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## Trusts

### Provincial Sales Tax Act

Latest Revision: *The revision bar ( | ) identifies changes to the previous version of this bulletin dated December 2016. For a summary of the changes, see Latest Revision at the end of this document.*

This bulletin explains how PST applies to trusts.

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### Definitions

In this bulletin:

- **Assets** means:
  - goods (i.e. tangible personal property),
  - software (see [Bulletin PST 105, Software](#)), and
  - the right, whether exercised or not, to download, view or access, via a telecommunication system by means of an electronic device ordinarily situated in BC, the following telecommunications:
    - audio books, music, ringtones (includes text tones and other alert tones) and audio programs (e.g. podcasts and radio programs), and
    - TV programs, movies and other videos.

For more information, see [Bulletin PST 107, Telecommunication Services](#).
- **Beneficiary** means the person for whose benefit the trust property is held.

- **Settlor** means the person who creates the trust by expressing such an intent and transferring the assets to the trustee for the creation of the trust.
- **Trustee** means the person who holds legal title to assets in trust for the benefit of another person (the beneficiary).

## **Overview**

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A trust is a legal relationship in which legal ownership of property is held by a trustee for the benefit of others (i.e. beneficiaries).

If you are a trustee, you need to know how PST applies whenever taxable assets are acquired by, transferred into, or transferred out of a trust. If you are unsure how PST applies, please contact us. We will provide you with an answer that applies to your particular situation.

For other types of asset transfers, see [Bulletin PST 210](#), *Related Party Asset Transfers* and [Bulletin PST 319](#), *Partnerships*.

## **Assets Transferred Into a Trust**

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### **When to Pay PST**

Purchases or leases of trust assets are considered purchases or leases by the trustee of the trust. This means that as a trustee, if you purchase or lease taxable assets, you must pay PST.

For example, you use trust funds to purchase a vehicle for the use of the trust's beneficiaries. As the trustee, you pay PST on the vehicle, unless a specific exemption applies.

### **Gifts to Trusts**

Gifts of assets to a trust are considered to be gifts to the beneficiaries of the trust. Whether PST is payable by the beneficiaries of the trust will depend on the type of assets gifted and the circumstances, as outlined below.

#### **Gift of a Vehicle, Boat or Aircraft**

If a person gifts a vehicle, boat or aircraft to a trust and the same person is the only beneficiary of that trust, no PST is payable as beneficial ownership remains with the same person.

If a person who is not a beneficiary of a trust gifts a vehicle, boat or aircraft to a trust, PST is payable by the beneficiary or beneficiaries of that trust on the fair market value of the gift, unless a specific exemption applies.

If a person who is a beneficiary of a trust but not the only beneficiary, gifts a vehicle, boat or aircraft to the trust, PST is payable by the other beneficiaries on the fair market value of the interest they acquired in the gift.

For example, a person transfers a sailboat into a trust as a gift. The beneficiaries of the trust are that person and that person's cousin. The cousin must pay PST on the fair market value of the interest in the sailboat they acquired as a result of the gift.

For more information, including information about PST rates, see [Bulletin PST 308](#), *PST on Vehicles*, [Bulletin PST 108](#), *Boats* and [Bulletin PST 134](#), *Aircraft*.

## **Gifts of Other Types of Assets (Not a Vehicle, Boat or Aircraft)**

### **Gifts in BC**

Gifts of other types of assets in BC to a trust are not subject to PST.

For example, a person transfers furniture into a trust as a gift in BC. No PST is payable on the furniture.

### **Gifts from Outside of BC**

Gifts of assets from outside of BC to a trust in BC may be subject to PST. PST may be payable by the beneficiaries of the trust or the donor of the gift, depending on the circumstances.

For more information, see [Bulletin PST 312](#), *Gifts*.

## **Change in Trustees**

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If you are replaced as a trustee, legal title to the trust assets passes from you to the new trustee. The transfer of assets to a new trustee is generally not subject to PST if no consideration is paid.

## **Assets Transferred Out of a Trust**

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### **When to Charge PST**

Generally, you must register to collect and remit PST if, as trustee, you sell or lease taxable assets from a trust in the ordinary course of business.

For more information, see [Bulletin PST 001](#), *Registering to Collect PST*.

### **When Not to Charge PST**

Generally, even if you are registered, you do not charge PST if you transfer assets out of a trust to the beneficiaries of the trust for no consideration.

If you are not registered and are not required to be registered for PST, you must not charge PST on any transfers out of a trust.

## **Trustee Liability**

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If you incur a tax liability in the administration of a trust for not paying, collecting or remitting PST, a lien can be registered against the assets of the trust. This liability can also extend beyond the assets of the trust to your personal assets.

## **Bare Trusts**

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A bare trust is a relationship in which a trustee holds legal title to trust property but has no discretion, responsibilities or duties in relation to the trust property except to act strictly on the instructions of the beneficiaries. For PST purposes, the trustee of a bare trust is generally considered to be an agent of the beneficiaries.

The beneficiary, as the principal of the bare trust, must register to collect PST if the trust sells or leases (as lessor) taxable assets in the ordinary course of business. If the trustee sells

or leases taxable assets from the trust, the trustee must collect and remit the applicable PST under the beneficiary's PST account.

## Exempt Purchases

A trustee in a bare trust relationship may qualify for a PST exemption when they make a purchase on behalf of the trust if the beneficiaries of the trust would qualify for exemption if they made the purchase on their own behalf.

For example, a trustee in a bare trust who is not a First Nations individual purchases assets for the trust. The beneficiary of the trust is a First Nations individual. In this case, the trustee may purchase the assets exempt of PST if title to the assets passes on First Nations land. For more information, see [Bulletin PST 314, Exemptions for First Nations](#).

**Note:** As the nature of bare trust relationships can be different depending on the circumstances, please contact us with any questions you may have. We will provide an answer that applies to your particular situation.

## Family Trusts

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A family trust is a trust whose only beneficiaries are any of the following:

- A person
- That person's spouse
- That person's children

The PST rules for trusts also apply to family trusts.



## Need more info?

Online: [gov.bc.ca/pst](http://gov.bc.ca/pst)

Toll free in Canada: 1 877 388-4440

Email: [CTBTaxQuestions@gov.bc.ca](mailto:CTBTaxQuestions@gov.bc.ca)

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The information in this bulletin is for your convenience and guidance and is not a replacement for the legislation.

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### Latest Revisions

April 2018

- Revised to reflect the change to the PST rates for sales and leases of passenger vehicles with a value of \$125,000 or more, effective April 1, 2018
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References: *Provincial Sales Tax Act*, sections 1 "boat", "fair market value", "First Nation individual", "fair market value", "software", "tangible personal property", "telecommunication service", "vehicle", 34-37, 39, 49, 50, 100 and 168; *Provincial Sales Tax Exemption and Refund Regulation*, sections 1 "First Nation land" and 148-155.