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# University of British Columbia

## Okanagan Campus Tax Workshop

June 20, 2016



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# AGENDA

- GST
- PST
- Income Tax Withholding
- Examples



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# Goods and Services Tax

# AGENDA

## GST

- Basic principles and definitions
- Input tax credits and rebates
- Documentation requirements
- Taxable and exempt supplies
- Single and multiple supplies
- Place of supply rules
- Imported taxable supplies
- Resource materials



# Basic Principles and Definitions

## **Division II – Imposition of Tax**

A recipient of a taxable supply made in Canada pays tax of 5% on the value of the consideration for the supply.

## **Division III – Tax on Importation of Goods**

A person who is liable under the *Customs Act* to pay duty on imported goods pays tax of 5% on the value of the goods.

## **Division IV – Tax on Imported Taxable Supplies**

A person who receives an imported taxable supply must self-assess 5% tax on the value of the consideration. This rule generally applies to services and intangible property.



# Basic Principles and Definitions

A “supply” generally means the provision of property or a service in any manner, including

- Sale
- Transfer
- Barter
- Exchange
- Licence
- Gift
- Disposition



# Basic Principles and Definitions

**“Property” means any property, whether real or personal, movable or immovable, tangible or intangible, corporeal or incorporeal, and includes**

- A right or interest of any kind
- A share
- Chose in action

**BUT**

- Does not include money



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# Basic Principles and Definitions

**“Service” means anything other than**

- Property
- Money, and
- Anything supplied to an employer by an employee



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# Basic Principles and Definitions

## **“Taxable supply”**

means a supply that is made in the course of a commercial activity

## **“Exempt supply”**

means a supply included in Schedule V



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# Basic Principles and Definitions

## “Commercial activity” of a person means

- A business carried on by the person
  - A business includes a non-profit business
  - A non-profit business of an individual and some others would not be a commercial activity because there is a reasonable expectation of profit test for such persons
  - Except to the extent it involves making of exempt supplies
- An adventure or concern of the person in the nature of trade
  - There is a reasonable expectation of profit test for individuals and some others
  - Except to the extent it involves making of exempt supplies
- The making of a supply by the person of real property other than an exempt supply



# Basic Principles and Definitions

**“Consideration” includes any amount that is payable for a supply by operation of law**

- Value of consideration
  - Money
  - FMV of consideration other than money
- Special rules
  - Barters
  - Used goods trade-ins
  - Others



# Basic Principles and Definitions

## Supplier and Recipient

- Generally, a supplier (vendor/seller), other than a small supplier, of a taxable supply made in Canada in the course of a commercial activity must register, collect and remit GST
  - a special rule applies to a sale real property and generally requires a registered recipient to self-assess the GST instead
- The recipient of a taxable supply shall pay GST on the consideration for the supply
  - if GST-registered the recipient may be entitled to input tax credits (“ITCs”) to the extent the supply is acquired for use or supply in the course of commercial activities



# Basic Principles and Definitions

## “Small Supplier”

- A person is a small supplier if the consideration for the four preceding calendar quarters for taxable supplies made inside or outside Canada does not exceed \$30,000
  - Excludes supplies of financial services and sales of capital property
  - Includes supplies made by an “associate”
  - If the \$30,000 amount for the four preceding calendar quarters is exceeded in a particular calendar quarter the person retains small supplier status until the end of the calendar quarter
- If the consideration for taxable supplies made in a particular calendar quarter exceeds \$30,000 the person immediately ceases to be a small supplier
- The threshold is \$50,000 if the person is a Public Service Body
- Consideration for taxable supplies made by a small supplier generally is not included in calculating tax payable
- The small supplier rule does not apply to a non-resident making a supply in Canada of admissions (e.g a performance, seminar, activity or event)



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# Input Tax Credits and Rebates

An ITC is available, in whole or in part, for tax payable by a recipient of a taxable supply who acquires the supply for use or supply in a commercial activity

- ITCs are claimed on the GST return
- The person must be GST-registered
- The person must have acquired the goods or services
- The GST must be paid or payable by the person
- The goods or services must be for consumption, use or supply in the course of the person's commercial activities
- There are different rules depending on whether the supply is a supply of real property, capital or non-capital property or a service

A rebate is available to a Public Service Body for tax payable on an exempt supply

- The rebate applies to “non-creditable tax” which generally is tax for which an ITC cannot be claimed
- The rebate rate for a university is 67%



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# Input Tax Credits and Rebates

## General Rules for ITCs

### Operating Expenses

- <10% in commercial activities
  - Rebate only, no ITC
- >10% to <90% in commercial activities
  - ITC is available based on % of use, rebate for the remaining tax
- >90% in commercial activities
  - 100% ITC





# Input Tax Credits and Rebates

## General Rules for ITCs

### Capital and Real Property

- >50% in commercial activities
  - 100% ITC
- <50% in commercial activities
  - Rebate only, no ITC

### Real Property Under a Section 211 Election

- ITC is based on the percentage of use in commercial activities
  - <10% - Rebate only, no ITC
  - >10% to <90% - ITC is available based on % of use, rebate for the remaining tax
  - >90% - 100%, ITC



# Input Tax Credits and Rebates

## Allowances

The University is deemed to have paid GST equal to 5/105 of a reasonable allowance paid to an employee or volunteer for services/property acquired in Canada. Depending on the extent of use in a commercial activity, the tax is recoverable as an ITC, a 67% rebate or a blend of both.

## Reimbursements

GST eligible for recovery as a rebate and/or ITC applies only to employee reimbursements where GST has been paid.

- Can claim actual GST paid or
- 4/104 of total reimbursement amount
- Must use only one method for one year and keep receipts



# Documentation Requirements

**At the time an ITC or rebate is claimed a registrant must have sufficient evidence to enable the amount of the ITC or rebate to be determined.**



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# Documentation Requirements

Summary of Documentation Requirements	Total Amount Paid or Payable		
	<\$30	>\$30 and <\$150	\$150 or More
Supplier's name, or intermediary's name in respect of the supply, or name under which the supplier does business	x	x	x
Date of invoice - other rules apply if no invoice	x	x	x
Total amount paid or payable	x	x	x
Amount of applicable GST/HST – <ul style="list-style-type: none"> <li>• Amount of GST/HST for each supply or for all supplies</li> <li>• Where the supply is on a “tax included” basis, a statement of this status and the tax rate of each taxable supply that is not a zero-rated supply</li> <li>• Where multiple supplies with different tax status, an indication of the tax status of each taxable supply that is not a zero-rated supply</li> </ul>		x	x
Supplier's GST registration number		x	x
Terms of payment			x
Recipient's name, or name under which the recipient does business, name of recipient's duly authorized agent or representative			x
Description of each supply sufficient to identify each supply			x



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# Taxable and Exempt Supplies

**We need to understand the following aspects of a supply made by the University to be able to determine the tax treatment**

- The nature of the supply
  - Tangible personal property
  - Intangible personal property
  - Real property
  - Service
- How the property or service was used by the University prior to the University making the supply
- The place of the supply
- The recipient of the supply
- The consideration for the supply



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# Taxable Supplies

**A “taxable supply” is a supply made in the course of a commercial activity of the person**

- A supply by the University is a taxable supply unless defined to be exempt (more details on what is exempt later)
- It includes a zero-rated supply (therefore the supplier of zero-rated supplies is entitled to ITCs for GST on related costs)
- The GST rate on a zero-rated supply is 0%

**A zero-rated supply is a supply included in Schedule VI of the Excise Tax Act**

- Part I - Prescription Drugs and Biologicals
- Part II - Medical and Assistive Devices
- Part III - Basic Groceries
- Part IV - Agriculture and Fishing
- Part V - Exports
- Part VI - Travel Services
- Part VII - Transportation Services
- Part VIII - International Organizations
- Part IX - Financial Services
- Part X - Collection of Customs Duties



# Exempt Supplies

**An “exempt supply” is a supply included in Schedule V of the Excise Tax Act**

- Part I – Real Property – various transactions involving residential real property (e.g. sale of used housing and long-term residential rents)
- Part II – Health Care Services
- Part III – Educational Services
- Part IV – Child and Personal Care Services
- Part V – Legal Aid Services
- Part V.1 – Supplies by Charities - note that a public institution, such as the University, is not a charity for GST purposes
- Part VI – Public Sector Bodies - the University is a public sector body
- Part VII – Financial Services
- Part VIII – Ferry, Road and Bridge Tolls



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# Exempt Supplies

## Part VI – Public Sector Bodies

- Section 2 – broad exempting provision for supplies made by a public institution of any personal property or a service, but excluding particular items carved out (more details of carve-outs later)
- Section 25 – broad exempting provision for supplies of real property by a public service body (the University is a public service body), but excluding particular items carved out (more details on carve-outs later)
- Section 6 – direct-cost rule – if the University purchases goods and re-supplies them at its direct cost it can choose whether to make the re-supply exempt or taxable
- Various other exempting provisions, including
  - Fundraising activities
  - Right to be a spectator at an amateur performance, athletic or competitive events
  - Recreational programs primarily for children 14 years and under
  - Recreational camps for underprivileged individuals or individuals with a disability
  - Food/beverages, short-term accommodation made in the course of an activity whose purpose is to relieve poverty, suffering or distress of individuals
  - Borrowing privileges at a public lending library





# Exempt Supplies

## Part VI – Public Sector Bodies – Section 2

**Supplies made by the University of personal property or a service are exempt except the following which are taxable unless a more specific exempting provision is available**

- Zero-rated supplies
- Property (other than capital property or property acquired for the purpose of making a supply) that was used in commercial activities; intangible personal property is not capital property
- Capital property that was used primarily (>50%) in commercial activities
- Tangible personal property (i.e. goods) acquired, manufactured or produced by the University for the purpose of making a supply of the property and was not donated to the University nor used by another person before its acquisition by the University, or any service supplied by the University in respect of such property
- Property supplied by way of lease, licence or similar arrangement in conjunction with a taxable supply of real property (other than short-term accommodation) made by way of licence or lease of less than one month
- Property or a service supplied under a catering contract
- Membership that provides admissions that would be taxable if supplied on their own, or to a right to participate in a recreational or athletic activity of use facilities at a place of amusement except if the value of these items is insignificant



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# Exempt Supplies (Continued)

## Part VI – Public Sector Bodies – Section 2

### Taxable supplies unless another specific exempting provision applies

- Services of performing artists supplied to a person who makes taxable supplies of admissions in respect of a performance
- Service involving or membership giving a right to supervision or instruction in any recreational or athletic activity
- A right to play or participate in a game of chance (there are specific exempting provisions that may apply)
- A service of instructing individuals in, or administering examinations in respect of any course (there are specific exempting provisions in Part III – Educational Services)
- An admission in respect of a place of amusement or a seminar, conference or similar event (there is a specific exempting provision for a place of amusement if the consideration does not exceed \$1.00)
- Property or service supplied by a municipality
- Designated municipal property
- Cosmetic service supply – this is not exempt under Part II – Health Care Services and this carve-out ensures it is not exempt under the general exempting provision
- Property or service that is not a qualifying health care supply – such property or service is not exempt under Part II – Health Care Services and this carve-out ensures it is not



# Exempt Supplies

## Part VI – Public Sector Bodies – Section 25

**A supply of real property by the University is exempt under section 25 but not the following supplies, which are taxable supplies. Most supplies of non-residential real property by the University will fit within one of these categories and be taxable.**

- Real property that was used primarily in commercial activities prior to the supply
- Short-term accommodation
- Real property supplied by way of licence or by way of lease of less than one month
- Real property in respect of which a section 211 election is in effect
- A parking space



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# Educational Services - Exempt Supplies

## Schedule V, Part III

- Courses/exams for which credit may be obtained toward a diploma or degree
- Courses/exams leading to or for the purpose of maintaining or upgrading a professional or trade accreditation/designation recognized by a regulatory body
- Courses/exams leading to certificates, diplomas, licences or similar documents attesting to individuals' competence to practise or perform a trade or vocation except where the supplier elects for the supply to be taxable
- Courses/exams that are part of a program of two or more courses that is subject to review/approval by a council/board/committee of the university established to review/approve the university's course offerings
- Courses/exams that are part of a program of second-language instruction in either English or French



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# Educational Services – Exempt Supplies

## Schedule V, Part III

- Meal plan
  - Student must be enrolled at the university
  - Meal plan covers a period of at least one month
  - Student purchases for a single consideration **only the right to receive**
    - Not less than 10 meals weekly
    - At a restaurant or cafeteria at the university
- Meals are served only at on-campus restaurant or cafeterias; this excludes on-campus mini-marts, convenience stores, etc.
- The amount must be adequate for a student to receive at least 10 meals each week – what is the average cost of a meal on campus?
- What is a meal?
- What is a restaurant/cafeteria?
- Declining balance debit cards for meal plans – qualifying and non-qualifying meal plans on the same card
- CRA is in the process of developing a written administrative policy



# Single and Multiple Supplies

**Where items having different tax treatment are supplied together we must determine if there is one supply with multiple elements or multiple supplies (CRA Policy P-077R2)**

- If there are multiple supplies each supply must be analyzed separately to determine the tax treatment
- If there is one supply with multiple elements the supply is characterized by the dominant element which determines the tax treatment of all the elements

## **Single Supply**

- The elements are interdependent or so intertwined that they lose their identity

## **Multiple Supplies**

- The elements can reasonably be separated from the supply of the other elements

## **Incidental Supplies**

- If they would otherwise be separate supplies but are incidental they are deemed to be part of the main supply



# Single and Multiple Supplies

## CRA Policy P-077R2

- Every supply should be regarded as distinct and independent
- A supply that is a single supply from an economic point of view should not be artificially split
- There is a single supply where one or more elements constitute the supply and any remaining elements serve only to enhance the supply
- A single price does not automatically mean there is one supply
- Separate prices for the elements does not automatically mean there are two or more supplies
- Are the elements integral components?
- Are the elements so intertwined/interdependent that they must be supplied together?
- Is the recipient aware in detail of the elements in the package?
- Can the recipient substitute or acquire elements separately?
- Will any one element satisfy the customer's needs on its own?



# Single and Multiple Supplies

## Court Cases

- The test is whether the alleged separate supply is an integral part of the overall supply
- Has the customer received something useful if he receives only one element
- If you can't have one element without the other to have the desired result then there is only one supply
- You have to deal with the actual transaction and not a hypothetical one
  - You can buy pizza on its own but if a customer orders home delivery pizza the delivery service is integral to giving the customer what he wants so there is only one supply and not separate supplies of a pizza and a delivery service
- It is a common sense test





# Place of Supply Rules

## In Canada

- Goods
  - For a sale, the goods are delivered or made available to the customer in Canada
  - For a lease, possession or use of the property is given or made available in Canada to the customer
- Services
  - If the service is performed in whole or in part in Canada
  - If the service relates to real property and the property is situated in Canada
- Intangible property
  - If the property may be used in whole or in part in Canada
  - If the property relates to real property situated in Canada
  - If the property relates to tangible personal property ordinarily situated in Canada; or
  - If the property relates to a service to be performed in Canada
- Real property
  - If the property is situated in Canada
- Supply of personal property or a service by a non-resident
  - A supply made in Canada by a non-resident that is not a registrant is deemed to be made outside Canada, except supplies of admissions not acquired from another person



# Place of Supply Rules

## In Canada – in a participating or non-participating province

- Participating provinces
  - Ontario, New Brunswick, Newfoundland and Labrador, Nova Scotia, Prince Edward Island
- Goods
  - place where the goods are delivered or made available to the customer
- Services
  - where the recipient is located and generally is based on the recipient's address most closely related to the service
- Intangible personal property
  - there are specific rules



# Imported Taxable Supplies

## Self-assessment is required, subject to certain exceptions

- Applies mainly to services and intangible personal property that are supplied outside Canada to a person resident in Canada
  - self-assessment is not required if the services or intangible personal property are being acquired for consumption use or supply exclusively in the course of commercial activities
  - self-assessment is not required for a service that is consumed by an individual exclusively outside Canada
  - self-assessment is not required if the services or intangible personal property are acquired exclusively in the course of activities engaged in exclusively outside Canada and are not part of a business or adventure or concern in the nature of trade engaged in by the person in Canada



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# Resource Materials

- Finance website
- Treasury website – link from Finance Website
- CAUBO Tax Hotline – telephone or email
  - 1-800-663-1280
  - [caubotax@kpmg.ca](mailto:caubotax@kpmg.ca)
- CAUBO Website – Tax Notes
  - Meal plans
  - External Sales of Goods and Services
  - Imported Taxable Supplies
  - Determination of Tax Status – Employee Versus Contractor
  - Taxable Benefits
- University Tax Manager



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# BC Provincial Sales Tax

# AGENDA

## PST

- Basic principles and definitions
- Exemptions
- Bundling
- Incidental sales/leases
- Self-assessments
- Contractors and real property
- Resource materials



# Basic Principles and Definitions

## Tax Base

- Tangible personal property
- Software
- Taxable services
  - Related services
  - Telecommunication services
  - Legal services
  - Accommodation



# Basic Principles and Definitions

## General Exclusions and Exemptions

- Exclusions
  - Are not included in the tax base (most intangible personal property, real property and services)
- Exemptions
  - Resale/Re-lease
  - By class of property/service (e.g. food for human consumption)
  - By class of purchaser (e.g. First Nations)
  - Other (e.g. manufacturing and production equipment, related party transactions)





# Basic Principles and Definitions

## Tax Rate

- 7%
- Liquor 10%
- Private sales of used vehicles, boats, aircraft 12%
- Passenger vehicles above \$54,999 – 7% to 9%, and above \$56,999 – 10%
- Energy products (excluding electricity) – additional 0.4%
- Accommodation 8%, 10% or 11%



# Basic Principles and Definitions

## Purchase Price/Taxable Amount

- Purchase price is “total value of the consideration that the seller ... accepts as the price or on account of the price” and includes
  - Price in money
  - Value of services, tangible personal property or software provided
  - Charges for transportation, delivery, interest, finance, service, customs and excise charges incurred before title transfers (other than interest on conditional sales contracts)
  - If TPP acquired outside BC and brought into BC, costs and expenses for materials, labour, manufacturing, processing, service, customs, excise and transportation incurred before TPP used in BC
  - Any charge for use of TPP or use of knowledge required to use TPP (including royalties and licence fees) whether incurred before or after title transfers
  - Any charge for a warranty, maintenance or service of TPP that the purchaser must pay to obtain title



# Basic Principles and Definitions

## Tangible Personal Property (“TPP”)

### TPP means the following:

- Personal property that can be seen, weighed, measured, felt or touched, or that is any other way perceptible to the senses and includes natural or manufactured gas
- Electricity
- Heat
- Affixed machinery
- An improvement to real property or a part thereof that is removed from the site at which it is affixed or installed, while it is removed from that site



# Basic Principles and Definitions

## Software

**“Software” means the following:**

- A software program that is delivered or accessed by any means
- The right, whether exercised or not, to use a software program that is delivered or accessed by any means



# Basic Principles and Definitions

## PST Bulletin PST 105 “Software”

- Examples of software – application software, systems software, video games and mobile device apps
- Internet services
  - Generally, if a customer purchases access to a website that provides the ability to employ some degree of functionality on the website beyond merely viewing website content, the customer is purchasing a right to access software, which is subject to PST
  - Indicators that a customer is purchasing software
    - The functionality goes beyond merely viewing content
    - The customer can use the website to manipulate files or create new files
    - The website usage agreement specifically states that the customer is obtaining a licence to software



# Basic Principles and Definitions

## PST Bulletin PST 105 “Software”

### Software Maintenance Agreements

- PST does not apply to services to software (unlike services to TPP which are subject to PST), however
  - Mandatory agreements are taxable – if you must purchase the maintenance agreement it is considered part of the purchase price of the taxable software
  - Optional agreements providing software updates are taxable
  - Optional agreements providing services to software but not software updates are not taxable



# Taxable Services

## “Related Service”

- Service provided to TPP or any service provided to install TPP, but does not include
  - Service to install TPP that will become affixed machinery or improvement to real property on installation
  - Service by an employee to an employer in the course of employment
  - Service provided to manufacture TPP that is fundamentally different from the TPP from which it is manufactured
  - Service provided to software or to install software that is subject to tax or is exempt from tax



# Taxable Services

## Warranty and Maintenance Contracts

- Mandatory warranty/maintenance contracts
  - Warranty is included in the sale price of TPP and is therefore taxable
- Optional with scheduled services
  - Warranty or maintenance contract is considered prepayment for future taxable services and is therefore taxable
- Optional with services provided only as needed – not taxable





# Exemptions

## Common exemptions for TPP

- Re-sale/lease exemption
- Goods shipped out of BC
- Drugs (Schedule I or IA of the Drug Schedules Regulation, BC Reg 9/98)
- Health products



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# Exemptions

## Common exemptions for TPP

- Human parts and reproductive products
  - Organs
  - Tissue
  - Semen
  - Ova
  - Blood
  - Blood constituents



# Exemptions

## Common exemptions for TPP

- Publications
  - Books are exempt if they are published solely for educational, technical, cultural, or literary purposes and contain no advertising
  - Newspapers are exempt if at least 20% of the content is composed of editorials, news and articles of local or common interest content
  - Magazines and periodicals are exempt if at least 10% of the content is composed of technical, literary, editorial and pictorial content
  - A student yearbook is exempt



# Exemptions

## Common exemptions for TPP

- Various safety equipment
- Water and food for human consumption, excluding liquor
- Prototypes
- School supplies – acquired by a university for the use of students or for the use in instructing students



# Exemptions

## Common exemptions for Related Services

- Services to most exempt goods
- Services to most affixed machinery
- Service to TPP brought into BC and then transported out of BC immediately following the service for use outside BC
- Service to an animal



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# Exemptions

## Common exemptions for Related Services

- Diagnostic services, testing, safety inspections provided to TPP
- Services that measure, weigh, grade or classify TPP



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# Exemptions

## Common exemptions for Related Services

- Cleaning services
- Disposal services
- Courier and mail services
- Packaging services
- Freight transportation services



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# Exemptions

## Common exemptions for Software

- Services to software – testing, installation, configuration, modification, repair restoration (note that services to software are not related services)
- Software obtained by a qualifying school, school board, or similar authority for use substantially as a teaching aid for students
- Specified custom software
- Custom modified software
- Software source code in non-executable form





# Exemptions

## Common exemptions for telecommunication services

- Purchased solely for resale
- Purchased substantially for resale (self-assess on portion not resold)
- Toll Free numbers (other than for teleconference services)
- Residential phone services provided through a public switched telephone network by means of a wire or cable
- Basic cable TV services provided by means of a wire or cable
- Telecommunication services provided to a purchaser as part of the purchaser's participation in certain educational training or instructional programs or activities if provided only to participants of the program or activity by the person offering that program or activity
- Telecommunication services purchased from an accommodation provider in relation to a purchase of accommodation



# Exemptions

## Common exemptions for accommodation

- Units supplied for \$30 or less per day or \$210 or less per week
- Long term accommodation (more than one month)



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# Bundling

- General Rule
  - PST applies on the FMV of the taxable component
- Fully taxable if
  - If taxable component is >90% of the price and less than \$500; or
  - The non-taxable component is not ordinarily sold separate from the taxable component
- Fully exempt if
  - If FMV of taxable component is \$50 or less and 10% or less of the FMV of the entire bundle
  - Taxable component is prepackaged with the exempt component
  - Taxable component is not ordinarily sold separate from the non-taxable component
  - The taxable component is not being provided by way of promotional distribution
  - The bundle does not include liquor, legal services or telecommunication services



# Incidental Sales/Leases

A sale of goods or software or a lease of goods is not subject to PST when provided with a non-taxable service if

- The main purpose of the contract is for the service and not for the goods or software;
- There is no separate charge for the goods or software; and
- The total price of the service, including the goods or software, is the same as or only marginally different from the price you would charge if the goods or software were not provided.



# Incidental Sales/Leases

Goods provided with a lease of real property are not subject to PST if

- The lease of real property is for a term of 7 days or less;
- There is no separate charge for the goods; and
- The total price of the lease of real property, including the goods, is the same as or only marginally different from the price you would charge if the goods were not provided.



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# Self-Assessments

## We must self-assess if the vendor does not collect the PST

- Self-assessment is required for
  - Importation of taxable goods and services
  - Change of use of goods/services
  - Taxable purchases from a non-registrant that is not a small seller
- Tax base for self-assessment includes
  - Purchase price
  - Delivery and transportation charges
  - Interest, finance, service, customs and excise charges
  - Materials, labour and other manufacturing/processing costs if TPP is purchased/manufactured/processed outside BC and then brought into BC
  - Royalty or licence fees incurred (before or after title passes)
  - Charge for a warranty, maintenance or service that must be paid to obtain title



# Contractors and Real Property

## Types of Real Property Contracts

- Supply only
- Install only
- Supply & install TPP that remains TPP
- Supply and install TPP that becomes real property



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# Contractors and Real Property

## Real Property Contracts – Supply Only

- TPP is purchased from one vendor and installed by another vendor
  - Two separate transactions – one for the purchase and one for the installation
- Purchaser pays PST on purchase of the TPP unless an exemption is available
- Contractor is not required to pay PST on TPP because the contractor purchases it for resale





# Contractors and Real Property

## Real Property Contracts – Install Only

- TPP is purchased from one vendor and installed by another vendor
  - Two separate transactions – one for the purchase and one for the installation
- Purchaser is not required to pay PST on installation services to TPP that becomes real property



# Contractors and Real Property

## Real Property Contracts – Supply & Install TPP that Remains TPP

- TPP is purchased from and installed by the same vendor
  - If the TPP remains as TPP, PST is payable on the total charge
- Contractor does not pay PST because it purchases the TPP for resale



# Contractors and Real Property

## Real Property Contracts – Supply & Install TPP that Becomes Real Property

- TPP is purchased from and installed by the same vendor
  - If the TPP becomes real property, PST is not payable
- Purchaser is not required to pay PST
- Contractor is considered to be the consumer and must pay PST on TPP that it purchases to perform the contract



# Contractors and Real Property

## Repairs/Services to Affixed Machinery

- On site considered not taxable
- Off site is considered taxable



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# Contractors and Real Property

**Consider also the terms of our contract with the contractor with regard to PST as we could be liable under the contract even if not liable for PST under the legislation.**



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# Resource Materials

## Province of BC PST Bulletins

- PST Bulletin 200 “Exemptions and Documentation Requirements”
- PST Bulletin 502 “Examples – Goods That Generally Become Part of Real Property and Goods That Do Not”
- PST Bulletin 503 “Affixed Machinery”



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# Income Tax Withholding

# AGENDA

## Income Tax Withholding

- Part I - Regulation 105 withholding
- Part XIII withholding
- Resource materials



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# Withholding

## Part I Tax

Withholding is required under Regulation 105 where a person pays a non-resident for services rendered in Canada

- 15% of amount paid for services rendered in Canada
- this is not a final tax liability
- the non-resident is required to file a Canadian income tax return to report the income and calculate the liability based on income net of expenses at the applicable tax rate and will pay or be refunded the difference between the actual liability and the amount withheld
- business income of a non-resident that is not attributable to a permanent establishment (“PE”) in Canada may not be subject to tax in Canada due to a Tax Treaty



# Withholding

## Part I Tax

The CRA may provide a waiver to a non-resident to eliminate or reduce the withholding

- Treaty-based waiver
  - Due to the absence of a PE in Canada
- Income and expense waiver
  - Reduced withholding based on estimated income net of expenses
- 15% withholding is required on an amount paid to a non-resident for services rendered in Canada unless the non-resident provides us a waiver prior to payment



# Withholding

## CRA Examples from IC 75-6R2

- construction projects
- installation projects
- manufacturing and/or processing
- oil and gas operations
- entertainment (circuses, carnivals, orchestras, theatrical shows, musicals, air shows, ice-shows, concerts, festivals, etc.)
- athletic events (golf, rodeos, track and field, motor car racing, etc.)
- forestry
- consulting
- legal or accounting services
- engineering
- lecturing
- seminar/conference presentations



# Withholding

## Payments not subject to regulation 105 withholding

- Reasonable travel expenses
  - Vouchers not required for payments up to \$45/day for meals or \$100/day for accommodation
  - Reasonable travel expenses in excess of these amounts are allowed if receipts are retained
  - Travel expenses are limited to transportation, accommodation and meals
  - Travel expenses are reported on a T4A-NR as travel expenses but not included in gross income



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# Withholding

## Part XIII Tax

Generally, this is withholding on passive forms of income paid to non-residents

- A royalty in respect of a copyright in respect of the production or reproduction of any literary, dramatic, musical or artistic work is not subject to withholding under the Income Tax Act
- 25% withholding, subject to rate reduction or elimination under a Tax Treaty
  - royalties are generally reduced to 10% under Tax Treaties but we should check the applicable Tax Treaty
  - right to use a motion picture film is reduced to 10% under the Canada-US Tax Convention
  - a right to use software is not subject to tax under the Canada-US Tax Convention
  - a right to use a patent or information re industrial, commercial or scientific experience is not subject to tax under the Canada-US Tax Convention
- Non-resident should provide Form NR301 confirming eligibility for treaty benefits otherwise we should withhold at 25%



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# Resource Materials

## Canada Revenue Agency Information Circulars

- IC 75-6R2: Required Withholding From Amounts Paid to Non-Residents Performing Services in Canada
- IC 76-12R6: Applicable Rate of Part XIII Tax on Amounts Paid or Credited to Persons in Countries With Which Canada Has a Tax



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# Examples

# Examples

**We place an advertisement in an Ontario publication. When invoiced are we subject to GST or HST?**

- This is a service, therefore the place of supply is the address of the recipient (UBC); therefore, place of supply is BC so GST applies
- We don't self-assess GST; the vendor collects, but we should verify that GST rather than HST is collected
- PST does not apply because the service is not provided in BC
- If the service was provided in BC it would not be subject to PST because it would not be a "related service" since it is not being made to TPP



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# Examples

## If the advertisement is placed in a publication outside Canada.

- This would be a service supplied by a non-resident so we need to consider the imported taxable supply rules if the non-resident is not GST-registered
- Examples
  - Advertise a UBC conference where we charge admissions; don't self-assess GST because the advertising is used exclusively in a commercial activity
  - Advertise UBC to prospective students; self-assess GST because the advertising is not acquired for use exclusively in a commercial activity
- PST does not apply because the service is not provided in BC



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# Examples

## Contract Research

- Research services supplied by UBC would ordinarily be GST-exempt under the general exemption for supplies by a public institution
  - If goods of significant value (e.g. prototypes) are involved and the services and goods are one supply we need to determine whether the supply is a service (exempt) or tangible personal property (taxable)
  - If goods of significant value are involved, consider structuring the arrangement as two supplies – one for research services (exempt) and a second for a sale of goods (taxable)
- PST generally would not apply because this is a service but consider the bundling rules and incidental sales rules if goods are involved. Also, prototypes are exempt from PST.



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# Examples

## Rental of Lab Space to Non-UBC Persons

- GST applies if the rental is by way of licence or by way of a lease of less than one month or if the lab is on a legal title that is under a section 211 GST election.
- GST also applies to the rental of any equipment included if the rental of the lab is by way of licence or by way of a lease of less than one month.
- PST applies to TPP (e.g. equipment). If it is free-standing or minimally attached to the building it will be TPP and subject to PST. If the equipment is permanently affixed it will be real property at common law but consider the bullets below.
- TPP is defined also to include “affixed machinery” (e.g. affixed equipment that is real property at common law) if
  - It is used directly in the manufacture, production, processing, storage, handling, packaging, display, transportation, transmission or distribution of TPP; or
  - It is used to provide a service. Therefore, if we use affixed equipment to provide lab services to non-UBC customers it will be TPP.
- The rental of affixed machinery is subject to PST because it is a rental of TPP.



# Examples

## Software Purchase

- If from a Canadian resident vendor we don't self-assess GST; the vendor collects it
- If from a non-registered non-resident vendor, we self-assess GST unless it is for use exclusively in a commercial activity (e.g. ticketing software for conferences)
- Self-assess PST if the vendor does not collect it
- 15% withholding if payment is to a non-resident does not apply because the payment is not for services
- 25% Part XIII withholding would apply on a payment to a non-resident but is reduced to NIL under the Canada-US Tax Convention. If paying to non-residents of other jurisdictions we need to check the relevant Tax Treaty



# Examples

## **Software maintenance contract - software updates are provided**

- GST – do not self-assess if from a Canadian resident vendor; the vendor collects it
- GST – consider whether to self-assess if from a non-resident vendor – is it used exclusively in a commercial activity?
- Self-assess PST if not collected by the vendor since software updates are software
- 15% withholding is not required if paying a non-resident since software updates are not services
- No Part XIII withholding if Canada-US Tax Convention applies; other Tax Treaties?



# Examples

## **Mandatory software maintenance contract – no software updates provided**

- GST – do not self-assess if from a Canadian resident vendor; the vendor collects the GST
- GST – consider whether to self-assess if from a non-resident vendor – is it used exclusively in a commercial activity?
- Self-assess PST if not collected by the vendor because the mandatory feature makes it part of the purchase price of the software
- 15% withholding is required if paying a non-resident unless the services are not performed in Canada



# Examples

## Optional software maintenance contract – no software updates provided

- GST – do not self-assess if from a Canadian resident vendor; the vendor collects the GST
- GST – consider whether to self-assess if from a non-resident vendor – is it used exclusively in a commercial activity?
- Do not self-assess PST – a service provided to software is not a related service
- 15% withholding is required if paying a non-resident unless the services are not performed in Canada



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# Examples

## Lab Services Provided to Non-UBC Persons

- Ordinarily a lab service would be a supply of a service (GST-exempt) even if other elements are involved (e.g. TPP).
- Lab services may be taxable related services for PST purposes if they are services to TPP. Often, however, PST would not apply because there are exemptions for related services that are diagnostic services, testing and safety inspections and services that measure, weigh, grade or classify TPP. Also, services to human parts and reproductive products would be PST-exempt because these types of TPP are exempt. A service to an animal is also PST-exempt.
- We need to understand the nature of the lab services to determine the GST and PST treatment.
- PST could apply if TPP is supplied unless it is incidental where:
  - The overriding object of the agreement is to provide services, not TPP.
  - The TPP is not priced separately.
  - The consideration would be the same or only marginally different if no TPP was provided.





# Examples

## Rental of Lab Equipment to Non-UBC Persons

- We should collect GST on equipment rented for use at UBC because it is being supplied along with a licence to real property to access the equipment.
- If equipment is rented for use at a non-UBC location and the rental is incidental to UBC's internal use it would generally not be subject to GST since a supply of TPP is not taxable unless it was acquired by UBC for the purpose of rental. If the rental is more than an incidental use of the property we need to consider more carefully whether it was acquired for the purpose of rental and may be taxable.
- PST applies to TPP (e.g. equipment)

