

LAND DEVELOPMENT AND RESIDENTIAL AND COMMERCIAL CONSTRUCTION APPLICATION OF PST AND TRANSITION RULES

LAND DEVELOPMENT

Land development services, generally consisting of improvements to land such as adding roads, landscaping, bridges, sewer systems, water supply, electrical grids, telecommunication systems, etc., are subject to Provincial Sales Tax (PST) effective April 1, 2017, as outlined below:

- The sale of residential and commercial lots or land is not subject to PST. The land developer is considered to be the consumer of the land development services as they will not collect PST upon sale of the land to their customers.
- Contractors are required to collect PST on the total charge to the land developer for the land development services. Contractors will purchase materials for resale exempt from PST by quoting their vendor's licence number to their suppliers. For further reference, please see Information Bulletin PST -12, *Information for Businesses Providing Services to Real Property*.
- In situations where specific services will be rebilled to the municipality, the land developer must quote their vendor number to the contractor in order to purchase the service exempt from PST and must collect the PST on the services when rebilled to the municipality.

Transition Rules

Land developers and contractors will administer their work under the rules in place for the application of PST prior to April 1, 2017, for projects that meet one or more of the following conditions:

1. There is an executed Service Agreement in place between the land developer and the municipality prior to April 1, 2017.
2. The work was solicited and responded to (bid) prior to April 1, 2017, through a formal submission process and a written letter of award has been received within 60 calendar days of April 1, 2017. Sufficient supporting documentation is expected to include:
 - a. Project tender documents and an engineering estimate on costs to complete work in the Phase;
 - b. Executed general sub trade agreements, purchase orders, or sub trade award letters; and,
 - c. A proposed plan of the subdivision with a unit count of the lots and acreage of parcel.

Please refer to the **APPENDIX** for examples of transition rules.

RESIDENTIAL AND COMMERCIAL CONSTRUCTION

Residential and commercial construction services are subject to PST effective April 1, 2017, as outlined below:

- Builders of residential or commercial premises for resale must collect PST on the retail selling price of the premises, excluding the value of the land.
- Builders may acquire the services of contractors and subcontractors exempt from tax, since they will collect PST on the total charge to their customer. For further reference, please see Information Bulletin PST-12, *Information for Businesses Providing Services to Real Property*.

Transition Rules

Developers, builders and contractors constructing residential or commercial premises for resale purposes will administer their work under the rules in place for the application of PST prior to April 1, 2017, for contracts that meet one or more of the following conditions:

1. There is an executed customer contract in place for the sale of the premise, meaning a written agreement is in place prior to April 1, 2017, or an offer available for acceptance within a 30 day period is in place prior to April 1, 2017, with pricing determined.
 - Nominal change orders, cumulatively within 10 per cent of the contract value as of March 31, 2017, for residential or commercial builds, or 25 per cent of the contract value as of March 31, 2017, for commercial building alterations, will be subject to tax based on the rules in place for the application of PST prior to April 1, 2017.
 - The first change order that causes the total to exceed 10 per cent or 25 per cent, as applicable, plus any subsequent change orders are subject to tax based on the application of PST effective on April 1, 2017.
 - Where the agreement includes conditions yet to be removed that impact the pricing of the original agreement, those conditions are to be treated as change orders.
2. The residential or commercial building is under construction before April 1, 2017, with “under construction” defined as the commencement of the foundation or permanent structure of the building. Sufficient supporting documentation is expected to include sub trade and supplier invoices for work completed on the building.
3. Based on dollar value, a majority of written sub trade agreements have been entered into before April 1, 2017, as evidenced by:
 - a. Executed general sub trade agreements, purchase orders, or sub trade award letters;
 - b. Project tender documents; and,
 - c. Site plan with a unit count of the project.

Note: For multi-unit projects, each building must qualify. The entire multi-unit project does not qualify as a whole.

Homes completed and sitting in inventory for resale purposes, including Show Homes for resale, as of April 1, 2017, will not be subject to the new legislation regarding application of PST, as the work was contracted and completed under the old rules.

Please refer to the **APPENDIX** for examples of transition rules.

GENERAL INFORMATION

For phases of land developments or commercial projects, or homes built for resale that do not meet any of the conditions outlined above, the developer, builder and contractor are required to follow the PST legislation in effect as of April 1, 2017.

For phases of land developments or commercial projects, or homes built for resale that qualify under the PST rules in effect prior to April 1, 2017, all subsequent work that is supplied to that project or phase will fall under the old PST rules.

Under the old PST rules, a contractor will not collect PST on the total value of those contracts but is required to pay PST on any materials used in the contracts and must bill the developer, builder or contractor a “PST included” invoice. Purchases of materials on or after March 23, 2017, are subject to PST at the rate of 6 per cent.

For further reference, please see Information Notice IN 2017-02, *Provincial Sales Tax – Services to Real Property* and IN 2017-01, *Provincial Sales Tax Rate Transition Rules*.

PROJECT REGISTRY

During the transition period, to assist land developers, builders and contractors in determining if a project is subject to PST under the old or new legislation, the Ministry of Finance will maintain a Project Registry for projects such as land developments, industrial and commercial projects and multi-unit projects.

Land developers, builders and general contractors may apply to Finance to have their project added to the list. For approved (listed) projects, a letter will be issued by Finance to the land developer, builder or general contractor advising that the project, or a certain phase or phases of the project, is subject to the application of PST prior to April 1, 2017. A copy of the letter can then be provided to contractors and subcontractors as documentation to support the application of PST under the old rules.

Requests to add a project to the registry may be emailed to projectregistry@gov.sk.ca and must include a completed Project Registry Application Form and supporting documentation as outlined in the transition rules above. Please ensure the information provided explains how the project qualifies for the application of PST under the old rules. The Project Registry Application Form may be found at the following link: <http://www.finance.gov.sk.ca/ProvincialSalesTaxForms>.

“Old PST Rules” End Date

To determine an end date for the application of old PST rules to approved construction projects, Finance will use the Project Registry and supporting documentation provided for the project.

REQUEST FOR RULINGS

For unique situations that are not addressed in the transition rules above, developers, builders and contractors are encouraged to request a written ruling by submitting details to sask.tax.info@gov.sk.ca.

Finance is committed to continually strive to improve the standard of the services we provide to businesses and taxpayers, and to be accountable for the quality of the services we provide. The *Taxpayer Service Commitments and Standards Code* describes the fairness and service principles that we follow in administering Saskatchewan's taxes and related programs and can be viewed on our website at <http://www.finance.gov.sk.ca/ServiceCode/TaxpayerServiceCode.pdf>.

FOR FURTHER INFORMATION

<u>Write:</u>	Ministry of Finance Revenue Division PO Box 200 REGINA SK S4P 2Z6	<u>Telephone:</u>	Toll Free 1-800-667-6102 Regina 306-787-6645
		<u>Email:</u>	sask.tax.info@gov.sk.ca

<u>In-Person:</u>	Ministry of Finance Revenue Division 2350 Albert St REGINA SK S4P 4A6	<u>Fax:</u>	306-787-9644
-------------------	--	-------------	--------------

Internet: Tax bulletins, forms and information are available on the Internet at:
<http://www.finance.gov.sk.ca/taxes>

APPENDIX

EXAMPLES OF TRANSITION RULES

EXAMPLE 1

Land Developer A has purchased a parcel of land in City A that in future will include a major retail store, several small retail stores and restaurants, a gas station, apartment buildings and single family dwellings. A Service Agreement is in place prior to April 1, 2017, between Land Developer A and City A to begin work to service the land for the major retail store portion of the project.

The land development services to be completed under the executed Service Agreement are subject to the PST rules in effect prior to April 1, 2017. The land development services relating to future development are subject to the new rules in place for services to real property in effect on April 1, 2017.

EXAMPLE 2

Home Builder A has plans to build a multi-unit project, consisting of ten single family dwellings and six condo unit buildings. One of the condo unit buildings is complete and two of the buildings are under construction with at least the foundation work in progress. Written contracts are also in place between Home Builder A and Contractor A to complete the foundation work for the ten single family dwellings, but this work has not commenced on site and there are no agreements in place for the sale of these homes.

In these circumstances, the completed condo unit building and the two condo unit buildings already in progress are subject to the PST rules in effect prior to April 1, 2017. The ten single family dwellings and the remaining three condo unit buildings are subject to the new rules in place for services to real property in effect on April 1, 2017.

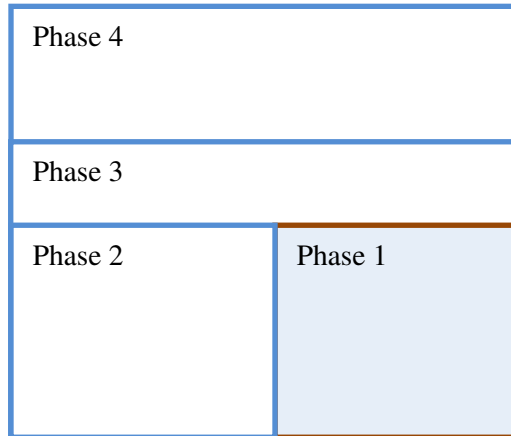
EXAMPLE 3

Home Builder A has entered into a lot purchase agreement with their customer prior to April 1, 2017, that is conditional on building a home on the lot. The written agreement with the customer regarding the construction of the home was not in place prior to April 1, 2017.

In these circumstances, the construction of the new home is subject to the new application of PST in effect on April 1, 2017.

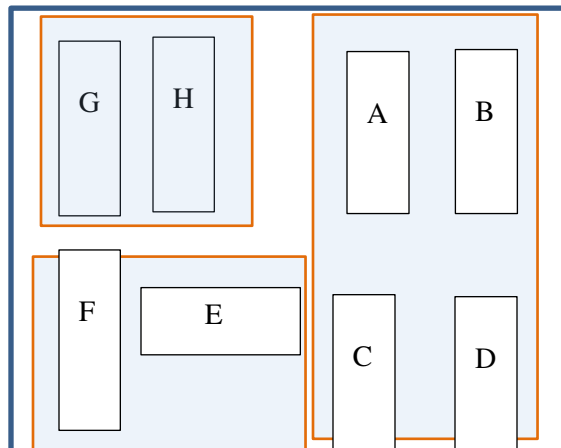
EXAMPLE 4

Developer / Builder A has a project with four phases, where work has begun on the first phase.

PROJECT XYZ

Land development contracts have been awarded for phase 2 to install roadways, sidewalks, sewer, etc., but no contracts have been awarded for phases 3 & 4.

Development work and construction has begun on phase 1.

PHASE 1

As of April 1st, 2017:

Buildings A through D are under construction

For buildings E & F, units are priced and are being marketed, permits have been secured and contracts with the majority of sub trades awarded as of April 1st

Buildings G&H are apartments. Nothing has been started as of April 1st as buildings are planned, but are to be started after the other units are completed.

Under the transition rules:

- Buildings A through D would be completed based on the PST legislation in effect prior to April 1st, 2017 (old rules). Having received a letter indicating this project qualifies under “Old Rules”, the contractors and sub trades working on these buildings pay tax on their materials and invoice as “PST Included”.
- Buildings E and F would also qualify under the old rules. Although work has not started, the developer has signed contracts in place for a majority of the work
- Buildings G and H would not qualify under the old rules, as contracts have not been tendered or awarded and the work has not started.
- The land development contracts for phase 2 of the project qualify under the old PST rules, construction for this phase is subject to the new PST rules in effect April 1, 2017.
- All land development and construction work for phases 3 & 4 are subject to the new PST rules in effect on April 1, 2017.