

THE RETAIL SALES TAX ACT

OFF-ROAD VEHICLE AND BOAT DEALERS

This bulletin provides information to help off-road vehicle and boat dealers apply the Retail Sales Tax (RST) on their sales of off-road vehicles and boats, parts and repair services. This bulletin also explains the requirement for dealers to pay tax on goods and services purchased for own use and on dealer-use of off-road vehicles and boats.

Section 1 – OFF-ROAD VEHICLE AND BOAT SALES

What are off-road vehicles and boats?

- In this bulletin, the terms off-road vehicles and boats mean, respectively:
 - A dirt bike, mini bike, trail bike, snowmobile or ATV as defined in the *Off-Road Vehicle Act*, and
 - Any watercraft that is capable of being driven, drawn or propelled by any means.

Off-road vehicle and boat sales

- Dealers are required to collect the RST on the total “net selling price” of new and used off-road vehicles and boats and any accessories at the time of sale.
- For further information on the sale of trailers, see *Bulletin No. 012 – Motor Vehicle and Trailer Dealers*.

What is the “net selling price”?

- The “net selling price” of an off-road vehicle or boat is the net amount charged after deducting any applicable discount or trade-in (as explained below), but before the goods and services tax. It includes the price of the off-road vehicle or boat, freight, pre-delivery charges, accessories, extended warranty, documentation fees and other charges relating to the purchase of the off-road vehicle or boat, excluding the PPSA fee (as explained below). For more information on trade-ins, see Section 3.

Dealer discounts vs. manufacturer’s cash rebates

- A dealer discount reduces the selling price of goods or services, i.e., the amount a dealer receives as payment. Therefore, RST applies to the net selling price of the off-road vehicle or boat **after deducting the dealer discount**.
- A manufacturer’s cash rebate does not reduce the amount a dealer receives as payment for an off-road vehicle or boat. In this case the dealer must collect RST on the selling price of the off-road vehicle or boat **before the manufacturer’s cash rebate is applied**, even if the

Note: Revisions to content of previous Bulletin (July 2013) have been identified by shading ().

purchaser assigns the rebate to the dealer.

Example 1: The net selling price of a snowmobile is \$6,000 and the manufacturer of the snowmobile sends a \$1,000 cash rebate directly to the purchaser. The dealer must collect $7\% \times \$6,000 = \420 RST from the purchaser.

Example 2: The purchaser assigns the \$1,000 manufacturer's rebate in the above example to the dealer. This reduces the amount payable by the purchaser, but does not reduce the selling price of the snowmobile. The dealer receives \$5,000 (before taxes) from the purchaser and \$1,000 from the manufacturer for a total of \$6,000. The dealer must collect $7\% \times \$6,000 = \420 RST from the purchaser.

- For additional information, see Bulletin No. 028 – *Discounts, Coupons and Cash Rebates*.

Warranties

- RST is payable on the sale of a service, maintenance or warranty contract. For example, if the charge for an extended warranty contract is in addition to the selling price (or lease price) of an off-road vehicle or boat, the dealer must collect RST on the total of the selling price of the off-road vehicle or boat and the charge for the extended warranty contract.
- In the case of a manufacturer's warranty provided at no charge, its value is included in the selling price of the off-road vehicle or boat.
- For further information, see Bulletin No. 023 – *Service, Maintenance and Warranty Contracts*.

PPSA fee

- When a dealer passes on the fee for registering a lien under *The Personal Property Security Act* (commonly referred to as a PPSA fee), no RST applies if the fee is:
 - Not marked up by the dealer;
 - Segregated on the invoice; and
 - Payable by the customer at the time of delivery of the off-road vehicle or boat.

Repossession and collection agency charges

- No RST applies on repossession and collection agency charges.

Sales to farmers, fishers and trappers

- Farmers and trappers do not qualify for an RST exemption on the purchase of off-road vehicles. Dealers must collect the tax on the sale of off-road vehicles, including related parts and repairs services, even if a certificate regarding its use is provided. However, dealers should advise farmers that they may be eligible for a refund on their purchases of all-terrain vehicles. For more information, see Section 8 - Refunds.
- Commercial fishers may purchase commercial fishing boats RST exempt but do not qualify for an RST exemption on the purchase of

other off-road vehicles. For more information, see Section 4 – Exempt sales.

- Sales invoices**
- Dealers must quote their RST number on their sales invoices in all cases where:
 - RST is collected by the dealer;
 - RST is collectible on the payments under a lease contract (even if there is no RST collectible at the time of completing the contract); or
 - The sale is subject to tax, but RST is not collected because the value of the trade-in is equal to, or greater than the value of the purchased off-road vehicle or boat.

Please note: For an RST exempt sale (see Section 4), the reason for the exemption must be clearly stated on the sales invoice.

Section 2 – RENTALS AND LEASES

- Rental/lease without an operator**
- All charges in connection with off-road vehicle or boat rentals without an operator are subject to RST.
 - All charges in connection with a long-term lease are subject to RST on the “net selling price” of the lease as discussed in Section 1. RST is due when the payments are billed, i.e., the down payment, the monthly lease payments and the option to purchase (if exercised).

Please note: If the dealer bills the customer separately for other charges connected to the rental/lease in addition to the rental/lease payment, the dealer must collect RST on the rental/lease payment and on the additional charges billed separately. For example, dealers must collect tax on accessory charges, financing charges, off-road vehicle or boat insurance (as explained below), documentation fees, mileage charges (but not fuel charges such as a prepaid tank of fuel or a fuel recharge fee when an off-road vehicle or boat is returned), drop-off fees, damage assessment, collision waiver fees, etc. that are not amortized as part of the taxable lease payments.

- Insurance charges**
- Charges for off-road vehicle or boat related insurance (e.g., loss or damage, no deductible, liability) for daily/weekly rentals are subject to RST.

Please note: RST does not apply to Autopac insurance premiums for term leases that are paid directly by the lessee for off-road vehicles, or are paid by the lessor on behalf of the lessee and charged to the lessee separately from the lease payments. If the Autopac insurance premiums are part of the lease charge, i.e., not shown separately on the invoice, the total lease charge is taxable.

- All other insurance charges, such as group creditor insurance, are taxable.

For further information, see Bulletin No. 061 – *Insurance*.

- Security deposits**
- A security deposit taken at the time of rental/lease and returned to the customer is not taxable. However, RST must be applied when the security deposit is withheld or applied against a payment on the lease/rental or for damages.
- Lease cancellation charges**
- A fee or penalty charged to cancel a lease contract before it is due is considered to be part of the lease charges and subject to RST.
- PPSA fees**
- When a dealer passes on the fee for registering a lien under *The Personal Property Security Act* (common referred to as a PPSA fee), no RST applies as discussed in Section 1.
- Repossession and collection agency charges**
- No RST applies on repossession and collection agency charges as these costs are not part of the lease.
- Sales invoices**
- The dealer's RST number must appear on the dealer's sales invoices for term leases as discussed in Section 1.
- Rental with an operator**
- Rental charges for off-road vehicles and boats provided with an operator are RST exempt. The dealer providing the off-road vehicles or boats with an operator is responsible for paying RST on the purchase of these off-road vehicles and boats, including related parts and repair services. For further information, see *Bulletin No. 048 – Rental of Machinery and Equipment*

Section 3 – TRADE-INS

- General Information**
- If an off-road vehicle or boat purchaser trades-in an off-road vehicle or boat of “the same general kind” (defined below), the RST applies to the net difference payable. If the trade-in is not of “the same general kind”, the dealer must collect RST on the selling price of the off-road vehicle or boat before deducting the trade-in allowance.
 - Dealers must ensure that the customer owns the off-road vehicle or boat traded-in at the time of trade-in, i.e., when completing the Transfer of Ownership Document for an off-road vehicle. If the trade-in is not owned by the customer, the dealer must collect RST on the selling price of the off-road vehicle or boat before deducting the trade-in allowance.
 - The trade-in allowance does not include GST.
- Cash pay out for trade-in**
- When a dealer purchases a customer's off-road vehicle or boat outright, instead of treating it as a trade-in on the sale of another off-road vehicle or boat, the dealer must collect tax on the full selling price of the off-road vehicle or boat sold (or on the payments of a lease). If the good sold to the dealer is an off-road vehicle, the customer may be eligible for an RST refund as discussed in Section 8, and must apply for it directly to the Taxation Division.

**Dealer pays out
lien on trade-in**

- When an off-road vehicle or boat that is traded-in on a lease is encumbered, and the dealer pays out the debt on behalf of the customer, RST applies on the amount equal to the amortized lease payments before the amount of the debt is added to the lease contract, providing:

- a) The dealer shows the amount of the debt paid-out (loan) separately on the lease document and retains a record of the lease contract as follows:

ATV selling price	\$10,000
Less trade-in	- \$ 2,000
Net selling price	<u>\$ 8,000⁽¹⁾</u>
Loan pay-out	\$ 5,000 ⁽²⁾
Total amount of contract	<u>\$13,000</u> , and

- b) The invoice for the lease payments shows the portion of the payment applicable to the lease ⁽¹⁾ separately from the payment applicable to the loan ⁽²⁾. Then the RST applies to the lease payment but not to the loan payment as follows:

⁽¹⁾Assume monthly lease payment is $1/36^{\text{th}} \times \$8,000 = \$222.22$

⁽²⁾Assume monthly loan payment is $1/36^{\text{th}} \times \$5,000 = \$138.89$

(The monthly payment calculation is for illustration purposes only and does not include other factors such as finance charges, etc.)

Example invoice: Lease payment	\$222.22
+ 7% RST	15.56
Loan payment	138.89 (RST-exempt)
Total due	<u>\$376.67</u>

If the invoice shows the lease payment as \$361.11 (\$222.22 + \$138.89), the total amount is subject to RST, i.e., $\$361.11 \times 7\% = \25.28 .

**Definition of
“the same
general kind”**

- Off-road vehicles, as defined under *The Off-Road Vehicles Act* (e.g., snowmobiles, ATV’s, dirt bikes), are considered the same general kind; motor vehicles, as defined under *The Drivers and Vehicles Act* (e.g., cars, trucks, buses, motorcycles), are considered the same general kind; and boats (e.g. motor boats, sail boats, canoes, kayaks) are considered the same general kind.
- **For example:** A trade-in of “the same general kind” is a snowmobile traded-in on an ATV, a car traded-in on a truck, or a motor boat traded-in on a sail boat. RST applies on the net difference payable when any off-road vehicle (as defined under *The Off-Road Vehicles Act*) is traded-in for another off-road vehicle in that group, when any motor vehicle (as defined under *The Drivers and Vehicles Act*) is traded-in for another motor vehicle in that group, and when any boat is traded-in for another boat in that group. When a good in one group is traded in on one in another, RST applies to the selling price of the good before deducting the trade-in allowance.

Section 4 – EXEMPT SALES

- Purchases for resale**
- Dealers may purchase off-road vehicles or boats *for resale purposes*, RST-exempt. To do so they must provide the supplier with their RST number.
 - Leasing and rental companies may similarly quote their RST number to purchase off-road vehicles/boats RST-exempt for lease/rental (resale).
- Non-residents**
- RST does not apply on off-road vehicles and boats purchased for out-of-province use by non-residents of Manitoba, when:
 - The dealer delivers the off-road vehicle or boat, parts or services outside the province, or has it shipped by common carrier for delivery outside the province. Dealers must retain a receipt signed by the customer acknowledging delivery outside the province, or a common carrier's bill of lading showing delivery outside the province, or an equivalent document to substantiate delivery of the off-road vehicle or boat, parts or service outside Manitoba.
 - Dealers must collect the RST on sales to non-residents where the above conditions are not fulfilled. However, dealers should advise non-resident purchasers of off-road vehicles that they may be eligible for a refund. For more information, see Section 8 - Refunds.
- Status Indians and Indian Bands**
- Status Indians and Indian Bands may purchase off-road vehicles or boats RST-exempt provided:
 - The title to the off-road vehicle or boat is transferred on a reserve; and
 - The purchase documents are signed on the reserve; and
 - The purchaser takes possession of the off-road vehicle or boat on the reserve (the dealer delivers the off-road vehicle or boat or ships it by common carrier F.O.B. to the reserve).
- Please note:** If a Status Indian or Indian Band purchases an off-road vehicle or boat with a non-Status person, RST applies on the non-Status person's proportionate ownership share of the off-road vehicle or boat.
- To qualify for exemption on a lease, the Status Indian must reside on a reserve, in addition to the above conditions.
- Please note:** Corporations held by Status Indians or Indian Bands do not qualify for the RST exemption available to Indians and Indian Bands. Dealers must collect the RST on all sales to these corporations.
- Dealers must document the tax exempt sale with the following information on the sale invoice/lease contract or a statement attached to the invoice:
 - The purchaser's name and *Certificate of Indian Status* Registry No. or *Temporary Confirmation of Registration Document* registration number (or Band number if the sale is to an Indian Band);

- Name of the reserve on which the legal title to the off-road vehicle or boat was transferred and to which the off-road vehicle or boat was delivered;
 - The purchaser's address on reserve for RST-exempt lease contracts; and
 - A statement signed by the purchaser and by an official of the dealership, confirming the title to the off-road vehicle or boat was transferred on the reserve, the dealer delivered it to the reserve, and the customer took possession on the reserve. When a common carrier ships the off-road vehicle or boat on behalf of the dealer to the reserve, the dealer must retain the shipping documents.
- See Bulletin No. 023 – *Service, Maintenance and Warranty Contracts* for information on warranties.

Government purchases

- RST is not payable on sales/leases made directly to departments of the federal government. To allow the exemption the dealer must obtain the federal government's RST number from the purchase order and record it on the purchase invoice.

Please note: Purchases by federal and provincial Crown corporations are subject to RST. Dealers may contact the Taxation Division for assistance to determine whether a purchaser is a department of the federal government or a Crown corporation.

- Purchases by employees of the federal government for personal use are subject to RST.
- Purchases by the Province of Manitoba, municipalities, municipal governments and local government districts are subject to RST.

Foreign diplomats

- Foreign diplomats that are eligible for an RST exemption are issued an RST number (in the form of picture ID cards) by the Taxation Division. Upon presentation of the RST number, the dealer must record the RST number on the sale invoice to allow the exemption to the foreign diplomat.
- Where the diplomat is unable to present his/her RST number, the dealer shall collect the tax on the sale and advise the diplomat to contact the Taxation Division to obtain an RST refund.

Commercial fishers

Commercial fishing boats, outboard motors, fishing nets and other apparatus (including related parts and repair services) that are used solely in commercial fishing, may be purchased by commercial fishers RST exempt. To allow the exemption, dealers must record the purchaser's commercial fishing licence number on the sales invoice and obtain a signed statement that the items purchased will be used solely for commercial fishing.

Dealer's Responsibility to document exemption Dealer's records are subject to audit by the Taxation Division. Dealers that allow an RST exemption but fail to fully comply with the documentation requirements may be liable for payment of the uncollected RST, accrued interest and penalties.

Section 5 – SALES OF REPAIR PARTS AND LABOUR

General information

- The total amount charged for off-road vehicle or boat repairs or maintenance services is subject to RST, including parts, labour and any other charge in connection with the service, such as charges for shop supplies (i.e. lubricants and disposable seat covers), washing, painting, towing.
- Dealers may purchase parts, labour and shop supplies used to perform vehicle maintenance and repair services RST exempt by quoting their RST number to their supplier.
- Charges for engine analysis and other maintenance inspections are subject to RST (even if no parts or supplies are used).

Exempt purchasers

- The purchasers listed in Section 4 may generally purchase off-road vehicle or boat repair parts and services RST-exempt. To allow the exemption, dealers must obtain the following documentation if:
 - The part or service is purchased for resale purposes, or the purchaser is a foreign diplomat or a department of the federal government; the dealer must record the purchaser's RST number on the invoice.
 - The purchaser is a Status Indian or Indian Band; the dealer must retain proof the service was performed on a reserve, or the dealer delivered the repaired off-road vehicle or boat to the customer on a reserve. (Documentation requirements described in Section 4 also apply)
 - The purchaser is a non-resident of Manitoba; the dealer must retain proof of delivering the repaired off-road vehicle or boat out-of-province.
 - The purchaser is a commercial fisher; the dealer must record the purchaser's commercial fishing licence number on the sales invoice and obtain a signed statement that the repair parts or services were for equipment used solely in commercial fishing.

Leases

- If the lessor is responsible for the maintenance as part of the lease contract, the lessor may purchase the maintenance and repair parts and services RST-exempt. To allow the exemption, the dealer must obtain the lessor's RST number and record it on the invoice.
- When the lessee purchases off-road vehicle or boat repair services, RST applies to the total charges payable by the lessee, including a deductible amount paid by the lessee on a maintenance-included contract. This type of deductible amount is considered an additional lease payment.

- Insurance repairs**
- Insurance companies generally pay RST on all insured repair claims. In the case of repairs to a leased off-road vehicle or boat, the insurance company is required to pay RST on a repair claim only if the off-road vehicle or boat is insured by the lessee. The lessee is not required to pay tax on a deductible amount, as tax has already been collected on the repair.
 - If the off-road vehicle or boat is insured by the lessor, the insurance company is not required to pay RST on the repair claims. To allow the RST exemption on the lessor's insurance claim, the vendor must obtain the lessor's RST number.
- Emergency services**
- Emergency services such as towing, hauling, battery boosting and bringing gas are not considered repair services and are RST-exempt. These services are subject to RST when provided in connection with a taxable repair service. For example, if a dirt bike is hauled in to replace engine parts, the total charge for the repair and hauling is taxable.
- Warranty repairs**
- RST does not apply to repair services provided to a customer at no charge under a manufacturer's warranty, repairer's guarantee or other extended warranty or maintenance contract.
 - The parts and labour required to provide the service under the contract may be purchased RST-exempt by the manufacturer, maintenance or warranty company.
 - If the customer is required to pay a deductible fee or is charged for part of the repairs provided under a maintenance or warranty contract, the dealer must collect RST on the amount charged to the customer.
 - For further information, see *Bulletin No. 023 – Service, Maintenance and Warranty Contracts*.

Section 6 – PURCHASES FOR OWN USE

- General information**
- Dealers are required to pay RST on all purchases of equipment, supplies and taxable services acquired for own use. Some examples are shop equipment, office equipment, service vehicles (see Section 7), signs, mechanics' tools, brochures, forms and other stationery, building materials, computer software, promotional items, uniforms, building cleaning supplies, hand wipes and equipment repair services.
 - When a dealer purchases taxable items from a vendor that did not collect RST (e.g., out-of-province vendor), the dealer is required to remit the applicable tax to the Taxation Division on the next RST return.
 - Dealers may purchase the following RST-exempt:
 - Materials that are incorporated into an item or service for resale, such as accessories, parts, lubricants, glue, tape, bolts, electrical wire and connectors, welding rods and gasket materials;
 - Shop supplies such as abrasive materials, drill bits and other cutting

attachments, welding gases, wiping rags, solvents and other goods that are consumed while in direct contact with goods to which a taxable service is provided.

Promotional items

- RST applies on taxable promotional items purchased by dealers as follows:
 - Dealers must pay RST on their cost for promotional items given away to potential customers, such as brochures, hats and balloons, if there is no condition for the customer to purchase anything.
 - Dealers do not pay RST on their cost of promotional items given away on condition that the customer purchases a taxable item. For example, a dealer may purchase fishing rods and reels RST-exempt that are given away “free” with each purchase of a boat.
- Please note:** If the dealer’s combined cost of a vehicle/boat and any taxable promotional items included as part of a sale exceeds the selling price of the sale, the dealer must pay RST on the amount of cost above the selling price.
- For additional information pertaining to purchases of give-away items, see Bulletin No. 37 – *Promotional Distributor*.

Section 7 – DEALER-USE OFF-ROAD VEHICLES AND BOATS

Definition of “dealer-use” off-road vehicles and boats

- Dealer-use off-road vehicles and boats includes:
 - New or used off-road vehicles or boats that are purchased or modified **for use in the operation of the dealership** (i.e., are not readily available for sale); or
 - New or used off-road vehicles or boats that are purchased for resale, held in inventory for resale and readily available for sale at all times that are **temporarily assigned** to, or used by company officials, family members, sales personnel, other employees or customers for personal or business use.
- Off-road vehicles or boats that are used **solely** by potential customers **for sales demonstration purposes** are not considered to be used by the dealer as described above.

Tax on dealer-use off-road vehicles and boats

- Dealers who **purchase or modify** an off-road vehicle or boat for dealer-use must pay the **7 per cent** RST on the purchase price. The trade-in and refund provisions of the Act apply if the off-road vehicle or boat is sold or traded-in on the purchase of another off-road vehicle or boat (as discussed in this bulletin). A return to inventory does not constitute a sale. An off-road vehicle or boat that has been modified in any way and/or is not readily available for sale does not qualify for the temporary use provisions described below and is subject to tax at **7 per cent** on the full purchase price.
- Dealers who purchase an off-road vehicle or boat for resale and

temporarily use it for dealer-use must pay **7 percent** RST on 1/36th of the purchase price for each month the off-road vehicle or boat is used for this purpose. If a dealer-use off road vehicle or boat is replaced during a month with another off-road vehicle or boat, the RST for that month is payable only on the one with the greater purchase price.

Please note: Dealer-use off-road vehicles and boats are subject to RST even though the off-road vehicle or boat may also be used for demonstration to potential customers or for rental.

Record of dealer-use off-road vehicles and boats

- Dealers are required to maintain sufficient records for RST audit purposes to substantiate the number of their dealer-use off-road vehicles and boats for each month. If a dealer's records do not accurately represent the number of dealer-use off-road vehicles and boats, the Taxation Division may estimate the additional RST payable.

For example: It is apparent to the Taxation Division auditor that the business owner uses a snowmobile for personal activities, but the business has not paid the RST on the snowmobile as required. In this case, the auditor will estimate the RST payable and propose it as an audit adjustment.

Repairs and maintenance

- Dealers are required to pay RST on their cost (excluding employee labour) to repair and maintain off-road vehicles or boats **purchased or modified** for dealer use.
- No RST applies on repairs of off-road vehicles and boats acquired for resale and used **temporarily** as dealer-use off-road vehicles and boats.

Section 8 – REFUNDS ADMINISTERED BY THE TAXATION DIVISION

Refunds

- Dealers may wish to inform their customers that they may be eligible for the following refunds:

Buy-sell refunds

- Where a person buys or leases an off-road vehicle, pays the tax on it and privately sells a used off-road vehicle within 6 months, an RST refund may be available. The vehicles must be of the same general kind as discussed on page 5.

Non-resident purchasers

- Where a non-resident person purchases an off-road vehicle in Manitoba, removes it within 30 days of purchase for permanent use outside the province and pays any applicable tax in another jurisdiction, the Manitoba RST paid is refundable.

Farmers

- Farmers may apply to the Taxation Division for a refund of RST paid on the purchase of an all-terrain vehicle that will be used principally for farming.

Further information on the above refunds may be obtained by contacting the Taxation Division at the listings at the end of this Bulletin.

Section 9 – REGISTRATION REQUIREMENT

Requirement to be registered • Dealers who sell or intend to sell taxable goods or services in Manitoba must be registered with the Taxation Division, **including** out-of-province dealers who sell or lease goods in Manitoba but otherwise do not carry on business in Manitoba, if they

- Solicit, directly or through an agent, orders for goods from persons in Manitoba by advertising or any other means,
- Accept orders originating in Manitoba to purchase goods,
- Sell goods for consumption or use in Manitoba, and
- Cause the goods to be delivered in Manitoba.

For additional information, see Bulletin No. 004 – *Information for Vendors*.

The application for registration form is available from the Taxation Division offices or web site listed below. It can also be filed online by using TAXcess, Manitoba Finance's online service to file, pay and view your Manitoba business tax accounts. Sign up at: www.manitoba.ca/TAXcess.

FURTHER INFORMATION

This bulletin is intended to serve as a guideline and is not all-inclusive. For the specific wording of the law, please refer to *The Retail Sales Tax Act* and *Regulations*. Further information may be obtained from:

Winnipeg Office

Manitoba Finance
Taxation Division
101 - 401 York Avenue
Winnipeg, Manitoba R3C 0P8
Telephone (204) 945-5603
Manitoba Toll Free 1-800-782-0318
Fax (204) 948-2087
E-mail: MBTax@gov.mb.ca

Westman Regional Office

Manitoba Finance
Taxation Division
314, 340 - 9th Street
Brandon, Manitoba R7A 6C2
Fax (204) 726-6763

ONLINE SERVICES

Our Web site at manitoba.ca/finance/taxation provides tax forms and publications about taxes administered by Taxation Division, and a link to Manitoba's laws and regulations. Forms and publications can also be obtained by contacting the Taxation Division.

Our online service at manitoba.ca/TAXcess provides a simple, secure way to apply for, and to file, pay and view your Taxation Division tax accounts.