

The PST Regulation details the prescribed areas in the PSTA that do not relate specifically to the PST exemptions or refunds, but addresses the calculations for determining the amount of tax, the timing or dates that tax is payable in a specific situation and other areas dealing with changes in use. The PST Regulation also sets out particular rules relating to compliance matters, such as due dates for the PST return, when payments are deemed to be received by the Ministry, information to be contained on receipts and invoices, and records retention and penalty provisions, among other compliance matters.

Exemption and Refund Regulation

Although the Exemption and Refund Regulation reinstates most of the exemptions or similar relief provisions that were in place under the SST, in many cases the Ministry has refined, improved or modified the rules for further clarity or to codify previous administrative policy.

The Exemption and Refund Regulation establishes exemptions and rebates in various areas, including:

- health and medical products and equipment for individuals with a disability;
- children’s clothing and footwear;
- school supplies;
- publications (magazines, newspapers, books etc.);
- gifts, prizes, draws and awards;
- tangible personal property entering or leaving British Columbia;
- fuel, energy and energy conservation;
- safety equipment and apparel;
- industrial and commercial items;
- farming, fertilizers, fishing and aquaculture;
- exemptions related to custom or custom-modified software and prototypes;
- exemptions relating to services, including services related to tangible personal, property, accommodations, legal services and telecommunication services; and
- Production Machinery and Equipment Exemptions (PME Exemptions), including specific exemptions that extend the general PME exemption to mining, forestry and petroleum or natural gas development activities.

The Exemption and Refund Regulation also incorporates schedules that list specific tangible personal property that is exempt for hydroelectric power generation, or for use in farming, aquaculture and commercial fishing.

Production Machinery and Equipment Exemptions

The PME Exemptions have been reinstated with similar provisions and concepts, including the definition of a manufacturer. However, the Ministry has incorporated new provisions and beefed up old ones, to clarify issues such as when a mining or manufacturing site starts and ends for purposes of determining the activities and equipment that qualify for exemption.

New rules address the availability of an exemption for equipment used in the development of software, an area that was not specifically addressed in the old SST Act, resulting in inconsistencies in administering the exemption.

Transfers between related parties

The Exemption and Refund Regulation incorporates provisions to relieve PST on the sale or lease of tangible personal property and software between related parties, including the sale of assets to newly formed corporations, or sales in the context of a corporate reorganization. These rules, and the conditions that must be met, are similar to regulation 3.14 in the old SST Act, but are more refined and detailed, consistent with the general tenor of the PSTA.

Refunds

The Exemption and Refund Regulation also outlines specific refunds for situations in which PST was paid but a refund may be warranted. These include:

- bad debt deductions;
- returned goods;
- medical equipment and software purchased with charity funds; and
- refunds relating to use of multijurisdictional vehicles.

We can help

With the April 1, 2013, implementation date looming, you should consider the legislation and your transition plans to ensure that you are fully compliant.

PwC contacts

For more information, please contact your local PwC indirect tax adviser or any of the individuals listed below.

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1. Member of PwC's Canadian National Tax Services (see www.pwc.com/ca/cnts).

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