

Non-Resident Contractors



What is a non-resident contractor?

Most provinces define a non-resident contractor as a contractor located outside the province who has been awarded a construction contract to perform work inside a province and who has not maintained a permanent place of business in the province continuously for twelve months prior to signing the contract. In Ontario, a contractor would be considered to be a non-resident contractor if they are not registered with the Ontario Corporations Tax Branch. A construction contract is a contract for the erection, remodelling or repair of a building or other structure on land. When a non-resident contractor performs a real property construction contract, they are responsible for paying the tax on any taxable property or services that they use in performing the contract. If the non-resident contractor does not comply with a province's sales tax requirements, the company that the non-resident contractor is doing the work for could be liable for the tax due on the taxable property and services used in the contract.

Non-resident contractors who are awarded a construction contract in Ontario are required to register with the Retail Sales Tax Branch and post a guarantee equal to 4% of the total of each Ontario contract. The guarantee can be paid in cash, by certified cheque or by a guarantee bond.

Saskatchewan, Manitoba and Prince Edward Island also have this requirement for non-resident contractors to post guarantees based on a percentage of the total contract price. The percentages are different for each province.

In Ontario, after receiving the guarantee, two copies of a "letter of compliance" are mailed to the contractor certifying that the Retail Sales Tax requirements have been met. The contractor must give a copy of the letter to their customer.

If the customer does not receive a compliance letter, the customer must withhold 4% of all amounts payable to the contractor and pay the withheld amounts to the Minister of Finance.

Each province requires tax to be paid on the cost of materials consumed in performing the contract. Tax is also due on the cost of equipment that is brought into the province for use in performing the contract. This tax would be determined by using the temporary use formula that would be applicable to the province that the work is being done in.

When the contract is completed, all of the provinces require some form of final accounting for tax due from the non-resident contractor. This can be done by having the contractor file a tax return or having the province audit the contractor's records. If there is tax to be paid, it would be deducted from the security that the contractor posted with the province and the balance would be paid to the contractor.

When dealing with a non-resident contractor, it is very important that you are aware of the province's requirements

where the work is being performed. Failure to get the proper documentation from the contractor may result in a tax liability that should have been paid by the non-resident contractor.

In Ontario, RST Guide 804 provides some helpful information pertaining to non-resident contractors.

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For the complete article please visit our website at www.hmtsalestax.com

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HMT GOES LIVE

Small Savings Add UP



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Did you know the number one way to save money on taxes is by claiming all eligible tax exemptions? Sounds easy right? Well, it is. The following article outlines the most frequently utilized tax exemptions under the Ontario Retail Sales Tax Act.

Read this article to learn more about how tax exemptions can add positive figures to your bottom line.

For the complete article please see below or visit our website at www.hmtsalestax.com

Small Savings add up

Many businesses do not pay much attention to Provincial Sales Taxes. Some believe that their suppliers are knowledgeable enough to apply the taxes correctly while others leave it to the accounts payable staff to take care of them. However, in most businesses there are many areas where tax savings can be made. This is best achieved by claiming the eligible exemptions at the time of purchasing and verifying that the correct taxes are charged when the supplier invoices are received.

For example a manufacturer who has exports or sales across the country should pay attention to the following:

1. **Production Equipment and supplies used in manufacturing .**
2. **Advertising materials purchased in Ontario and subsequently sent out to other provinces.**
3. **Insurance**

Under the Ontario Retail Sales Tax Act, exemptions are available for production equipment, repair parts thereto, and consumables. Exempt production equipment may include concrete foundations on which the heavy machinery are installed, overhead cranes and lift trucks that move the goods around in the plant area, plant floor sweepers, computers and software used in manufacturing, racking in the plant used to store dies, moulds, goods in process and products immediately after manufacture. Even heating and air conditioning equipment may be purchased

tax exempt if temperature control is an essential condition for the manufacturing process. All repair parts to the foregoing are also exempt. Consumables are indirect materials such as sand paper and polishing materials used up during the manufacturing process. Suppliers may charge tax unless the manufacturer informs them of the conditional exempt status of these items at the time of purchase. This can be done by issuing an exemption certificate or by indicating it on the purchase order. If production equipment is supplied and installed by a contractor, it is important to issue the exemption certificate at the beginning so that the contractor can buy them tax exempt. If this is not done, the manufacturer may not be able to get a refund of the tax on production equipment paid by the contractor.

Some businesses buy advertising and promotional material in Ontario and subsequently ship them out to other provinces. Ontario sales tax is not payable on the items sent to other provinces within thirty days. In the case of brochures, flyers etc. it may include the associated artwork. If it can be arranged for the supplier to ship them, they are not required to charge Ontario sales tax on the items shipped out of Ontario, thereby eliminating the payment of PST. However, there may be an incidence of tax liability to some of the receiving provinces. There is no tax to be paid on advertising and promotional materials sent to Alberta, Quebec, and the provinces of the Harmonized tax zone. The charge for

preliminary conceptual work associated with the artwork is not subject to tax and therefore can be avoided by arranging with the supplier of artwork to segregate these charges in the invoices. Incidentally, artwork purchased for media advertising is not subject to tax. Newsletters to employees and members of a club or similar group can also be purchased tax exempt.

In most provinces insurance premiums are not taxable. However, some insurance contracts such as property, general liability, cargo, benefit plans are subject to Ontario Sales Tax. Any portion of an insurance contract which covers risk outside Ontario is not taxable. At the time of entering into an insurance contract, it is important to analyze the various components that form the coverage and request the agent not charge the tax on premium attributable to risk outside Ontario. They may include property located outside the province, cargo in transit, product liability and benefit plans where some of the employees are ordinarily residing or paid outside of Ontario etc.

Almost all businesses now use computers and internet services. If a business contracts out to develop special software for exclusive use by the organization, they may qualify for an exemption as "custom software". This matter should be discussed with the software vendor at the time of contracting out such work to determine it's eligibility as custom software. Further, most software vendor services include taxable and non taxable services. Some non taxable services are consulting services, training services,

cleaning, data entry, data recovery and data management, disaster recovery and diagnostic service where no further work is performed at the same time. It is important to have these services segregated in the vendor invoices and verify that no tax is charged. If these are not segregated the entire bill would be subject to tax. Some internet related services are not taxable under Ontario legislation. They include charges for internet access, e-mail service, live chat or conferencing, web hosting, advertising within a web page, real-time streaming video and/or audio, and technical assistance and support in person, over the phone etc., with the exception of hands on.

Generally, Ontario Sales Tax applies to movable goods, taxable services, insurance and admission to a place of amusement. Taxable Service is a defined term in the legislation which includes telecommunication services, transient accommodation, parking, and certain labour charges associated with movable goods and computer programs. It is note-worthy that all other services are non taxable in Ontario. Above, are some of the areas of savings that are frequently encountered in most organizations. With some extra care by the staff in purchasing and accounting, substantial tax savings can be made to help the bottom line of the organization.



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In Ontario, a contractor is considered to be a non-resident contractor if they aren't registered with the Ontario Corporations Tax Branch. The following article provides an overview of non-resident contractors, including specific aspects of the tax laws that apply to them.

Read the following article to learn more about non-resident contractors and the tax laws that apply to them. For more details, Ontario-based companies can refer to RST Guide 804.

For the complete article please see the back page or visit our website at www.hmtsalestax.com

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