

# Ministry of Finance

## Tax Bulletin



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## Legal Services

### *Social Service Tax Act*

Do you provide legal services as a lawyer or notary?

Do you know how PST applies to your services?

This bulletin provides specific tax information to help lawyers and notaries understand how the social service tax, also called the provincial sales tax (PST), applies to legal services.

For general PST information that applies to all businesses, such as who needs to register, when general exemptions apply, and how to charge and collect the PST, please read our [Small Business Guide to Provincial Sales Tax \(PST\)](#).

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## Definitions

**British Columbia resident** means someone who resides, ordinarily resides or carries on business in British Columbia.

**Carrying on business in the province** means someone who promotes the sale or use of their goods or services in British Columbia, either themselves or through an employee or representative.

**Legal services** means:

- a. services that come within the meaning of the practice of law under the *Legal Profession Act*,
- b. services described in section 18 of the *Notaries Act*, and
- c. legally related services prescribed as legal services,

but does not include services provided by a person to that person's employer in the course of employment.

**Purchaser** means anyone who agrees, or is required, to pay for legal services. The purchaser is not necessarily the person who benefits from the legal service.

**Purchase price** means all fees, charges and prescribed disbursements (research, secretarial and other support services), except those fees and charges that are specifically excluded (printing, photocopying, faxes). See sections below, Research, Secretarial and Other Support Services, and Fees Billed on a Cost-Recovery Basis.

## **Taxable Legal Services**

Taxable legal services are the services you ordinarily provide as a lawyer or notary. This includes giving legal advice, appearing as counsel or advocate, or providing services that **must** be performed by a lawyer or notary. You charge PST on taxable legal services, such as:

- conveyancing,
- legal counselling,
- settling terms of a purchase of a business in British Columbia,
- legal services provided via a 1-900 number,
- tax or estate planning that includes giving legal advice,
- giving legal advice or acting as counsel or advocate to one party in a legally mandated arbitration or a mediation,
- providing legal advice to an outside firm, and
- preparing documents to maintain a company's registered and records office, such as minutes, resolutions, bylaws, annual reports and returns.

## **Research, Secretarial and Other Support Services**

You charge PST on legal research, secretarial and other support services related to providing legal services, even if they are separately listed on the bill as disbursements. These charges and fees are prescribed as forming part of the purchase price for providing the legal service.

## **Non-Taxable Legal Services**

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Some services, though performed by you as a lawyer or notary, are not taxable legal services. You do not charge PST on services, such as:

- providing legal services as an employee for an employer,
- acting as an arbitrator or mediator,
- acting as a member of a tribunal,
- acting as trustee, executor or director,
- negotiating collective agreements,
- immigration or emigration services,
- general record-keeping for a corporation, such as updating registers and status memos,
- speaking at seminars on legal topics in general, and
- monthly premiums for pre-paid legal services.

However, if any of these services include, or lead to, giving legal advice or other taxable legal services, then they are taxable, regardless of whether they are separately listed on the bill.

## **Fees Billed on a Cost-Recovery Basis**

You do not charge PST on fees and charges for services billed on a cost-recovery basis, including any taxes paid, if the amounts are reasonable and relate to the actual cost of the services. This includes charges you incur for outside legal advice, printing, photocopying, faxes and out-of-pocket travel expenses or mileage disbursements. However, it does not include charges for time you spend travelling.

## **Legal Services Provided under Contract**

If you are employed exclusively by a law or notary firm under contract or as an associate counsel, you do not charge the firm PST on the legal services you provide if the firm recovers the cost directly from the client. This applies even if you are not considered an employee under the *Income Tax Act*.

## **In-House Lawyers and Notaries**

If you are an in-house lawyer or notary for an accounting firm, trust company or other type of firm, you are considered an employee or partner of the firm. You may provide legal advice to outside clients as part of the non-taxable services provided by the firm. You do not charge PST on the legal services if the services are included in the overall charge to the client. However, you charge PST on the legal services if they are separately listed on the client's bill.

## **Legal Services Provided for a Related Corporation**

If you are a lawyer or notary who is an employee of a corporation, you do not charge PST on legal services you provide to a related corporation. A related corporation is:

- a parent corporation (a corporation that beneficially owns at least 95% of the outstanding shares of each class of the share capital of another corporation),
- a wholly owned subsidiary (a corporation where at least 95% of the outstanding shares of each class of the share capital is beneficially owned by another corporation), or
- another wholly owned subsidiary of the parent corporation.

For more information, please see [Bulletin SST 092](#), *Transfer of Business Assets Between Closely Related Parties*.

## **Residency**

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### **Residents**

You charge British Columbia residents PST on legal services **provided in** British Columbia. British Columbia residents must also pay PST on legal services **provided outside** the province that relate to, or contemplate, matters in British Columbia.

British Columbia residents who are also a resident in another jurisdiction (for example, a company registered in British Columbia and in another province) must only pay PST on legal services **provided outside** the province that relate to, or contemplate, matters in British Columbia.

Matters that relate to British Columbia include:

- real property in British Columbia,
- tangible personal property that is situated or will be delivered in British Columbia,
- the ownership, possession, use or right to use any other property in British Columbia,

- a court or administrative proceeding in British Columbia,
- the incorporation of a company under the *Business Corporations Act* or *Society Act*,
- the registration of a corporation as an extraprovincial company or society under the *Business Corporations Act* or *Society Act*,
- the interpretation or application of any enactment of any jurisdiction, or the analysis and application of any law, if it relates to a physical or legal presence, activity or transaction in British Columbia,
- a contract or covenant related to a physical or legal presence, activity or transaction in British Columbia, and
- any other prescribed matter.

**Example 1:** A British Columbia resident hires an Alberta lawyer to purchase property in British Columbia. The legal services are taxable, because they relate to property in British Columbia.

**Example 2:** A national chain store purchases legal services outside British Columbia that relate to a matter that affects its stores in all 10 provinces. The chain will only have to pay PST on the portion that relates to its store in British Columbia.

## Non-Residents

You charge non-residents of British Columbia PST on legal services **provided in** British Columbia that relate to, or contemplate, matters in British Columbia. This includes legal services related to:

- real property situated in British Columbia,
- tangible personal property that is situated or delivered in British Columbia,
- the ownership, possession, use or right to use any other property in British Columbia,
- a court or administrative proceeding in British Columbia,
- the incorporation of a company under the *Business Corporations Act* or *Society Act*,
- the registration of a corporation as an extraprovincial company or society under the *Business Corporations Act* or *Society Act*, and
- any other prescribed matter.

**Example:** A non-resident hires a British Columbia lawyer to represent them in an insurance dispute on a motor vehicle accident in British Columbia. The legal services are taxable because they relate to a matter in British Columbia. This applies even if the matter is settled out of court.

## Exemptions

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### Purchases by First Nations

You do not charge PST on legal services provided to First nations purchasers who qualify as Indians and Indian bands under the *Indian Act* (Canada) if the legal services are **physically performed** on the reserve or **related to** real property on the reserve.

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

### Nisga'a Nation and Nisga'a Citizens

Under the Nisga'a Final Agreement, the Nisga'a Nation does not qualify as an Indian band and therefore is not eligible for the above exemption. You charge PST on legal services purchased by the Nisga'a Nation.

However, individual Nisga'a citizens who qualify as Indians under the *Indian Act* (Canada) continue to be eligible for the above exemption until June 1, 2008.

### Treaty or Land Claim Negotiations

You do not charge PST on legal services related to Aboriginal treaty or land claim negotiations purchased by an Aboriginal organization representing the interests of Indians and Indian bands.

For more information, please see [Bulletin SST 046](#), *Exemption for Indians and Indian Bands*.

### Diplomatic and Consular Officers

You do not charge PST on legal services purchased by diplomatic and consular officers if the purchaser holds a valid diplomatic or consular identity card issued by Foreign Affairs Canada.

For more information, please see [Bulletin GEN 006](#), *Exemption for Members of the Diplomatic and Consular Corps: Instructions to Vendors and Operators*.

### Legal Aid Services

You do not charge PST on legal services provided to an individual that 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*.

## Purchases

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You pay PST on the purchase or lease of new or used goods that you use in your business, such as:

- stationery, furniture and office equipment,
- advertising materials, such as flyers and brochures,
- items you purchase to give away as free promotions,
- computer hardware and software (unless custom software), and
- services to repair your equipment.

### Need more info?

Legal Services website: [www.sbr.gov.bc.ca/individuals/Consumer\\_Taxes/Provincial\\_Sales\\_Tax/legal%20services/legal\\_services.htm](http://www.sbr.gov.bc.ca/individuals/Consumer_Taxes/Provincial_Sales_Tax/legal%20services/legal_services.htm)

Lawyers and Notaries website: [www.sbr.gov.bc.ca/business/Information\\_Groups/lawyers/index.htm](http://www.sbr.gov.bc.ca/business/Information_Groups/lawyers/index.htm)

Telephone (Vancouver): 604 660-4524

Toll free in Canada: 1 877 388-4440

E-mail: [CTBTaxQuestions@gov.bc.ca](mailto:CTBTaxQuestions@gov.bc.ca)

The information in this bulletin is for your convenience and guidance and is not a replacement for the legislation. The *Social Service Tax Act* and Regulations are on our website at [www.sbr.gov.bc.ca/business/Consumer\\_Taxes/Provincial\\_Sales\\_Tax/legislation.htm](http://www.sbr.gov.bc.ca/business/Consumer_Taxes/Provincial_Sales_Tax/legislation.htm)

## Acknowledgments

This bulletin has been prepared in consultation with industry representatives. We wish to acknowledge and thank *The Society of Notaries Public of British Columbia* for their input. By working with us, they help us better serve their members and work towards making British Columbia the best place to do business.

References: *Social Service Tax Act*, Sections 1, 46-52, 93, 96, 129, 132 and 136, and Regulations 8, 8.1, 8.2, 8.3, 8.5 and 8.7-8.12