

B.C. Provincial Sales Tax On Boats: A Refresher

by Brad M. Caldwell

Introduction

Effective April 1, 2013, British Columbia has returned to a provincial sales tax (“PST”) regime. This is a tax that is payable to the Government of B.C. when a taxable good or service is acquired for personal or business use. With respect to boats, this tax generally applies to (1) purchases of new and used boats and related equipment that occur in B.C.; (2) boats brought into B.C. for use in B.C; and (3) gifts of boats in B.C. This tax can also apply when the use of a boat that was acquired under an exemption changes to a non-exempt use. In this case the change of use rules apply to assess the amount of tax payable. The PST rate is generally seven percent on new and used boats purchased from GST registrants (who also charge GST at the rate of five per cent) and 12 per cent on private sales of new and used boats from non-GST registrants. For private sales, purchasers must remit PST to the Ministry of Finance using a Casual Remittance form provided on the Government of BC., PST website located at gov.bc.ca/pst (“PST Website”). Under the old regime, the Consumer Taxation Programs Branch reviewed sales transactions of both registered vessels and non-registered vessels and sent letters to purchasers requesting information regarding the tax paid status of their purchase.

The B.C. Consumer Taxation Programs Branch website states that the new PST will apply in substantially in the same way as the old PST.

Exemptions

There are a number of exemptions to the PST that are subject to detailed conditions set out in the *Provincial Sales Tax Act (“PSTA”)* and the *PSTA Exemption and Refund Regulation (“Exemption Regulation”)* available on the PST Website. Under the old regime, there was a detailed bulletin that set out many of the exemptions and other provisions that applied to the sale of boats. Unfortunately, at press time no such bulletin has been published for the new Act and regulations.

This article will list and briefly describe some of the more common exemptions. Prior to relying upon an exemption, one should consult the applicable provisions of the *PSTA* and regulations, review the PST Website for any applicable bulletins, and/or apply to the Consumer Taxation Programs Branch for an advance ruling.

B.C. Provincial Sales Tax On Boats: A Refresher

by Brad M. Caldwell

Qualifying Commercial Fisher Exemption

Under section 48(2) of the *Exemption Regulation*, boats (and nets and fishing equipment) are exempt from tax if obtained by a Qualifying Commercial Fisher for use solely for commercial purposes. A Qualifying Commercial Fisher is defined as a person who:

- (a) fishes for commercial purposes under the authority of the Fisheries Act (Canada), and*
- (b) received, in the immediately preceding calendar year, from commercial fishing in waters in or adjacent to British Columbia,*
 - (i) not less than \$10 000 in gross income, or*
 - (ii) at least 51% of the person's total gross income*

New entrants to the fishing industry, who do not yet have the required fishing income to qualify for the fishing exemption, must pay tax on their purchases of fishing boats, nets and equipment. Under s. 130 of the *Exemption Regulation*, they qualify for a refund if they use the boat or equipment solely for commercial fishing and qualify under the above described definition within one year of the date of purchase.

PST Bulletin 102 provides more details of the commercial fishing exemptions. This is available on the PST Website.

Self-propelled Vessels of more than 500 tons Gross

Section 55(1) of the *Exemption Regulation* provides an exemption for self-propelled vessels of more than 500 tons gross. Section 42 of the *Exemption Regulation* also provides for an exemption for ships stores (other than liquor) delivered to such ships if they operate in extra-territorial waters. The current Small Business Guide for PST states that passenger carrying commercial vessels, such as cruise ships, that make regular scheduled sailings to or from a port outside B.C., may receive a written exemption from the ministry (p.10).

Boats Shipped Outside of British Columbia

Under s. 26(1) of the *Exemption Regulation*, a purchaser who purchases tangible personal property in B.C. is exempt from paying tax if (1) the property is shipped by the seller for delivery outside of B.C. and (2) no use is to be made of the tangible personal property by the purchaser while it is in B.C. other than storage of the property by the seller.

New Residents Effects

Under s. 22 of the *Exemption Regulation*, if a person living outside B.C. brings a boat into the province, the boat is exempt from PST in the following circumstances:

B.C. Provincial Sales Tax On Boats: A Refresher

by Brad M. Caldwell

- (a) the boat is brought or sent into BC by an individual;
- (b) the boat is for use solely for a non-business purpose;
- (c) the boat enters BC within 6 months of the individual becoming a resident of BC; and
- (d) the boat is owned and has been owned by the individual for a continuous period of at least 30 days before the individual becomes a resident of BC.

Under some circumstances the six month period referred to in (c) above can be extended. If the use of the boat is subsequently changed to business purpose, the PST would be payable upon the change of use.

Qualifying Aquaculturists

Under s. 49 and schedule four of the *Exemption Regulation*, boats not exceeding 20 metres in length (and motors for those boats) are exempt when obtained by a qualifying aquaculturist for use solely for an aquaculture purpose.

Gifts from Related Individuals

Under s. 18 of the *Exemption Regulation*, gifts from related individuals are exempt from tax so long as the donor qualifies under a complicated list of requirements relating to ensuring that the donor either paid tax on the purchase of the boat or was exempt from paying tax on the purchase. The term “related individual” includes siblings, parents, children and grandchildren. For a full list of the persons defined as “related individuals one must look at both s. 1 of the *Property Transfer Tax Act* and s. 18 of the *Exemption Regulations*.

Portable Floating Structures (House Boats)

Under the *PSTA*, Portable Floating Structures are considered a Manufactured Building. As such, under s. 58 of the *Exemption Regulation* the sale of a used Portable Floating Structure used for residential use is exempt from tax. The sale of a new Portable Floating Structure is subject to tax at a rate of seven percent of 45 per cent of the purchase price. See PST Bulletin 133 for the definition of Portable Floating Structure, which includes the requirement that: (1) it not be designed as a means of transportation or to be self-propelled, and (2) the building covers most of the surface of the barge.

Conclusion

It is hoped that the foregoing description will serve as a useful resource for persons contemplating purchasing or selling a boat in British Columbia. More information on the application of PST to boats is expected from the Ministry of Finance in the near future. It should be noted that in some circumstances, boats can also be subject to GST. The application

B.C. Provincial Sales Tax On Boats: A Refresher by Brad M. Caldwell

of this tax, and the exemptions to it, are beyond the scope of this article. The Canada Revenue Agency website should be consulted regarding the application of this tax.

This is a slightly revised version of an article published in the June 2013 edition of “Mariner Life” magazine. Brad Caldwell is a Vancouver based lawyer whose practice is primarily devoted maritime and insurance matters. For other articles written by Mr. Caldwell see <http://www.admiraltylaw.com/fisheries/bradcw.htm>