

# PST and GST FAQs for BC Law Firms

Having recently passed the first year on the return of PST in BC last April 1 2013, we have updated our tax FAQs monograph originally published in May 10 2013. A number of CRA related questions have been added to this monograph. The questions are listed below and in the next page.

The digital monograph is priced at \$168.00 (includes GST). To order a copy, write dom@lawcourtscenter.com.

## List of Questions

### A. General Questions

- A.1. What is the definition of 'legal services' for the purpose of collecting PST?
- A.2 What are the general anti-avoidance rules?
- A.3 How are we to handle bad debt write offs?

### B. Collecting taxes for legal service

- B.1 Do we charge PST on every invoice?
- B.2 Is there a guide to determinate whether or not contingency files require PST to be charged?
- B.3 If a business invoices for work-in-progress (WIP) that includes goods and services preceding the date PST took effect, how is that handled (ie fixed contract price)?
- B. 4 Do you have a definition for "carries on business in BC" includes businesses that, other than a Registered Records office, have no other presence in BC, with supporting documentation.
- B.5 Place of Supply rules and PST - if we have a client that lives in Ontario, do we bill the client HST at 13% and PST at 7%?
- B.6 If a lawyer provides legal services to a client who resides out of British Columbia, when are such services subject to PST?
- B.7 We have a client with offices in every province and we are retained by the head office in Ontario to do legal work that involves tangible assets in each province, how do we handle BC's PST?
- B.8 How does PST apply to legal services provided to first nations clients?
- B.9 The Law Society has introduced a change to billing practices with the new BC Code, effective January 1, 2013. Since the staff time is now included in that section, is the staff time subject to GST only?
- B.10 Do lawyers collect tax when providing mediator services?
- B.11 Do lawyers collect tax for acting as a Parenting Coordinator?
- B. 12 As a 'small seller' does not have to register - why would registration be beneficial or appropriate?
- B. 13 Does PST apply on intellectual property matters?
- B. 14 Are lawyers who are accepting Bitcoins for payment, required to collect tax? (Note the Law Society of BC does not allow permit Bitcoins for trust funds.)
- B. 15 We have situations where we are charging 13% HST and 7% BC PST or GST/QST and BC PST on our invoices because the client is resident of Ontario or Quebec, and the legal services relate to BC. Is this correct?

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**FOR OTHER RESOURCES: (INCLUDES HST #128573300)**

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B.16 Lawyer's client (the one who benefits from the advice) does not reside in Canada and the address on record is in USA. The lawyer is giving legal advice re: general Canadian sales & marketing, specifically resales involving owners/sellers in Ontario. There is no real property, just advice regarding licensing laws to resale activity in BC and Ontario according to the *Real Estate and Business Brokers Act*. We are confused as to whether any tax is attracted as the client is in USA but the legal advice has to do with two different provinces.

### C. Disbursements: the impact of taxes

C.1 Will PST apply to all items as it does with HST (i.e. meals, children's items and previously non-taxable disbursements)?

C.2 Are disbursements incurred in the course of providing legal services subject to PST?

C.3 Could you provide more information outlining "Disbursements" and "Non Taxable Fees" and charges and how a 'mark-up' would be determined/calculated? How are you determining the "reasonableness" of photocopying / printing / faxing charges? Is there a guide to determination of whether or not costs are "reasonably related" to the "transmission, printing or copying of documents" can include: equipment lease, equipment maintenance, paper, toner, and labour?

C.4 How do we apply PST on services like Quicklaw and other online research tools, where we pay a flat monthly fee? In the case of Quicklaw, we are able to get breakdown on the bill on a matter by matter basis

C.5 Charging PST on scanning of documents done in-house for firms who have gone "paperless".

C.6 If a matter is PST exempt due to the nature (i.e., real property on reserve), is travel time also exempt?

C.7 Decision as to how PST on taxable client disbursements is to be treated: is the PST portion of the disbursement GST/HST taxable or not? Reference to any relevant Acts and other CRA documents, would be appreciated.

C.8 Quicklaw is a monthly subscription for a specific amount. We take the monthly cost and allocate it against all the files that used Quicklaw that month. This is charged to the client at this calculated cost (it is actually listed on the Quicklaw report we print out). We pay PST on our Quicklaw subscription.

C.9 Do we include or not include the hotel tax component and parking tax components when calculating the amount of GST/HST to charge to our clients?

C.10 (a) Is it acceptable by CRA if our firm uses the factor method to calculate the ITC amount on all meals and entertainment reimbursements? For example, a restaurant meal including tip is \$50 and the ITC amount is  $(\$50 \times 411.04)/2 = \$0.96$ .

(b) Is it acceptable by CRA if a meal expense receipt is not available, and only a credit card statement is used?

(c) For meal consumed at a golf course restaurant, can we claim 50% ITC?

(d) For seminar and workshop that includes a meal and GST amount may or may not be listed on the notice, can we claim ITC using the factor method?

(e) Is a business allowed to claim full ITC on Partner's Retreat? Associate Retreat? Firm function?

(f) Is a spa, boat cruise gift certificate deemed 50% deductibility?

(g) When posting parking, hotel or airfare expenses to client files, can we code the PST amount as non-taxable, and the balance as taxable?

C.11 We are the client's agent. How does this factor into the ruling whether to charge GST/HST or not, if we have not been charged GST/HST? On some of our disbursements such as medical records, BC Online (some of the files), court filings (non-taxable portion), title searches (some of), we are not charged GST/HST. Do we charge GST/HST on these disbursements to our clients, even though we have not paid GST/HST?

### D. Transition questions

D.1 How will the transition from HST to PST affect disbursements on contingency fee files?

D.2 Will there be an extended period where the combined HST has to be filed?

D.3 How will we apply for HST refunds (during pure HST only period) once PST comes in?

D.4 What are the substantive differences between the PST program now versus the program before HST was implemented?

D.5. How will tax apply to contingency files that were open prior to April 1, 2013?

D.6 Trust Administration Fee: How do we handle the difference in HST and GST in the first quarter of 2013?

D.7 How will we get overpayments of prepaid PST back? How will we apply for PST refunds with the new PST?

Appendix 1 Canada Revenue Agency & Ministry of Finance March 19, 2014 Powerpoint

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