

## THE RETAIL SALES TAX ACT

### ARCHITECTURAL DESIGN SERVICES

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

#### Section 1: APPLICATION OF TAX ON SERVICES

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| <b>Architectural Design Services</b>         | <ul style="list-style-type: none"><li>• Architectural design services are design services provided by an architect, within the meaning of “the practice of architecture” under <i>The Architects Act</i> of Manitoba.</li></ul>   |
| <b>Services Relating to Manitoba</b>         | <ul style="list-style-type: none"><li>• Architectural design services relate to Manitoba if the design services are for a facility or project located in Manitoba. Services relating to Manitoba include design services provided by a non-resident architect for a facility or project in Manitoba, and design services provided to a non-resident client for a facility or project in Manitoba.</li></ul>   |
| <b>Application of Tax on Sales</b>           | <ul style="list-style-type: none"><li>• Architects who provide taxable design services must collect RST from their client.</li><li>• Sub-consultants (e.g. architects or structural, mechanical or electrical engineers) providing design services to a prime consulting architect are <b>not</b> required to collect RST on the sale of these design services. The prime consulting architect must provide their RST number to the sub-consultant to purchase the design services exempt from RST. The prime consulting architect collects RST on their total bill, which includes design services provided by the sub-consultant and prime consulting architect, as calculated below.</li></ul> |
| <b>Taxable Architectural Design Services</b> | <ul style="list-style-type: none"><li>• Taxable architectural design services are deemed to be 30% of the following services provided by an architect:<ol style="list-style-type: none"><li>1. services in schematic design, design development, construction documents and bidding or negotiation phases of a project, as defined in Chapter 2.1.10 of the Canadian Handbook of Practice; plus</li><li>2. disbursements related to those phases of a project</li></ol></li></ul> <p><b>Note:</b> The formula using 30% of services (and disbursements) provided under these phases of a project, establishes a representative portion of</p>   |

the taxable design services provided by an architect that are included in their total architectural fees.

#### Calculation of RST

- RST on architectural design services is applied to 30% of the total billings under - schematic design, design development, construction documents and bidding or negotiation - as follows:

Total services under those phases of a project (including disbursements)	<u>\$100,000</u>
Taxable architectural design services (30%)	<u>\$ 30,000</u>
RST @ 7%	<u>\$ 2,100</u>

- This calculation applies whether architectural services are billed on an hourly rate, as a percentage of contract cost, or as a fixed-fee contract.

#### Exempt Services

- The following services provided by architects are not subject to RST:
  - design services related to facilities or projects located outside Manitoba
  - design services not within the meaning of the practice of architecture under *The Architects Act* (exemptions listed in subsection 25(1) of *The Architects Act*)
  - services under the pre-design, construction-contract administration and post construction phases of a project (e.g. feasibility studies, environmental studies, general consulting or advisory services)
  - design services provided to the federal government, if an RST number is provided (architectural design services provided to federal Crown corporations and provincial government departments, agencies and Crown corporations are taxable)
  - design services provided to a Status Indian or Indian Band, if the services relate to facilities or projects located on a reserve (architectural design services provided for corporations owned by a Status Indian or Indian Band are taxable)
  - services provided by an architect to their employer in their course of employment

**Note:** Where exempt and taxable services are provided, the exempt services must be separately itemized or the entire charge is taxable.

## Section 2: APPLICATION OF TAX ON PURCHASES

#### Purchases for Your Own Use

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

### Section 3: REGISTRATION REQUIREMENTS

- Registration**
- Businesses providing taxable architectural design services are required to register for RST purposes. Applications for registration are available at <http://www.gov.mb.ca/finance/taxation/forms.html> or by phoning the offices listed at the end of this bulletin.
- General Information for Vendors**
- See Bulletin 004 - *Information for Vendors* - explaining a vendor's obligations to collect and remit the retail sales tax.
  - See Bulletin 016 - *Record Keeping and Retention Requirements*
  - Bulletins are available at <http://www.gov.mb.ca/finance/taxation/bulletins.html>.
- Transitional Tax Application**
- Services provided before July 1, 2004 are exempt, even if billed on or after this date. Services provided after June 30, 2004 are subject to RST, even if paid before this date.
  - When services are provided under a contract in effect on July 1, 2004, the customer's invoice should be segregated into two parts. The services provided before July 1, 2004 are exempt, while the services provided after June 30, 2004 are subject to RST.
  - On a fixed fee contract in effect on July 1, 2004, the fixed fee must be prorated based on the actual time spent on the contract.

### 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](mailto:MBTax@gov.mb.ca)  
Web Site: [www.gov.mb.ca/finance/taxation](http://www.gov.mb.ca/finance/taxation)

#### **Westman Regional Office**

Manitoba Finance  
Taxation Division  
349, 340 - 9th Street  
Brandon, Manitoba R7A 6C2  
Telephone (204) 726-6153  
Manitoba Toll Free 1-800-275-9290  
Fax (204) 726-6763

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**Principal References in Legislation**      *The Retail Sales Tax Act of Manitoba (C.C.S.M.c.R130)*, subsection 4(1)(i).  
*Manitoba Regulation (75/88R)*.

## **ARCHITECTURAL DESIGN SERVICES**

This notice is an appendix to Bulletin No. 060 and provides answers to questions regarding the 2004 budget changes affecting architectural design services. **Effective July 1, 2004** retail sales tax (RST) applies at the rate of 7% on architectural design services related to Manitoba.

### **Section 1: APPLICATION OF TAX ON SERVICES**

#### **Transitional Tax Application**

***I invoice my client for architectural design services provided between June 16<sup>th</sup> and July 15<sup>th</sup>, 2004. How does RST apply on my invoice?***

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

***How does RST apply where a retainer is received prior to July 1<sup>st</sup> but the architectural design services are not provided until after June 30<sup>th</sup>?***

Architectural design services provided after June 30<sup>th</sup> are subject to RST, regardless of the invoice date or when payment is received.

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

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

#### **Taxable and Exempt Services**

***Does RST apply to disbursements?***

Disbursements related to the schematic design, design development, construction documents and bidding or negotiation phases of a project are included in the calculation of taxable architectural design services and are taxed accordingly as part of the 30% formula.

***Does RST apply if a contract is put on hold or cancelled?***

If any of the schematic design, design development, construction documents or bidding/negotiation phases of a project have been performed, then RST must be applied on these services.

***Does RST apply on architectural design services for a residence?***

Designing a personal residence under 400 square meters is not within the meaning of the practice of architecture under subsection 25(1) of the Architects Act, and therefore is not subject to RST.

**Section 2: APPLICATION OF TAX ON PURCHASES*****Can an architect or architectural firm use their RST number to purchase taxable goods or services exempt from RST?***

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

Architectural firms may purchase sub-contract design services exempt from RST because the design services are being purchased for resale. Their bill must calculate RST on the total architectural design services, including design services purchased from another architect. The architectural firm must provide their Manitoba RST number to the sub-contract architect to purchase the services exempt from RST.

**Section 3: ADMINISTRATION****How often will I be required to file a sales tax return?**

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

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

Quarterly sales tax returns are due on the 20<sup>th</sup> of the month, in the month subsequent to the end of the quarter. For example, sales tax invoiced during the quarterly period October 1<sup>st</sup> to December 31<sup>st</sup> must be reported on that period's sales tax return, which must be filed and paid by January 20<sup>th</sup>. If the 20<sup>th</sup> falls on a weekend or statutory holiday, the due date is the last working day before the 20<sup>th</sup>. The Taxation Division mails RST returns so that businesses will receive their tax return approximately 10 days before the due date for the period.

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

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

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

RST is charged on the discounted or reduced amount.

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

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