

July 2005

Retail Sales Tax Branch

Real Property and Fixtures

About this Guide

The information in this *Guide* explains how Retail Sales Tax (RST) applies to real property and fixtures. Please note that this *Guide* replaces the previous version dated May 2001. *Revisions have been identified by a bar (|).*

Real Property

Definition Real property means land and any item permanently attached to land.

Examples of Real Property

The following are examples of items that are considered real property when installed:

- buildings
- communication towers
- driveways
- fences
- in-ground swimming pools
- patios
- roads
- sidewalks
- utility poles.

Fixtures

Definition Fixtures are items that are considered to be permanently attached to real property when installed.

Examples of Fixtures

The following are examples of items that are considered fixtures **when attached to real property**:

- above-ground swimming pools
- blinds (includes venetian and vertical)
- built-in appliances
- car wash equipment
- counters, cabinets and shelving
- fireplace inserts
- gasoline pumps
- signs
- theatre seats
- water heaters.

Although they may be affixed to real property, private branch exchange (PBX) equipment and computers are **not** considered to be fixtures. Window mounted air conditioners and free-standing appliances, such as stoves, refrigerators, washers and dryers, are also not fixtures even if connected to wiring or plumbing.

Charging Tax

When contractors supply and install items that become real property or items that are fixtures, they must not charge or show RST on the **selling price**. The RST paid on items bought or manufactured for these contracts forms part of the cost used by contractors to determine the final contract price. For this reason, contractors should **not** quote or bill RST separately to their customers.

RST does, however, apply to the selling price of an item if it is removed from real property before it is sold, or if one of the conditions of the sale is that the item be removed from the real property.

Rentals

The rental charge for real property (such as a house) or a fixture (such as a water heater) is not taxable. Those who rent fixtures to others must pay RST when the items are purchased.

Note:

For real property or fixture contracts, it is the contractor who is responsible for the payment of RST. Contractors can be assessed for the applicable RST on items they buy or manufacture for these contracts even though RST may have been collected from their customers.

Payment of Tax

RST is payable on taxable items that become real property or fixtures when installed and on taxable items used to repair real property or fixtures. For RST purposes, the purchaser of items to be installed is considered the end consumer and as such, liable for the payment of the RST. Details regarding the person responsible for the payment of RST and when RST is to be paid, are outlined below:

- a) Contractors must pay RST on the purchase price of all items (concrete, steel beams, windows, doors, etc.) that are used in the construction of a real property structure (condominium, office building, etc.). If the items are manufactured by the same contractor who installs them, RST may be payable on the manufactured cost of the goods. See **RST Guide 401 - Manufacturing Contractors** for further details.
- b) RST is payable by the contractor on items, such as water heaters, that are considered fixtures when installed. RST is to be paid at the time of purchase if the item is bought from a third party supplier. If the item is manufactured and installed by the contractor, RST may apply to the manufactured cost of the item. See **RST Guide 401**, as mentioned above.
- c) Whether a contractor repairs real property or fixtures on the customer's premises or takes it to the shop for repair, the contractor must pay RST on all parts and materials used. If the contractor sends the item to another person for repair, the item is no longer considered real property and the contractor must pay RST on the total amount charged by the repairer, including labour.

Repairs

Repairs
(continued)

When a customer brings in an item to be repaired, the contractor or repairer must collect RST on the total amount charged, including labour, even though the item may become real property or a fixture when the customer re-installs it.

Individuals may build or repair their own real property structure or they may buy items that become fixtures when installed. In these instances, the individuals are not purchasing real property or fixtures. Since they are acting as their own contractor, they must pay RST on all items bought for the specific job.

RST does not apply to items repaired in Ontario when the **repairer** ships the repaired item to a customer located outside Ontario. However, when the repairer sends the item out of Ontario for repair for a customer in Ontario, the repairer is required to collect RST on the total amount charged for the repair, including parts and labour.

Special Purchasers

Some customers are not required to pay RST on certain items that are supplied and installed by contractors. Please refer to **RST Guide 400 - Manufacturers**, **RST Guide 808 - Status Indians, Indian Bands and Band Councils**, **RST Guide 807 - Farmers** and **RST Guide 803 - Foreign States, Representatives and Officials** for more detailed information.

Contractors

Contractors are responsible for determining if the customer or the installed item is subject to RST. Contractors can be assessed by the Ministry if they do not pay the applicable RST on items bought for a taxable contract.

If RST does not apply to the customer or the installed item, the contract can be tendered on a “tax-excluded basis”. For these types of contracts, contractors do not have to pay RST when they buy or manufacture the goods that become fixtures or real property. To buy goods from suppliers without paying RST, contractors must give the suppliers a properly completed Purchase Exemption Certificate (PEC). See **RST Guide 204 - Purchase Exemption Certificates** for details.

Farmers

Farmers can purchase building supplies, used to build or modernize structures **used exclusively for farm purposes** by providing their supplier with a properly completed PEC or a Farmer’s Identification (ID) card issued by a general farm organization (Ontario Federation of Agriculture, Christian Farmers Federation of Ontario, and the National Farmers Union). See **RST Guide 807 - Farmers** for details.

“G” Permit Holders

Some customers may quote their “G” permit to contractors and claim that they are not required to pay the RST included in real property contracts or on items that are fixtures when installed. Under the *Retail Sales Tax Act*, suppliers **must not accept a customer’s “G” permit as a PEC** unless the items are being sold **without** installation or taxable services are being provided. RST applies in all other instances.

**Federal
Government**

Contractors may contract with the federal government for the construction of a building and/or the supply and installation of equipment. Contracts for the supply and installation of equipment for the federal government are considered to be real property contracts if, upon installation, the equipment is permanently attached to or directly services a building (e.g., elevators, escalators, light fixtures, central heating, air conditioning). Contractors must pay RST on all items bought for use in these contracts.

If the equipment is not permanently attached to real property or it does not directly service a building (e.g., material handling equipment, production machinery, communication equipment, and training equipment), then the contract is **not** considered to be a real property contract. In this instance, if the contract is with the federal government, the contractor is not required to pay RST on the purchase of the equipment, even though it may be considered a fixture when installed.

As stated earlier, contractors are responsible for determining if the installed item is subject to RST. Even though the federal government may indicate to the contractor that they are not required to pay RST, contractors can still be assessed by the Ontario Ministry of Finance if the installed item is taxable.

For Further Information

The information contained in this publication is only a guideline. For further information, please contact the nearest Ontario Ministry of Finance Tax Office listed in the blue pages of your telephone directory, call our TAX FAX service at 1-877-4-TAX-FAX (1-877-482-9329), or visit our website at www.trd.fin.gov.on.ca.

*Ce guide est disponible en français sous le nom « Biens immobiliers et accessoires fixes n° 206F ».
Vous pouvez obtenir un exemplaire en appelant le 1-800-668-5821.*