

2017

CHAPTER 24

An Act to amend *The Provincial Sales Tax Act*

(Assented to May 17, 2017)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

Short title

1 This Act may be cited as *The Provincial Sales Tax Amendment Act, 2017*.

RSS 1978, c P-34.1 amended

2 *The Provincial Sales Tax Act* is amended in the manner set forth in this Act.

Section 3 amended

3(1) Subsection 3(1) is amended:

- (a) by repealing clause (a.1);**
- (b) in clause (b) by striking out “, as amended from time to time,”;**
- (c) by adding the following clause after clause (c.3):**

“(c.4) ‘lease’ means:

(i) when used in relation to tangible personal property, an agreement under which a person is given a right to use tangible personal property, either directly or indirectly, with or without possession or control, for a specified or indefinite period and, without limiting the generality of the foregoing, includes:

- (A) a lease recognized in law or equity as a lease;
- (B) a licence;
- (C) a bailment; and

(D) an agreement under which the person giving the right to use the tangible personal property supplies a person to operate the tangible personal property, even if the person supplied does not physically operate the tangible personal property;

(ii) an agreement under which a person is given a right to use a taxable service for a specified or indefinite period; or

(iii) any other agreement prescribed in the regulations”;

(d) by repealing clause (j) and substituting the following:

“(j) ‘**tangible personal property**’ means personal property that can be seen, weighed or measured or that is in any way perceptible to the senses, and includes natural or manufactured gas and electricity”;

(e) by adding the following subclause after subclause (k)(xviii):

“(xix) services performed by one person for another person for consideration, relating to:

(A) the construction, alteration, repair, erection, demolition, remodelling or improvement of real property or a building or other structure on real property; or

(B) any other thing done or agreed to be done in relation to real property or a building or other structure on real property;

whether those services improve the value of the property as real property or relate to the use, enjoyment or manipulation of the property for purposes other than an increase in its value as real property, and includes all related charges and fees in providing the services”; **and**

(f) in clause (o) by adding “, unless otherwise specified,” after “means”.**(2) The following subsection is added after subsection 3(1):**

“(1.1) For the purpose of the definition of ‘vendor’ and subject to the regulations, a retail sale in the province includes a retail sale of tangible personal property by a person who does not otherwise carry on business in the province, if the property is acquired for use or consumption in or relating to Saskatchewan and:

(a) the person selling or providing the tangible personal property at a retail sale:

(i) causes the tangible personal property to be delivered in Saskatchewan;

(ii) directly or through an agent solicits orders for tangible personal property from persons in Saskatchewan by advertising or by any other means; and

(iii) accepts orders to purchase tangible personal property that originate in Saskatchewan; or

(b) the person selling or providing the tangible personal property at a retail sale holds that tangible personal property in inventory in Saskatchewan at the time of accepting the consumer’s order”.

(3) The following subsection is added after subsection 3(1.1):

“(1.2) For the purpose of the definition of ‘vendor’ and subject to the regulations, a retail sale in Saskatchewan includes a retail sale of a contract of insurance as defined in subsection 5.9(1) by a person who does not otherwise carry on business in Saskatchewan, if the contract of insurance is acquired for use or consumption in or relating to Saskatchewan”.

Section 4 amended

4 Subsection 4(2) is amended by striking out “taxable service in the province” and substituting “taxable service or any contract of insurance as defined in subsection 5.9(1) in or relating to Saskatchewan”.

Section 5 amended

5(1) Subsection 5(1) is amended by striking out “5%” and substituting “6%”.

(2) Subsection 5(2) is amended by striking out “5%” and substituting “6%”.

(3) Subsection 5(2.1) is repealed.

(4) Subsection 5(3) is amended by striking out “5%” and substituting “6%”.

(5) Subsection 5(6) is amended by adding “subsections (6.1) and (6.2) and” after “Subject to”.

(6) The following subsections are added after subsection 5(6):

“(6.1) Subject to the regulations, and without limiting the generality of subsection (8), a contractor who provides a taxable service as set out in subclause 3(1)(k)(vii) or (xix) is a vendor and is not a user or a consumer of tangible personal property sold as tangible personal property in relation to that service.

“(6.2) A contractor who is a builder of premises intended for resale but not rental purposes is not a user or consumer of any services described in subclause 3(1)(k)(xix) or tangible personal property used or consumed by the builder in relation to those premises, if:

(a) the premises are sold to a user or consumer at fair market value;

(b) the builder includes a sale of its services described in subclause 3(1)(k)(xix) to the user or consumer that encompasses all of those services for which the builder would have, but for this subsection, been the consumer or user; and

(c) the builder includes as a sale of tangible personal property to the user or consumer the value of all tangible personal property for which the builder would have, but for this subsection, been the user or consumer, and in those circumstances that tangible personal property is deemed to remain as tangible personal property until the sale of those premises by the builder to the user or consumer.

“(6.3) If, in the minister’s opinion, the premises mentioned in subsection (6.2) are being used for purposes other than resale, the contractor is the user or consumer of the services described in subclause 3(1)(k)(xix) and of tangible personal property used in the building of the premises and is liable for the payment of tax imposed by this Act”.

(7) Clause 5(7)(a) is amended by striking out “5%” and substituting “6%”.

(8) Clause 5(10.1)(b) is amended by striking out “5%” and substituting “6%”.

(9) Clause 5(10.2)(c) is amended by striking out “5%” and substituting “6%”.

- (10) Clause 5(10.5)(b) is amended by striking out “5%” and substituting “6%”.
- (11) Clause 5(11)(c) is amended by striking out “5%” and substituting “6%”.
- (12) Subsection 5(13) is amended by striking out “5%” and substituting “6%”.
- (13) Subsection 5(14) is amended by striking out “5%” and substituting “6%”.
- (14) Subsection 5(15) is amended by striking out “5%” and substituting “6%”.
- (15) Subsection 5(18) is amended by striking out “2¢” and substituting “3¢”.
- (16) Subsection 5(19) is amended by striking out “2¢” and substituting “3¢”.
- (17) The following subsection is added after subsection 5(21.2):

“(21.21) Subject to the regulations, subsections (21.1) and (21.5) do not apply with respect to the sale of a light vehicle as defined in *The Used Light Vehicles (Provincial Sales Tax) Exemption and Remission Regulations*”.

Section 5.5 amended

6 Subsection 5.5(2) is repealed and the following substituted:

“(2) For the purposes of subsection (1), the tax rate with respect to an interjurisdictional vehicle is the rate shown opposite the appropriate year for the interjurisdictional vehicle:

YEAR	Truck Tax Rate	Bus Tax Rate
the acquisition year	2.823%	1.765%
the calendar year following the acquisition year	2.268%	1.418%
the second calendar year following the acquisition year	1.866%	1.166%
the third calendar year following the acquisition year	1.575%	0.985%
the fourth calendar year following the acquisition year	1.369%	0.855%
the fifth calendar year following the acquisition year	1.352%	0.845%
the sixth calendar year following the acquisition year	1.293%	0.808%
the seventh calendar year following the acquisition year	1.274%	0.796%
the eighth calendar year following the acquisition year	1.283%	0.802%
the ninth and subsequent calendar years following the acquisition year	1.314%	0.821% ”.

New section 5.9

7 The following section is added after section 5.8:**“Tax on insurance premiums****5.9(1) In this section:**

(a) **‘contract of insurance’** includes any policy, certificate, interim receipt, renewal receipt, endorsement or writing evidencing the contract of insurance, whether sealed or not;

(b) **‘insurance’** means the undertaking by one person to indemnify another person against loss or liability for loss with respect to certain risks or perils to which the object of the insurance might be exposed or to pay a sum of money or other thing of value on the happening of a certain event and, without limiting the generality of the foregoing, includes life insurance;

(c) **‘insurer’** means any person who undertakes or effects, or agrees or offers to undertake or effect, a contract of insurance and includes the underwriters or syndicates of underwriters operating on the plan known as Lloyd’s and a reciprocal insurance exchange;

(d) **‘premium’** means the single or periodic amount due as consideration under a contract of insurance, including all dues, assessments, transaction fees, processing fees, policy fees, administration fees and any other consideration due for the administration or servicing with respect to the contract of insurance;

(e) **‘vendor’** includes an insurer and an agent of an insurer who is responsible for the collection of a premium and the tax on that premium.

(2) Subject to the regulations, a consumer who enters into, renews or amends a contract of insurance in or relating to Saskatchewan shall pay to Her Majesty the Queen for the raising of a general revenue a tax at the rate of 6% of the premium for that insurance as of the day on which that the premium is due.

(3) The tax imposed by subsection (2) is to be collected, and for the purpose of the imposition, assessment, collection and enforcement of the payment of that tax, as if:

(a) the contract of insurance were tangible personal property; and

(b) there were, on each occasion when the premium is due, a retail sale in the province at which the person paying the premium was the consumer and the insurer or the agent of the insurer was the vendor.

(4) In the case of a contract of insurance that includes coverage with respect to matters outside Saskatchewan, the consideration subject to tax with respect to the Saskatchewan portion of the contract is the amount T calculated in accordance with the following formula:

$$T = \frac{P}{I} \times C$$

where:

P is the total monetary value of the contract of insurance in or relating to Saskatchewan;

I is the total monetary value of the contract of insurance; and

C is the consideration due for the entire contract of insurance.

(5) If a contract of insurance is entered into, amended or renewed and the premium for that insurance is due in its entirety at the time the contract is entered into, amended or renewed, the tax imposed pursuant to subsection (2) is due at that time.

(6) If premiums are due on a periodic basis, the tax imposed pursuant to subsection (2) is due at the time each of the periodic payments is due.

(7) If tax has been collected or remitted to the minister pursuant to this section and a refund of the whole or part of the premium is made by the insurer or the agent of the insurer after the expiration, termination or cancellation of the contract of insurance, the minister or vendor shall refund to the person who paid the premium an amount of tax proportionate to the amount of premium refunded.

(8) The vendor, when reporting the total amount of tax collected by him or her, may deduct from the tax to be remitted to Her Majesty the Queen the amount of tax he or she has refunded pursuant to subsection (7).

(9) A person who enters into, amends or renews a contract of insurance mentioned in subsection (2) is required to pay the tax imposed in this section whether or not the vendor is licensed pursuant to section 4”.

Section 8 amended

8 Subsection 8(1) is amended:

(a) by adding the following clauses before clause (d):

“(c.1) baby diapers, whether disposable or cloth, toilet training pants, including rubber pants, and diaper inserts and liners;

“(c.2) basic groceries as set out in Part III of Schedule VI to the *Excise Tax Act (Canada)*”;

(b) by repealing clause (g.1);

(c) by repealing clause (s);

(d) by repealing clause (v) and substituting the following:

“(v) the following fuel petroleum products:

(i) natural gas when used in the operation of a stationary internal combustion engine for farming purposes, and for the purposes of heating in homes or buildings;

(ii) domestic fuel oil when used for the purposes of heating or cooking in homes or buildings, and for purposes of heating in railway rolling stock;

(iii) any fuel petroleum product not mentioned in subclauses (i) and (ii) that is used for heating or to power an internal combustion or turbine engine that is not a stationary engine”;

(e) by adding the following clause before clause (x):

“(w.1) gas and gas mixtures provided in cylinders for medical purposes and for diagnostic purposes in private laboratories, medical laboratories and hospitals”; **and**

(f) by repealing clause (bb.2).**Section 8.1 amended****9 The following subsections are added after subsection 8.1(2):**

“(3) Notwithstanding any other provision of this Act or any other Act or law, but subject to subsection (6), if a person as a customer under a contract has paid in error, in addition to the contract price, an amount as tax with respect to the contract price or the materials portion of the contract price, the maximum amount that may be refunded to that person is the amount by which the amount paid in error exceeds the amount of tax that would have been paid, but remains unpaid, by the contractor on the tangible personal property consumed, used, manufactured or supplied under the contract had the contractor self-assessed that tax in accordance with this Act.

“(4) The amount paid in error that is prevented from being refunded by subsection (3) is deemed to have been paid by the person on behalf of the contractor with respect to the tangible personal property supplied under the contract.

“(5) In subsections (3) and (4), **‘contract’** includes:

(a) a contract for the construction or improvement of real property or the supply and installation of tangible personal property into real property; and

(b) a contract to which subsection 5(6) applies.

“(6) If, in the minister’s opinion, the amount paid in error pursuant to subsection (3) cannot be reasonably determined, the minister may determine the amount of the tax paid in error in the manner prescribed in the regulations”.

New section 29

10 Section 29 is repealed and the following substituted:**“Security for payment in certain cases**

29(1) Subject to subsection (5) and the regulations, if a person, in this section referred to as the contractor, whether ordinarily resident in Saskatchewan or not, enters into a contract with another person, in this section referred to as the principal, pursuant to which or in the carrying out of which any of the following taxable services or tangible personal property will be consumed or used in Saskatchewan, the contractor shall deposit with the minister an amount equivalent to 6% of the total amount to be paid under the contract, or provide to the minister a guarantee bond, in a form and manner satisfactory to the minister, in a penal amount equivalent to 6% of that total amount, to secure payment of the tax imposed by this Act with respect to the sale of:

- (a) a taxable service described in subclause 3(1)(k)(xix); or
 - (b) a taxable service mentioned in clause (a) and tangible personal property intended to be installed in conjunction with that taxable service.
- (2) The principal shall ensure that the contractor:
- (a) deposits an amount or provides a bond in accordance with subsection (1); or
 - (b) holds a clearance letter in accordance with subsection (5).
- (3) If the principal fails to ensure that the contractor deposits an amount or provides a bond pursuant to subsection (2), or that the contractor holds a clearance letter in accordance with subsection (5), the principal is liable for payment of the amount mentioned in subsection (1), and sections 60 to 65 of *The Revenue and Financial Services Act* apply, with any necessary modification, for the purpose of recovering that amount from the principal.
- (4) A principal who makes payment pursuant to subsection (3) is entitled:
- (a) to be indemnified by the contractor who failed to make the deposit or provide the bond; and
 - (b) to withhold out of any indebtedness to the contractor an amount equivalent to the amount the principal paid.
- (5) The minister may provide a contractor mentioned in subsection (1) with a clearance letter, and in that case the contractor is not required to provide the security mentioned in that subsection”.

New sections 43.1 and 43.2

11 The following sections are added before the heading that appears above section 44:**“Providing security or clearance letter re section 29**

43.1(1) No person to whom subsection 29(1) applies shall fail to provide security to the minister in accordance with that subsection.

(2) No person to whom subsection 29(2) applies shall fail to ensure that a contractor described in subsection 29(1) deposits an amount or provides a bond in accordance with that subsection or holds a clearance letter in accordance with subsection 29(5).

“Offences and penalties re section 4

43.2(1) Every person who contravenes section 4 is guilty of an offence and liable on summary conviction:

- (a) for a first offence, to a fine in an amount equal to the amount of the tax paid or that would have been payable, not exceeding \$5,000;
- (b) for a second offence, to a fine in an amount equal to two times the amount of the tax paid or that would have been payable, not exceeding \$25,000;
- (c) for a third and each subsequent offence, to a fine in an amount equal to three times the amount of taxes paid or that would have been payable, not exceeding \$50,000.

(2) If a corporation commits an offence pursuant to this Act, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is guilty of the offence and liable on summary conviction to the penalties mentioned in this section whether or not the corporation has been prosecuted or convicted.

(3) No prosecution for a contravention of this Act or the regulations is to be commenced more than six years after the facts on which the alleged contravention is based first came to the knowledge of the minister”.

Section 44 amended**12 Subsection 44(2) is amended:****(a) by adding the following clause after clause (j):**

“(j.01) exempting a contractor or a class of contractors or a contract or class of contracts with respect to a taxable service as set out in subclause 3(1)(k)(vii) or (xix) from the application of this Act”;

(b) by adding the following clause after clause (j.2):

“(j.3) for the purposes of subsection 5(21.21), respecting the application of subsections 5(21.1) and (21.5) to the sales of light vehicles”;

(c) by adding the following clause after clause (l):

“(l.1) for the purposes of subsections 3(1.1) and (1.2), respecting the persons, vendors, consumers or users to whom, and the circumstances in which, those subsections apply”;

(d) by adding the following clauses after clause (s):

“(s.1) respecting when tangible personal property relates to Saskatchewan;

“(s.2) respecting when a contract of insurance relates to Saskatchewan”;
and

(e) by adding the following clauses after clause (u):

“(u.1) for the purposes of subsections 29(1) and (2), prescribing the persons, vendors, consumers or users to whom, and the circumstances in which, those subsections apply;

“(u.2) for the purposes of subsection 45(11), prescribing the number of days”.

New section 45

13 The following section is added after section 44:**“Transitional – tax in relation to services to real property**

45(1) In this section:

(a) **‘nominal change order’** means a change order described in subsection (2);

(b) **‘value of the original contract’** means the amount of the contract for a taxable service described in subclause 3(1)(k)(xix) and any tangible personal property included in the contract, including any changes to that amount made before April 1, 2017.

(2) A change order is a nominal change order if:

(a) the contract amount for the taxable services described in subclause (3)(1)(k)(xix) and any tangible personal property to be provided under the change order does not exceed 10% of the value of the original contract; and

(b) the cumulative amounts for the taxable services described in subclause (3)(1)(k)(xix) and any tangible personal property to be provided under the current and all previous change orders do not exceed 10% of the value of the original contract.

(3) With respect to a contract for a taxable service described in subclause 3(1)(k)(xix) and any tangible personal property to be provided under the contract entered into before April 1, 2017, including any nominal change orders:

(a) the contractor shall pay tax on that tangible personal property used or consumed in the carrying out of the contract in accordance with this Act as if *The Provincial Sales Tax Amendment Act, 2017* were not in force; and

(b) the labour component of that service is exempt from the tax imposed by this Act.

(4) With respect to a contract for a taxable service described in subclause 3(1)(k)(xix) and any tangible personal property to be provided under the contract entered into on or after April 1, 2017 and all related change orders, the user or consumer of the taxable service and tangible personal property shall pay the tax in accordance with this Act.

(5) With respect to a contract for a taxable service described in subclause 3(1)(k)(xix) that is open-ended and that was entered into before April 1, 2017, the user or consumer shall pay the tax on those services performed under that contract that are initiated after that date in accordance with this Act.

(6) For the purposes of this section, the date a contract is entered into is:

(a) in the case of a signed contract on which consideration has been exchanged, the date the contract was signed; or

(b) in the case of a contract tendered before April 1, 2017 that had a closing date for receiving bids before April 1, 2017, for which the contract is awarded on or after April 1, 2017, and the contractor was unable to re-submit or revise its bid before the contract was awarded, the date on which the winning bid was submitted.

(7) If a contract for a taxable service described in subclause 3(1)(k)(xix) is entered into before April 1, 2017 and that contract involves tangible personal property intended to be installed in conjunction with that taxable service after that date:

(a) if the tangible personal property was purchased by the contractor before April 1, 2017, the contractor shall pay tax on that tangible personal property in accordance with this Act as if *The Provincial Sales Tax Amendment Act, 2017* were not in force; or

(b) if the tangible personal property was purchased by the contractor on or after April 1, 2017, the contractor shall pay tax and account for tax on that tangible personal property pursuant to subsection 5(6) as if subsections 5(6.1) to (6.3) were not in force.

(8) Without limiting the generality of subsection (7), if a contract for a taxable service described in subclause 3(1)(k)(xix) and the installation of tangible personal property is entered into before April 1, 2017 and that contract contains stages or phases that are to commence on or after that date, if the contracts for those stages or phases have not been tendered or awarded before that date, the contractor shall pay the tax on those contracts in accordance with this Act.

(9) If a contract for a taxable service described in subclause 3(1)(k)(xix) is entered into on or after April 1, 2017 and that contract includes tangible personal property intended to be installed that was purchased before that date and on which the contractor has paid tax:

(a) the contractor may claim a credit for the tax paid on that tangible personal property;

(b) the credit to be claimed by the contractor may be used to reduce the tax that is collected by the contractor; and

(c) the credit to be claimed must not exceed the tax collected by the contractor.

(10) Any amount claimed by the vendor pursuant to clause (9)(b) that exceeds the tax collected is non-refundable, but may be carried forward and claimed by the vendor in a subsequent reporting period.

(11) This section ceases to have effect and is deemed to have been repealed on the number of days after the coming into force of section 1 of *The Provincial Sales Tax Amendment Act, 2017* that is prescribed in the regulations.

(12) Notwithstanding any other provision of this section or any other Act or law, the minister may make regulations for the purposes of this section:

(a) defining, enlarging or restricting the meaning of any word or expression used in this section and defining, enlarging or restricting the meaning of any word or expression differently for different provisions in this section;

(b) suspending the application of any provision of this section;

(c) exempting any person, contract, taxable service or tangible personal property or class of persons, contracts, taxable services or tangible personal property from the application of this section and prescribing terms and conditions that must be complied with in order to be eligible for exemption;

(d) respecting any additional matter or thing that the minister considers necessary to implement the policies established by this section.

(13) If there is any conflict between the regulations made pursuant to this section and any other Act or law, the regulations made pursuant to this section prevail.

(14) Regulations made pursuant to this section may be made retroactive to a day not earlier than the day on which section 1 of *The Provincial Sales Tax Amendment Act, 2017* comes into force”.

Coming into force

14(1) Subject to subsections (2) to (4), this Act comes into force on assent, but is retroactive and is deemed to have been in force on and from April 1, 2017.

(2) Clauses 3(1)(c) and (d) and section 9 come into force on assent, but are retroactive and are deemed to have been in force on and from January 1, 1995.

(3) Subsections 5(1), (2), (4) and (7) to (16) and section 6 come into force on assent, but are retroactive and are deemed to have been in force on and from March 23, 2017.

(4) Subsection 3(3) and sections 4 and 7 come into force on July 1, 2017.