Information Bulletin

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THE RETAIL SALES TAX ACT

INSURANCE

This bulletin explains the application of retail sales tax (RST) to certain insurance contracts that relate to Manitoba, at the rate of 8%.

Section 1 – TAXABLE INSURANCE CONTRACTS

Taxable Insurance contracts

Insurance contracts relating to Manitoba are taxable, except those listed as non-taxable insurance contracts under section 2 of this Bulletin.

The following are examples of insurance contracts that are subject to RST to any purchaser:

- Insurance on land and buildings located in Manitoba, including property damage insurance, sprinkler leakage insurance, fire insurance, flood insurance, sewer backup insurance, weather insurance, and related business interruption or income insurance.
- Insurance on goods located in Manitoba, including personal property insurance, boiler and machinery insurance, pet insurance, plate glass insurance, theft insurance, computer insurance, weather insurance, aircraft insurance (for aircraft subject to RST only - see Section 2 for more information), vehicle inventory protection and floorplan insurance.
- Insurance on goods in transit in Manitoba, including cargo, freight and delivery insurance - such as inland transportation insurance.
- Builder's risk insurance taken on a building under construction in Manitoba.
- Title insurance in connection with Manitoba property.
- Mortgage insurance.
- Liability insurance, including: employers' liability insurance, public liability insurance, commercial general liability, premises liability, aviation products liability, aviation premises liability, directors' and officers' liability, professional liability insurance (such as errors and omissions liability and malpractice insurance), employment practices liability insurance, garage automotive policy and general liability insurance for truckers.
- Credit and credit protection insurance, including trade credit insurance.
- Surety, fidelity and guarantee insurance.
- Legal expense insurance.

Note: Revisions to the contents of the previous Bulletin (July 2013) have been identified by shading (   )

Manitoba

- Group insurance contracts - including group contracts covering group life, optional and dependant life, creditor insurance, accidental death and dismemberment, disability, and critical illness; but <u>not</u> including group contracts covering the health care costs of insured individuals (see health insurance under section 2 - Non-taxable Insurance Contracts for more information).

  Please Note: The phrase 'single insurance contract', as used in the definition of 'group insurance contract' in *The Retail Sales Tax Act*, refers to a master policy issued by an insurer in the group insurance context.

The following are examples of insurance contracts that are subject to RST when sold to a Manitoba resident:

- Identity theft insurance.
- Executor insurance – regardless of where the estate property is located.
- Balance protection insurance.
- Mortgage protection insurance - regardless of where the property is located.
- Trip cancellation insurance.
- Baggage insurance.
- Ransom or kidnapping insurance.

Insurance contracts subject to proration

- Taxable insurance contracts that relate to risks, perils and events that may occur both inside and outside of Manitoba are taxable on the portion that relates to Manitoba. The allocation to Manitoba is to be determined on the basis that is most reasonable in the circumstances, such as:

  - the insured value of property in Manitoba as a percentage of the total value of the property insured in all jurisdictions;
  - for contracts covering employees both inside and outside Manitoba, the portion that covers Manitoba based employees only;
  - an allocation by revenue per province for business interruption insurance;
  - for goods in transit, the percentage of travel in Manitoba in comparison with the total amount travelled; (for trucking firms, the amount declared as their Manitoba prorate percentage for the *International Registration Plan* can be used).

    Example: If cargo insurance is purchased on goods in transit and 85% of the travel occurs in Manitoba and 15% occurs outside of the province, 85% of the premiums paid in regards to the cargo insurance are taxable. RST applies regardless of whether the owner of the goods or the transportation company is resident in Manitoba or not.

Taxable and non-taxable coverages

- Where insurance contracts contain both taxable and non-taxable coverages, the value of each component must be segregated in the billing to the customer, with tax applied to the taxable coverages. If this is not done, RST applies on the entire contract value.

Example: A person insures a house in Manitoba and a cottage in Ontario under one policy. RST does not apply on the insurance that relates to the Ontario cottage if the coverage is segregated in the insurance contract.

Fees

- Except as noted in the points below, the total of all fees and charges that are invoiced to a customer in connection with a taxable insurance contract are subject to tax. Taxable charges include: administration fees, placement fees, risk consultation fees, as well as service fees that may be charged by insurance brokers when they do not receive a commission from the insurance carrier.

  Please Note: Fees or charges relating to the purchase of non-taxable insurance contracts are likewise not taxable. If the fees or charges apply to both taxable and exempt insurance contracts, they are subject to tax in proportion to the taxable insurance component.

- Financing fees that may be applied when customers opt to pay by instalments (rather than in full at the time of renewal) are not taxable.

- NSF fees are not taxable.

- Commission fees paid to insurance brokers by insurance companies are not subject to tax.

- Administration fees charged by insurance companies to administer self-insured group policies are not taxable.

Time for payment of tax – definite term contracts (excluding group contracts)

- For taxable insurance contracts with a <u>definite term</u> (excluding group contracts) - RST is payable on all new or renewal contracts that come into effect after July 14, 2012.

- For contracts with a term of one year or less, RST is considered to be collected by the vendor, on the full contract price, on the first day that the contract coverage comes into effect.

  For example: For a property insurance contract pre-billed August 15, 2012, for the period October 14, 2012 to October 13, 2013, the RST is considered collected on the full contract price by the vendor on October 14, 2012 - regardless of whether the premium was paid prior to that date or after as instalments. A monthly vendor will report and remit the tax with their October 2012 RST return, due November 20, 2012 (quarterly vendors would report and remit the tax with their return due January 21, 2013).

- For multi-year contracts paid by instalments over the course of the contract term, tax can be collected and remitted annually as follows:

  - The tax on the first year's effective premium is considered collected on the first day that the contract coverage comes into effect.
  - The tax for the subsequent years' premiums will be considered collected annually on the anniversary of the original effective date (regardless of whether instalments are paid annually or monthly).
  - Instalments relating to multi-year contracts that came into effect prior

to July 15, 2012 are not subject to RST.

- For multi-year contracts where the total premium is paid at the start of the term, the tax is considered collected in full on the first day that the contract coverage comes into effect and becomes payable for the month that date occurs.

Time for payment of tax – indefinite term and group contracts

- For taxable insurance contracts with an indefinite term and for group insurance contracts - All premiums that are payable and that relate entirely to a coverage period after July 14, 2012 are subject to RST.

Tax on purchases from non-registered vendors

- If a taxable insurance contract is purchased from a non-registered vendor, the purchaser must calculate and remit the RST directly to the Taxation Division. If the purchaser is registered with an RST number, the tax must be reported as tax on purchases on the next RST vendor's return and paid along with any tax collected. For non-registered purchasers, a *Casual Purchaser's Return* must be completed and forwarded to the Taxation Division with the tax payable by the 20th of the following month.

Insurance contract refunds and amendments

- When a taxable insurance contract is cancelled or the coverage is reduced before the end of the term, any refunded insurance premiums should include an amount for RST. The tax that is refundable is based on the refundable insurance premiums.

  For example: A taxable insurance contract valued at $1,000 is entered into on November 1, 2013. The total payable for the contract including RST is $1,080. Part way through the coverage period, the contract is cancelled and $400 of the insurance premium is refundable. RST of $32 ($400 x 8%) is also refundable, for a total refund amount of $432. The vendor of the contract can deduct the RST refunded from the tax collected in the period and remit the net amount.

  Please Note: RST refunds (which include amounts deducted from tax collected) are subject to a two year limitation from the date the amount was received as tax.

- When insurance contracts are amended after July 14, 2012 to increase coverage, RST applies on any additional premium that relates to taxable insurance coverage.

  Please Note: Tax will apply on the additional taxable premiums even if the insurance contract was entered into before July 15, 2012.

- When an insurance contract was entered into before July 15, 2012 and amended after July 14, 2012 to increase the coverage, then subsequently cancelled, RST may be refunded on a proportional basis as the insurance contract contains taxable and non taxable portions.

  For example: An insurance contract valued at $1,000 is entered into on May 1, 2012. On December 1, 2012, the insurance contract is amended to increase coverage by $300. On February 1, 2013, the insurance contract is cancelled. As $300 of the premiums are taxable, this would represent 23.1% ($300/$1,300) of the total insurance contract. As a result, the RST refundable amount would be 7% x 23.1% of the refundable premiums (based on the pre-July 1, 2013 RST rate of 7%).

- For insurance contracts that are issued on a refund basis, such as group insurance contracts, RST is to be calculated on the amount refunded and included in the refund amount in the same manner as illustrated in the example above.

Section 2 – NON-TAXABLE INSURANCE CONTRACTS

Non-taxable insurance contracts

RST does not apply on the following insurance contracts:

(Please Note: For insurance types denoted with an asterisk (*), a signed statement supporting the exemption must be obtained by the vendor. Once a signed statement has been obtained for one coverage period, no further statement is required for subsequent periods, unless there is a material change to the insurance coverage - i.e. insurance coverage is increased or decreased by 20% or more. See page 7 for more information.)

- Reinsurance contracts.
- Self-insurance.
- Insurance in respect of the life of an insured individual, or the lives of an insured individual and his or her family members under a single life insurance contract (excluding group life insurance and creditor insurance).
- Health insurance (individual or group) covering the health care costs of insured individuals; including health care equipment, dental care, prescription drugs, vision care, ambulance, hospital rooms, counselling and therapy services, and long term care.
- Insurance in respect of the disability, critical illness or accidental death and dismemberment of an individual (other than under a group insurance contract).
- Endowment insurance.
- Annuity contracts.
- Property insurance for property located outside Manitoba.
- Liability insurance covering risks located outside of Manitoba.
- Trip interruption insurance.
- Contributions or premiums paid under the *Canada Pension Plan*, *Employment Insurance Act (Canada)* and *Workers Compensation Act*.
- Insurance for vehicles registered under *The Drivers and Vehicles Act*. This includes Basic Autopac, Optional Autopac (but not including car rental insurance which is taxable) and optional extensions to Basic Autopac such as New and Leased Vehicle Protection (GAP insurance) and Lay-up Coverage. It also includes primary coverages for vehicles not eligible for all

perils coverage under Basic Autopac, such as large trucks over 16,330 kg and public service buses. These coverages can be purchased exempt from any vendor, including Manitoba Public Insurance and any other insurance company.

Please Note: Insurance for vehicles that are not registered under *The Drivers and Vehicles Act* is taxable. For example, an ATV that is only used on a person's property would be insured as part of the owner's taxable household property insurance.

- Insurance contracts, including aircraft hull and aviation liability insurance, purchased for the following types of aircrafts:

  - state aircraft registered under *The Aeronautics Act (Canada)*,
  - commercial aircraft registered under *The Aeronautics Act (Canada)* used solely for transporting passengers or goods for gain as an air service licensed under *The Canada Transportation Act*,
  - aircraft specifically designed and licensed for farm spraying*.

- Insurance contracts for commercial fishing boats when purchased by a holder of a commercial fishing license under *The Fisheries Act (Canada)**.

- Insurance contracts for sea-going vessels under *The Marine Insurance Act*. Insurance for watercraft used on inland waters is taxable.

- Insurance contracts purchased by employers covering employees who reside outside Manitoba. See section 1, for more information on insurance contracts subject to proration.

- Insurance contracts purchased by qualifying diplomats of a foreign country. The vendor must record the qualifying diplomat's RST exemption number on the invoice.

- Insurance contracts purchased by Status Indians or Indian Bands covering their property situated on a reserve or for risks, perils or events that relate wholly to a reserve*.

  Please Note: The exemption from provincial taxes on a reserve under the federal *Indian Act* does not extend to corporations owned by Status Indians or Indian Bands. Therefore insurance contracts purchased by corporations owned by Status Indians or Indian Bands covering property situated on a reserve or for risks, perils or events that relate to a reserve are taxable.

- Insurance contracts purchased by the federal government, if an RST number is provided.

  Please Note: Insurance contracts purchased by crown corporations (federal or provincial) and by all other levels of government (provincial, municipal, local government districts) and their agencies are taxable. Insurance coverage paid by government employees (i.e. under taxable group plans) is also not eligible for exemption.

- Contracts covering farming and farm property when the insured property is owned or leased by a person engaged in the business of farming*.

The business of farming means the growing of field crops, primary production of food, and raising of livestock on farmland for commercial sale and as the primary (greater than 50%) source of the operator's net income. This exemption includes contracts for the following:

- farm buildings and structures,
- farm implements and farm machinery that are RST-exempt (see Bulletin 018 – *Farm-Use Equipment and Other Items* for further information),
- bloodstock or livestock insurance to insure livestock against loss through death, sickness, accident and theft,
- crop insurance,
- hail insurance.

(Hobby farms are excluded from this exemption, those being farms generally operated for recreation, without the expectation of profit and not as the primary source of income for the owner).

Please Note: Where a single insurance contract that covers farming and farm property also covers residential dwellings and contents (whether located on or off the farm property – such as a cottage located elsewhere in Manitoba), no RST applies on the full contract. RST does apply if a separate contract covers the residential dwellings or property.

In situations where an insurance contract covers farming operations and other business activities of one legal entity (i.e. the activities are not carried on under separate corporations), as long as more than 50% of the net income of the insured is derived from farming, the entire policy is not taxable. However, if the other business activities are separately incorporated, RST will apply to the portion of the insurance coverage that relates to the non-farming activities.

- Insurance contracts purchased by providers of custom farming services that cover RST-exempt farm implements and machinery and related liability.* (see Bulletin 018 – *Farm-Use Equipment and Other Items* for further information). Insurance on their land, buildings and other equipment is taxable.

Statements required to support exemptions

- Statements containing the following information must be obtained to support exemptions for certain purchasers of insurance:

Farmers and custom farming service providers:
- purchaser's name,
- land description, and
- a signed statement certifying that the insurance relates to their farm property and farming activities.

Commercial fishers:
- purchaser's name, and
- a signed statement that the person holds a commercial fishing license and that the insured boats are used for commercial fishing.

Status Indians or Indian Bands:
- purchaser's name,

- purchaser's *Certificate of Indian Status* Registry No. or *Temporary Confirmation of Registration Document* registration number, or Band number when the purchaser is an Indian Band,
- Status Indian's signature, or authorized Band representative's signature when the purchaser is an Indian Band, and
- reserve address to which the insurance coverage relates.

Section 3 – TAX ON PURCHASES

Purchases for own use

- Insurance companies, brokers, agents and third party administrators are required to pay RST on purchases of taxable equipment, printing, promotional goods, insurance supplied for promotional purposes, and miscellaneous services and supplies used in their business in Manitoba. See Bulletin 030 – *Summary of Taxable and Exempt Goods and Services* for additional information.

- If taxable goods or services are purchased from an unregistered supplier (such as a supplier located outside Manitoba), RST must be reported as tax on purchases and paid on the next RST vendor return. Tax is payable on the full laid-down cost of the taxable goods or services in Manitoba (including exchange, transportation, customs and duties, but not GST).

Insurance claims

When taxable goods and services are purchased in connection with an insurance claim, RST applies. For example: When restoration services are purchased to clean or repair damaged furniture as part of a claim, the service provider is required to collect tax on the service.

Section 4 – REGISTRATION REQUIREMENTS

Registration requirements

- Insurance companies must register to collect and remit RST on insurance premiums invoiced and collected by them directly.

  An insurance company's obligations as a vendor may be fulfilled by having the agents or brokers selling their contracts collect and remit the tax on their behalf. However, as insurance contracts are between the insurance company and the customer, the insurance company is responsible for the collection and remittance of tax on contracts where a broker or agent does not collect the tax.

- Insurance brokers, agents and third party administrators must register to collect and remit RST on contracts where they invoice and collect the premiums.

- Reciprocal exchange groups, associations and fraternal societies that sell taxable insurance contracts must register to collect and remit tax on the premiums that are collected by them.

- All other vendors that may sell taxable insurance contracts must register to collect and remit the tax, unless the insurance company has agreed to collect and remit the tax in respect of the contracts they sell.

- To register, businesses are encouraged to use the Taxation Division's online service at manitoba.ca/TAXcess. TAXcess provides a simple, secure way to apply for, and to file, pay and view your Taxation Division tax accounts. Application forms are also available on the website and Taxation Division offices listed below. There is no charge to apply.

- See Bulletin 004 - *Information for Vendors* for more information on vendor requirements and responsibilities under *The Retail Sales Tax Act*.

FURTHER INFORMATION

This bulletin is intended to serve 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:

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Taxation Division
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Telephone (204) 945-5603
Manitoba Toll Free 1-800-782-0318
Fax (204) 948-2087
E-mail: MBTax@gov.mb.ca

Westman Regional Office
Manitoba Finance
Taxation Division
314, 340 - 9th Street
Brandon, Manitoba R7A 6C2
Fax (204) 726-6763

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.