

THE RETAIL SALES TAX ACT

ACCOUNTING SERVICES

This bulletin explains the 2004 budget changes affecting accounting services. **Effective July 1, 2004** retail sales tax (RST) applies to accounting services at the rate of 7%. Questions and answers attached to this bulletin provide additional information on applying the retail sales tax to accounting services.

Section 1: APPLICATION OF TAX ON SERVICES

Taxable Accounting Services

- Taxable accounting services include:
 - accounting, bookkeeping, financial statement preparation and other similar services
 - preparation of federal or provincial tax returns, documents or forms, tax rebates and refunds, including research and development tax claims
 - tax appeals, including advice regarding the application of tax related to an appeal or representing a client with the taxation authorities
 - auditing or verification of financial statements including planning, internal control review, advising on financial statement presentation and all other services provided in conjunction with the audit
 - forensic auditing and accounting and similar services investigating accounting records
 - payroll processing and preparation including the filing of payroll returns, forms and documents such as T-4's
 - advice or consulting directly related to the delivery of a taxable accounting service
 - consultation and providing advice in the preparation of a financial statement or tax return is considered a component of the taxable service
- Charges or fees for research, secretarial services or other overhead costs are considered part of the accounting service and are subject to RST even if separately itemized on the client's invoice.
- Retainers are not subject to RST until a bill for accounting services is provided to the client.
- Accounting services are subject to RST if the services relate to Manitoba. (Please refer to Page 3 *Services Relating to Manitoba*).

Exempt Services

- The following services are not accounting services and are not subject to RST:
 - business management services including advisory or consulting services, business start-up, development and planning
 - valuation services including businesses, estates or other assets or property
 - computer training and consulting services
 - financial planning, investment advice and other similar advisory services including calculating and reporting the return on investments
 - human resource consulting including development and selection services
 - providing educational seminars, training and coaching services, including training on the use of computer software or how to perform an accounting function
 - acting as a trustee, executor, director, or administrator of an estate
 - acting as a Commissioner for Oaths
 - acting as a trustee in bankruptcy or receivership proceedings including acting as an administrator under a consumer proposal
 - accounting services provided to a Status Indian or an Indian Band, if the services relate to property, a business or activity on a reserve
 - accounting services provided to the federal government, if an RST number is provided (accounting services provided to federal Crown corporations, and provincial government departments, agencies and Crown corporations are taxable)
 - accounting services provided by a person to their employer in the course of employment

Tax and Estate planning

- Tax and estate planning are services related to future tax applications (e.g. devising strategies organizational structures, reorganizations, estate freezes, asset rollovers and other strategies to minimize future tax liabilities or estate taxes). Tax and estate planning services are not subject to RST.
- The preparation of legal agreements, tax returns, tax elections or other tax or legal documents are subject to RST.
- Tax and estate planning generally include both taxable and exempt services. When tax or estate planning services are provided and the taxable and exempt services are not separately itemized, 10% of the total fee is deemed to be taxable.
- Tax planning provided as part of the preparation of a tax return is subject to RST.

Management and Administration Services

- Management and administration services (e.g. business, property, or investment management) generally are not subject to RST. Non-taxable management and administration services include operating a business, managing a rental property or managing/administering an investment or insurance fund.
- Management and administration services generally include accounting services (accounting and reporting on the assets being managed/administered) which form a small component of the total management or administration services. The accounting services included

in a management/administration fee are not subject to RST if the fee is provided:

- solely to one entity
 - between related entities or within a related group of entities
 - between unrelated entities, and the accounting services included in the management fee represent less than 20% of the total management fee
- Where management and administration services are provided to more than one unrelated entity, the accounting services included in the fee are only taxable if they represent more than 20% of the total fee. The taxable accounting services must be separately itemized; otherwise the total management/administration fee is subject to RST.

Disbursements

- Disbursements, billed on a cost recovery basis, are exempt when itemized separately from taxable accounting services on the client's invoice including:
 - charges for facsimile transmission, telephone and courier services
 - charges for printing or photocopying of documents
 - a flat charge to recover the cost of administering disbursements
 - third party fees or charges that are not part of the accounting service (e.g. travel, accommodation, meals)
 - accounting services purchased from another accountant
- The accountant or accounting firm will pay RST on the disbursement item, where applicable.

Services Relating to Manitoba

- All accounting services that relate to Manitoba are subject to RST, including those provided by a non-resident accountant or provided to a non-resident client.
- Accounting services relate to Manitoba if the service relates to:
 - a physical location in Manitoba, or
 - a business activity in Manitoba, or
 - a transaction in Manitoba.

Services Relating to More Than One Jurisdiction

- Accounting services provided for a client who is resident in, or carries on business in more than one jurisdiction are subject to RST on the portion of the accounting services that relate to Manitoba.
- The allocation of accounting services that relate to Manitoba may be based on:
 - the taxable income allocated to Manitoba on the client's T2 Schedule 5 for income tax purposes, or
 - the percentage of the total purchase price that represents property situated in Manitoba, or
 - some other reasonable basis
- If there is no basis for allocation, the accountant providing the services must charge RST on the entire charge, unless the client provides their RST number as follows. In this situation, the client may claim a credit on their

sales tax return for the tax paid on the portion of the accounting services not related to Manitoba.—

- Clients can purchase accounting services relating to more than one jurisdiction exempt of RST and self-assess the tax on the portion of the fee allocated to Manitoba. The accountant providing the service must record their client's RST number on their bill to allow the exemption.

Section 2: APPLICATION OF TAX ON PURCHASES

Purchases for Your Own Use

- Businesses providing accounting services are required to pay RST on purchases of equipment, services and supplies used in their business. If they are purchased from an unregistered supplier (i.e. located outside Manitoba), RST must be self-assessed and remitted with the next tax return on the laid-down cost of the taxable goods or services (includes exchange, transportation, customs and duties, but not GST).
- Accounting firms may purchase accounting services for resale exempt of tax using their RST number. Their bill must include RST on the total accounting fee, including the services purchased from another accountant.

Section 3: REGISTRATION REQUIREMENTS

Registration

- Businesses providing accounting services are required to register for RST purposes and can apply online at Manitoba.ca/TAXcess. Applications for registration are also available on our Web Site or by contacting the Taxation Division Offices listed at the end of this bulletin.
- Accountants providing accounting services solely to accounting firms acquiring those services for resale are not required to register for sales tax purposes.
- Non-resident accountants are required to register and collect Manitoba RST if they provide a taxable accounting service that relates to Manitoba.

General Information for Vendors

- See Bulletin 004 – *Information for Vendors* – explaining a vendor's obligations to collect and remit the retail sales tax.
- See Bulletin 016 – *Record Keeping and Retention Requirements*.
- Bulletins are available at <http://www.gov.mb.ca/finance/taxation/bulletins.html>.

Small Traders Exception (Home Based Businesses)

- Individuals providing accounting services from their residence are not required to register or collect RST, providing their sales are less than \$10,000 annually.
- Businesses purchasing taxable accounting services from an unregistered individual providing accounting services from their residence must self-assess the RST payable.

**Transitional
Tax
Application**

- Services provided before July 1, 2004 are exempt even if billed on or after this date. Services provided after June 30, 2004 are subject to RST, even if paid for before this date.
- When services are provided under a contract in effect on July 1, 2004, the customer's invoice should be segregated into two parts. The services provided before July 1, 2004 are exempt, while the services provided after June 30, 2004 are subject to RST.
- Accounting services provided under a contingency fee agreement entered into and signed before July 1, 2004 are not subject to RST. Accounting services provided under a contingency fee agreement entered into and signed after June 30, 2004 are subject to RST. The tax payable is 7% of the amount of the contingency fee.

FURTHER INFORMATION

This bulletin is intended as a guideline and is not all-inclusive. For the specific wording of the law, please refer to *The Retail Sales Tax Act* and *Regulations*. Further information may be obtained from:

Winnipeg Office

Manitoba Finance
Taxation Division
101 - 401 York Avenue
Winnipeg, Manitoba R3C 0P8
Telephone (204) 945-5603
Manitoba Toll-Free 1-800-782-0318
Fax (204) 948-2087

Westman Regional Office

Manitoba Finance
Taxation Division
314, 340 - 9th Street
Brandon, Manitoba R7A 6C2
Telephone (204) 726-6153
Manitoba Toll-Free 1-800-275-9290
Fax (204) 726-6763

E-mail: MBTax@gov.mb.ca

ONLINE SERVICES

Our Web site at manitoba.ca/finance/taxation provides tax forms and publications about taxes administered by Taxation Division, and a link to Manitoba's laws and regulations. Forms and publications can also be obtained by contacting the Taxation Division.

Our online service at Manitoba.ca/TAXcess provides a simple, secure way to apply for, and to file, pay and view your Taxation Division tax accounts.

Information Notice

NOTICE
The Retail Sales Tax Act
Issued May 2004
Revised June 15, 2004

ACCOUNTING SERVICES

This notice is an appendix to Bulletin No. 057 and provides answers to questions regarding the 2004 budget changes affecting accounting services. **Effective July 1, 2004** retail sales tax (RST) applies at the rate of 7% on accounting services related to Manitoba.

Section 1: APPLICATION OF TAX ON SERVICES

Transitional Tax Application

I invoice my client for accounting services provided between June 16th and July 15th, 2004. How does RST apply on my invoice?

The fee must be split between services provided before July 1st and those provided after June 30th. If 60% of the hours are spent providing accounting services after June 30th then 60% of the fee is subject to RST.

How does RST apply to pre-paid accounting services where a retainer is received before July 1st but the accounting services are not provided until after June 30th?

Accounting services provided after June 30th are subject to RST, regardless of the invoice date or when payment is received.

I contract to perform accounting services for a fixed \$10,000 fee. My actual time (WIP) at the end of the contract is \$14,000 (based on my charge-out rate for time spent on the contract). 60% of the time on the contract was before July 1st. How much RST is to be charged?

On fixed fee accounting service contracts in effect prior to July 1, 2004, where the actual time charged to the contract exceeds the fixed fee, the fixed fee must be prorated based on the actual time spent on the contract. In this case 40% of the time spent providing accounting services under the contract occurred after June 30th, therefore 40% of the \$10,000 fee is subject to RST.

Taxable and Exempt Services

I subcontract with a bookkeeping firm to assist me in my accounting business. The cost of the bookkeeping service is included in my accounting fee. How does RST apply on my purchase of these subcontracted bookkeeping services?

When you purchase subcontracted bookkeeping services for resale, your purchase of these services is exempt from RST if you provide the bookkeeping firm with your RST number. Your fee to the client for accounting services, which includes the charge from the bookkeeping firm, is subject to RST.

How does RST apply to consulting services?

Consulting services are generally not an accounting service and are not subject to RST. Examples of consulting services that are not taxable include:

- A) business management consulting services including providing advice to management on business operations
- B) human resource consulting including providing advice to management on recruitment of new employees, placing employment notices, screening and selection of applicants, employment training and all other human resource services
- C) computer consulting including advice on technology requirements for the selection of computer or hardware/software, and staff training
- D) financial management including advice on equipment and procurement, lease/purchase decisions and negotiating with financial institutions regarding different financing options
- E) financial planning including evaluating investment options, recommending and purchasing different investments and reporting on investment results

My fee to prepare a personal income tax return includes a review to ensure all allowable deductions have been considered (such as employment deductions, RRSP, or home/office expense) and other tax planning advice. Can I separately itemize and exempt my tax planning advice from my fee to prepare the tax return?

No, all charges related to the preparation of a personal income tax return are taxable. This includes advice on exemptions that are available for the client and any other planning required to complete the current year's return, or amend a prior year's return.

My fee to prepare a corporate income tax return includes a review to ensure that taxes are minimized through allocating corporate income to related corporations and bonuses/wages paid to shareholders and their families. Can I separately itemize and exempt my tax planning advice from my fee to prepare the tax return?

No, all charges related to the preparation of a corporate income tax return are taxable. This includes advice as to the allocation of income, deductions available and any other planning required to complete the current year's return or amend a prior year's return. Examples include decisions to allocate corporate income to related corporations, bonuses/wages paid to shareholders and their families and decisions to utilize loss carrybacks.

Is tax planning a taxable service?

Tax planning that relates solely to future tax applications and does not include the completion of tax returns or other tax documents/elections is not subject to RST. This includes devising strategies, organizational structures and reorganizations to minimize future tax liabilities. It also includes tax planning advice on business acquisitions and divestitures.

When tax planning services include the preparation of the legal documents, tax returns, elections and other tax documents, this portion of the fee is subject to RST.

When tax planning services are provided, rather than calculating the separate taxable and exempt component of each billing, 10% of the tax planning services are deemed to be the taxable component subject to RST. Using 10% on all tax planning services simplifies the application of RST and reduces tax administration costs for business.

Is estate planning a taxable service?

Estate planning services that relate solely to future tax applications and do not include the preparation of legal documents or tax returns or other tax documents/elections are not subject to RST. This includes all planning for the disposition of an individual's estate, including estate freezes, investment planning, asset allocation, and any other planning to maximize the estate's value and minimize estate taxes.

When estate planning services include the preparation of legal documents, tax returns, elections and other tax documents, this portion of the fee is subject to RST.

When estate planning services are provided, rather than calculating the separate taxable and exempt component of each billing, 10% of the estate planning services are deemed to be the taxable component subject to RST. Using 10% on all estate tax planning services simplifies the application of RST and reduces tax administration costs for business.

Is financial planning a taxable service?

Financial planning is not subject to RST. These services include advising on investing and financing options, recommending and purchasing investments, and reporting on investment results.

I am a financial planner and provide financial advice to my clients and sell investment products. I frequently prepare personal income tax returns for my clients without charge. How does the RST apply?

When a business providing exempt services such as financial planning prepares tax returns for a client, without charge, the financial planner is required to pay RST on the "fair value" to complete the tax return.

The calculation of sales tax on the "fair value" to prepare the tax return follows the GST rules for businesses that prepare tax returns for no charge. The RST payable is \$2.10 for each return.

I am an Income Tax Rebate Discounter. My fee includes the preparation of my client's tax return. How does the RST apply?

The calculation of sales tax on the "fair value" to prepare the tax return is the same as the GST rules. The maximum RST that can be charged is \$2.10 (based on a fair value of \$30). If the discounting fee is less than \$45, the RST is calculated at $\frac{2}{3}$ x discounting fee x 7%.

Is assisting a client with an appeal regarding a provincial or federal tax statute a taxable service?

Assisting a client in an appeal that involves interpreting the applicable tax statute is a taxable accounting service. This includes appeals of income tax, sales tax, corporation capital tax and payroll taxes.

Inter-company Services (Related Companies)***Are inter-branch fees for accounting services exempt?***

Inter-branch accounting services (services provided within one company) are not subject to RST.

How does RST apply on inter-company charges for accounting services?

Inter-company charges for accounting services that are provided within a related group of entities (corporations, partnerships, limited partnerships, corporate partnerships, joint ventures, etc.) are not subject to RST.

Does RST apply where a parent corporation provides accounting services to a wholly-owned subsidiary?

Inter-company charges between a parent corporation and a wholly-owned subsidiary corporation are not subject to RST. Wholly-owned means one corporation owns at least 95% of the share ownership (in number and value) and has voting control. Accounting services between wholly-owned subsidiary corporations of the same parent corporation or within a wholly-owned group of corporations are also not subject to RST.

Management Services and Management fees (Unrelated Companies)***What if a management company provides management services (including administration, receptionist, facility rental, and accounting services) solely to another unrelated company?***

Where management services are provided solely to one other business, the management fee is not subject to RST even if the fee includes taxable accounting services.

A management company provides management services (including taxable accounting services) to more than one unrelated company (i.e. property management corporation providing services to more than one unrelated property ownership groups). Is the accounting service component of the management fee subject to RST?

When a management company (i.e. property management) provides management services to more than one unrelated clients, RST applies to the taxable component of the management fee only if 20% or more of the management fee is composed of taxable services. In this case if the non-taxable components of the management fee are separately itemized, they are not subject to RST.

If less than 20% of the total management fee is composed of taxable services, the entire management fee is not subject to RST.

Are accounting services taxable when provided to employees at no charge?

Accounting services are exempt when provided to employees at no charge, but are taxable when the employee is charged a fee.

I am a self-employed accountant (individual or incorporated) engaged under contract as the controller of a business. I provide business management, accounting, and financial services as well as supervision of the accounting function. Are my services subject to RST?

Because the management services are provided solely to one other business, the management fee is not subject to RST even if the fee includes taxable accounting services.

Several independent public accountants work from the same office sharing space and administration costs such as secretarial services, invoicing, bookkeeping and collections. I contribute a percentage of my monthly billings to pay my share of these costs. Is any portion of my payment subject to RST?

When a group of businesses share administration services, including accounting, the sharing of the costs is not taxable.

I pay a management service company to administer my office. They are responsible for staffing, secretarial services, accounting, bookkeeping, payroll, invoicing and collections. Is their fee subject to RST?

When a management company provides management services to more than one unrelated clients, RST applies to the taxable component of the management fee only if 20% or more of the management fee is composed of taxable services. In this case the non-taxable components of the management fee that are separately itemized, are not subject to RST.

Are remittance processing services subject to RST?

Remittance or payment processing services, where a business accepts and processes payments on behalf of their client, is not a taxable accounting service and the fee is not subject to RST.

My company operates a "lock box" service wherein I receive payments on behalf of a national credit card company. The payment is deposited on behalf of the client and the client is sent a reconciliation of the payments deposited. Is this fee subject to RST?

A lock box service is similar to payment processing services. This is not a taxable accounting service and the fee is not subject to RST.

Disbursements

Does RST apply to disbursements?

Disbursements invoiced to the client on a cost-recovery basis are exempt from RST when itemized separately from taxable accounting services, provided RST was paid on the disbursement, where applicable.

I charge 1% of my total fee as a "disbursement charge" to recover my cost of photocopies, faxes and telephone calls. Is this fee taxable?

Disbursements for photocopies, faxes and telephone charges are exempt when applied as a fixed percentage of the fee as long as the percentage is a reasonable estimate of the actual cost of these items. In addition, a flat disbursement fee is exempt from RST provided the fee is separately itemized on the invoice and represents a recovery of costs.

I charge a 5% "administration fee" on my total disbursements included on my bill to recover my administration costs to itemize and account for the disbursements. Is this administration fee taxable?

Disbursements are not subject to RST as long as they are billed to the client on a cost recovery basis. A 5% administration fee is considered a recovery of cost and RST is not applied on the administration fee or the disbursements.

Is the recovery of my support and administrative costs considered a disbursement?

Charges to recover staff accounting time, clerical duties and other office overhead charges are not the recovery of third party charges and are taxable, even if separately itemized on the invoice.

Section 2: SERVICES RELATED TO MANITOBA***Does RST apply when a Manitoba resident purchases accounting services from their accountant in Manitoba that relate to their business outside of Manitoba?***

When accounting services are provided to a Manitoba resident, RST does not apply if the service relates to their business outside Manitoba.

I provide accounting services to clients that carry on business in Manitoba as well as other provinces. What portion of my fee is subject to Manitoba tax?

If the accounting service only relates to Manitoba the entire fee is subject to RST. However, if the accounting service relates to more than one province, only the portion of the service that relates to Manitoba is subject to RST.

The allocation to Manitoba may be based on information provided by the purchaser such as:

- the taxable income allocated to Manitoba on the T2 Schedule 5 for income tax purposes
- the percentage of the total purchase price of assets that represents assets located in Manitoba
- some other reasonable basis for allocation

If the purchaser does not provide documentation to support the requested allocation, the entire charge is taxable. Purchasers may use their RST number to purchase accounting services exempt from RST that relate to more than one province, and self-assess the RST on the portion of the accounting services that relate to Manitoba on their next sales tax return. The accountant must record the purchaser's RST number on the invoice to allow the exemption.

Is a non-resident accountant required to register and collect Manitoba RST?

Non-resident accountants are required to register and collect Manitoba RST if they provide a taxable accounting service to a business or resident in Manitoba.

How is RST paid when a Manitoba resident purchases accounting services from an out-of-province accountant that did not collect Manitoba RST?

When a purchaser acquires accounting services that relate to Manitoba from an accountant that did not collect RST, the purchaser is responsible to self-assess RST on the purchase price of the accounting services and remit the RST on their sales tax return.

Section 3: APPLICATION OF TAX ON PURCHASES***Can an accountant use their RST number to purchase taxable goods or services exempt from RST?***

Accountants are required to pay RST on purchases of equipment, services, and supplies used in their business. If they are purchased from an unregistered supplier (i.e. located outside Manitoba), RST must be self-assessed and remitted with the next tax return on the laid-down cost of the taxable goods or services (includes exchange, transportation, customs and duties, but not GST).

Can an accountant purchase accounting services from an associate accountant exempt from RST?

Accounting services provided to an accounting firm by an associate accountant are exempt because the services are being purchased for resale.

Accountants may purchase accounting services from another accountant exempt from RST because the accounting services are being purchased for resale. The bill to the client must include RST on their total accounting fee including the services purchased from another accountant.

When we photocopy staff training manuals for our own use, do we have to self-assess RST?

Businesses that produce printed material such as staff training manuals for their own use are required to pay RST on the produced value of the printed material. The value subject to RST is equal to the cost of direct material X 320%. RST is only applied on the produced value of printed material if the total value of printed material produced for their own use in the year exceeds \$50,000. Otherwise, RST is payable only on the materials used to do the printing.

Section 4: ADMINISTRATION**How often will I be required to file a sales tax return?**

All accountants or accounting firms will be registered to file quarterly sales tax returns. You may choose to file monthly sales tax returns by contacting the Taxation Division.

When does the RST have to be remitted to the Taxation Division?

Quarterly sales tax returns are due on the 20th of the month, in the month subsequent to the end of the quarter. For example, sales tax invoiced during the quarterly period October 1st to December 31st must be reported on that period's sales tax return, which must be filed and paid by January 20th. The Taxation Division mails RST returns so that businesses will receive their tax return approximately 10 days before the due date for the period.

What if I don't receive payment from the client until 60 or 120 days after billing?

All vendors must report and remit the RST in the quarterly period in which the sale was made (period the customer was invoiced), even if the tax has not been collected by the return due date.

How does RST apply when I discount my billing or reduce it in anticipation of a bad debt?

RST is charged on the discounted or reduced amount.

How do I recover RST that I have remitted if I write-off a bad debt?

Vendors may claim a credit for the RST portion of receivables written-off as a bad debt, similar to the recovery of GST on the write-off of bad debts.