

THE RETAIL SALES TAX ACT

SAND, GRAVEL, CONCRETE and ASPHALT

This bulletin provides information on how the retail sales tax (RST) is to be applied by businesses that process, manufacture, sell or install sand and gravel products.

Section 1 – GENERAL INFORMATION

- Sand, gravel, concrete, asphalt and related products are subject to RST. Who pays the RST depends on whether these goods are sold on a “supply only” basis to the customer, or are “supplied and installed” into real property (RP) by the supplier for a customer. That is
 - Where these goods are sold on a supply-only basis, the supplier is the **vendor** of the goods and must collect the RST from the customer on the retail selling price charged. See Section 2 for additional information.
 - Where these goods are supplied and installed into RP for a customer, the supplier is the **consumer** of the goods and must pay the RST on their fair value. In this case, RST is not collectible on the contract selling price. See Section 3 for additional information.

Section 2 – SUPPLY ONLY OF GOODS AND SERVICES

- Retail selling price**
- When sand, gravel, concrete, asphalt and related products are picked up by a customer at the vendor’s premises, the “retail selling price” is the total amount the customer is charged for the product (excluding GST). For example, the following charges are part of the retail selling price of the product and subject to RST even if they are shown separately on the invoice:
 - Loading, screening, washing, heating, crushing, royalty, rehabilitation levy and other similar fees and charges in respect of sand and gravel
 - Heating, additives, mixing, unloading and short-load charges in respect of concrete, asphalt and concrete products
 - Charges for placing a product (e.g., concrete pumping services) and unusual waiting-time are not part of the retail selling price of the product and are not subject to tax.
 - Where the product is delivered to the customer and an amount in addition to the retail selling price is charged for delivery, as explained below, the delivery charge is not subject to RST.

Delivery

- An exemption for delivery charges on sand and gravel is allowed if the charge for delivery is shown separately on the invoice, and is in addition to the regular selling price established by the vendor for the materials. The “regular selling price” is the price normally charged by a vendor for a product (after allowing any volume discount) when it is **picked up by the customer** at the vendor’s premises.

For example: A vendor regularly sells material for pick-up at the pit site for \$2.00 a metre and charges an additional \$2.50 a metre to deliver that material to the customer. If the vendor delivers 10 metres of material, he/she must show the taxable sale (10m x \$2.00 = \$20.00), the applicable RST (7 per cent x \$20.00 = \$1.40) and the exempt delivery charge (10m x \$2.50 = \$25.00) separately on the invoice. If the vendor’s invoice simply shows 10 metres of material for \$45.00, then the RST is collectible on the total charge (e.g., \$45.00 x 7 per cent = \$3.15).

Please note: When material is transferred from one site to a stockpile at another site for sale, the transportation costs (from the pit) to the stockpile do not qualify as an exempt delivery charge. That is, the price the vendor normally charges for material picked-up at the stockpile site establishes the “regular selling price.” On sales from the stockpile, the vendor must collect RST on the regular selling price established for the stockpile, and only the additional charge for delivery from the stockpile to the customer is exempt.

- Vendors may allow an RST exemption on the charge (shown separately on the invoice) for delivery of redi-mix concrete and asphalt as follows:
 - Up to \$6.00 per cubic yard, or \$8.00 per cubic metre for local delivery.
 - Where the delivery is to distant points and the vendor charges an amount which is **over and above the regular locally delivered price** (to cover additional delivery costs), then delivery charges exceeding \$6.00/\$8.00 may be exempted from the tax.

Sand and gravel custom haulers

- Some businesses take orders to supply sand and gravel to customers but do not operate a pit or maintain a stockpile of materials for sale. To fill the order, they purchase the materials on the customer’s behalf and deliver it. In this case, the business may apply the RST in **one** of the following ways:
 - **As a vendor** – the business may purchase the material tax exempt by quoting its RST number to the supplier and then collecting the RST from the customer on the selling price (excluding delivery as outlined above). In this case, the vendor must be registered with the Taxation Division to collect and remit the tax.
 - **As a purchaser** – the business may pay the RST to the supplier on the purchase price of the material, but does not collect RST from the customer; i.e., the business is considered to be providing a delivery service only. In this case, the business should make a statement on the customer’s receipt that it paid the RST to the supplier. The business is not required to be registered with the Taxation Division unless it sells

other taxable goods or services.

- Crushing services, etc.**
- Services such as crushing, screening and washing of stone, sand and gravel products are subject to tax even if the service provider does not supply the materials. Contractors that provide these services must collect RST on the total amount charged and remit it to the Taxation Division.
 - Where a purchaser acquires these services for resale purposes, he/she may purchase them RST exempt by quoting his/her RST number to the provider. At the time of sale, the purchaser will collect tax on the selling price of the material and remit it to the Taxation Division.
- Exemptions**
- In the following circumstances, the sale of sand and gravel products (supply only) may be sold tax exempt, if the purchaser is:
 - A municipality or local government district
 - An Indian or Indian Band (but not a corporation operated by an Indian or Indian Band) and the product is sold on a reserve or delivered to a reserve by the vendor
 - Someone acquiring the material for resale purposes and provides his/her RST number to the supplier**Please note:** These exemptions do not apply where the materials are also installed into real property by the supplier (see Section 3).

Section 3 – SUPPLY AND INSTALL CONTRACTS

- General information**
- The charge for installing materials into real property or providing other services to real property is RST exempt. The exemption applies whether the charge for services is part of a contract price or is shown separately on the invoice.
 - Contractors that supply and install sand and gravel products into real property are deemed to be the consumers of the materials used in the performance of the contract. Therefore, they do not collect tax from the customer but are required to pay the RST on the **fair value** of the materials used.
 - Also see bulletin No. 005 – Information for Contractors.
- Definition of “fair value”**
- Where a contractor is the consumer of materials installed into RP, the “fair value” of the materials on which he/she must pay RST is:
 - a) The purchase price, where the contractor purchases the materials from a supplier.
 - b) The manufactured value, where the contractor manufactures or produces the materials. The manufactured value is the total of:
 - The cost of material (including royalties, levies and similar fees paid by the contractor)
 - The cost of direct labour
 - Manufacturing overhead at 150 per cent of the cost of direct labour, or the actual overhead rate, whichever is less

Please note: Where the contractor regularly sells these materials, he/she may choose (for simplicity) to pay RST on the regular selling price of the materials instead of the manufactured value.

Definition of installation

- The delivery and unloading of sand and gravel products in itself is not regarded to be installation. Installation into real property occurs when the gravel is dumped and spread or levelled or compacted. In the case of concrete, it is installed when it is placed and trowelled, or is finished in some other manner.

Section 4 – PIT AND OTHER PROCESSING OPERATIONS

Pit operators

- Businesses that have obtained the right to remove sand, gravel and stone from the earth are required to be registered with the Taxation Division and must apply the tax as follows:
 - Where the materials are sold on a supply-only basis, the business must collect the RST on the retail selling price as discussed in Section 2.
 - Where the materials are extracted from the pit and used by the pit operator in the performance of a supply-and-install real property contract, the pit operator must self-assess the RST on its **fair value** (see Section 3) and remit it to the Taxation Division.

Manufacturers of concrete, asphalt and related products

- The selling price of concrete, asphalt and related products is subject to RST on the selling price; i.e., excluding the charge for GST and delivery shown separately on the invoice.
- Contractors that manufacture these materials and use them in the performance of a real property contract must pay the tax as discussed in Section 3.

Section 5 – PURCHASES

Tax on machinery and equipment

- Machinery, equipment and other apparatus, and the repairs thereof, used in the production of sand, gravel, concrete and asphalt products are subject to RST.
- Some examples of other taxable purchases are trucks, trailers, fork lifts, shop equipment, office equipment, tools.
- Where these items are purchased without payment of tax (e.g., purchased from an out-of-province supplier), the purchaser must self-assess the tax at 7 per cent of the purchase price (excluding GST) and remit it to the Taxation Division. For items purchased outside Manitoba, the tax is payable on the laid-down cost, including freight, currency exchange, duty, brokerage, installation and other related charges.

Exempt purchases

- Contractors that process or manufacture sand and gravel products, such as screened gravel, crushed rock, redi-mix concrete, concrete blocks, asphalt and other related products either for resale or for own use, may purchase materials and additives incorporated into the product and direct agents (as explained below) RST exempt.
- To purchase these items RST exempt, the contractor must provide the supplier with his/her RST number.

Exemption for direct agents

- A “direct agent” is a material that is consumed directly and exclusively in manufacturing goods for sale, or in manufacturing goods that are used in the performance of a real property contract. The materials must come in direct contact with **and transform** the goods being produced during the manufacturing process, or must be incorporated into the end-product. In the case of sand, gravel, concrete and asphalt products, the following materials are direct agents:

- Materials for cutting and breaking a product, such as chisels for air hammers, bucket teeth of a front end loader, crusher teeth, crusher liners, crusher mantels and screens, including welding rod and wire used to rebuild these materials

Please note: These items are taxable when they are included in the purchase price of taxable machinery, equipment or apparatus. For example, when a crusher plant, including the crusher mantels, liners, etc., is purchased for a unit price, the total purchase price is subject to RST. However, if the mantels, liners, etc., are purchased separately, or their value is shown separately on the equipment purchase invoice, the vendor may allow the RST exemption on those items.

- Materials for manufacturing concrete products, such as wooden forms, plunger and shoes, mould top plate, mould side bar, stripper head plate, end plate and plain end liners, end core, end core liner, division plate, mortar groove bar and sash groove, cut-off bar and shoe, wiper blades or rubbers, mixer blades, form release oil, form sealant, silica sand to produce desired surface and polyethylene sheeting for curing the product
- Services to install direct agents are RST exempt; however, services to repair direct agents are taxable. For example, the charge for installing a replacement crusher liner is not taxable; however, the charge to weld, straighten, or otherwise repair a crusher liner is subject to RST.

Items that are not “direct agents”

- THE FOLLOWING ARE SOME EXAMPLES OF PURCHASES THAT DO NOT QUALIFY FOR THE “DIRECT AGENT” EXEMPTION:
 - Laboratory supplies used for quality control or research
 - Power, air and hand tools, including welding equipment
 - Conveyor belt material used to repair or replace a conveyor belt

Please note: A conveyor belt does not qualify as a direct agent even when it is in direct contact with materials being manufactured or processed. For example, when materials are washed, heated, dried, sorted, tested or packaged while they remain on a conveyor belt, the

belt simply moves the material but **does not transform** the material.

Section 6 – REQUIREMENT TO BE REGISTERED

- Sand, gravel, concrete and asphalt businesses are required to be registered for RST purposes if any of the following situations apply:
 - When you sell taxable goods, provide taxable services, or lease your equipment to other contractors (you are required to collect tax on these sales and remit them on your RST return).
 - If you purchase taxable goods or services from out-of-province suppliers or other persons who have not collected the sales tax. In the case of out-of-province purchases, you should self-assess the tax at 7 per cent of the laid down cost, which includes the basic purchase price, transportation, handling, currency exchange, brokerage and other related charges (but not GST).
 - When you produce concrete, asphalt or other taxable goods for own use and are required to self-assess tax on its produced value.
- Applications forms to register can be obtained from the Taxation Division offices or Web site listed at the end of this bulletin. The Taxation Division will mail a return to you, for remitting any RST payable, approximately 10 days before the due date.

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 Act and Regulation stated below. 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
E-mail: MBTax@gov.mb.ca
Web site: www.gov.mb.ca/finance/taxation

Westman Regional Office

Manitoba Finance
Taxation Division
311, 340 - 9th Street
Brandon, Manitoba R7A 6C2
Telephone (204) 726-6153
Manitoba Toll Free 1-800-275-9290
Fax (204) 726-6763

Principal References In Legislation:

The Retail Sales Tax Act of Manitoba (C.C.S.M. c. R130), Section 1(1), definition of "fair value," "purchase price," "purchaser," "retail sale," "vendor"
Manitoba Regulation (75/88R), Sections 2 and 23.