

# **PST and Engineering Services in Saskatchewan**



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**Disclaimer: This information is intended to provide the user with the tools to navigate the new Saskatchewan PST regime where construction services are now PST-chargeable. It is in no way intended to be a substitute for interpretations and rulings rendered by the Saskatchewan Ministry of Finance.**

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## Why Are We Having This Conversation if...?



So why are we having a conversation about Engineering and PST in Saskatchewan?

Its important to know that the consulting engineering industry was at significant risk after the 2017-2018 provincial budget of having PST be applicable to many more services than just Category 3 Design services.

ACEC-SK represented its members in an attempt to prevent this from happening. Our efforts paid off as we recently received a ruling from Saskatchewan's Ministry of Finance indicating there will be no change to provincial sales tax chargeable on engineering services - with a couple of notable exceptions – EPC and computer services.

Your association released a bulletin announcing this, but since construction services are now PST-chargeable, the biggest take-away becomes:

**...consulting engineering firms must clearly distinguish their services when invoicing. If it is unclear which categories of services are being billed, then ALL engineering services on your invoice will be PST-chargeable.**

**So this education session is actually about how to clearly articulate which services you are billing.**

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The latest Saskatchewan budget was unveiled on March 22, 2017 where there was an increase to the PST- base, where PST exemptions on a number of goods and services were removed.

What is of most interest to this industry is that "construction services" are now PST-chargeable. Immediately after the budget was released, the Construction Association hosted a meeting for Finance officials to answer questions about the new tax. ACEC-SK attended that meeting where we were re-assured that PST-chargeable on engineering services would remain the same.

The focus very much remained on the implications for contractors, with education sessions being offered by the Construction Association to provide as many updates for that sector of the industry as soon as interpretations were provided. We know a lot of engineers attended those sessions.

But that information was specifically for contractors. The only real point of interest for engineers from those sessions was 'PST is applicable to end-users'. What our members wanted to know was the implications for the consulting engineering industry.

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## ...introduced PST on Construction Services



So what *ARE* the implications for the consulting engineering industry?

To understand how we got to where we are today, a bit of context is necessary.

Finance representatives freely admitted they had a lot to learn about the construction industry and how engineering services – particularly those during the construction phase of a project – are different than those provided by contractors. The Ministry of Finance signalled a willingness to work with the private sector to learn more about the nuances.

ACEC-SK was happy to work with government officials to ensure they understood the differences between engineering and construction services.

But in the days immediately after the release of the budget, we still had reassurance that PST would still only be chargeable on Category 3 Design services.

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## What about Contract Administration?



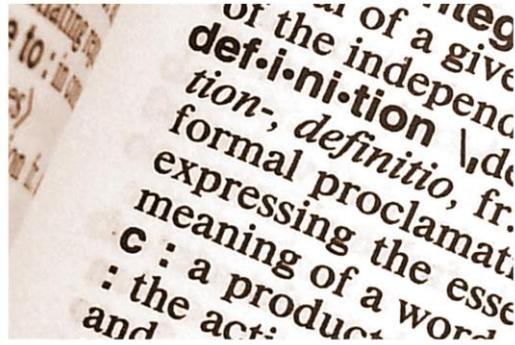
- But something wasn't right because the phone calls starting pouring in, both to the Ministry of Finance and ACEC-SK offices.
- It became apparent that many clients, including key governmental clients, believed "contract administration" and "construction management" services to be the same thing.
- We quickly learned that some Finance Ministry officials were suggesting contract administration was the same as construction management, which in their view meant contract administration was PST-chargeable.
- We started to hear comments like "Engineers and contractors are both on-site, making things happen, right?" ...
- Our industry knew the difference, but we needed to stop the dissemination of information before it could not be reversed.
- ACEC-SK was only able to react as quickly as it did to prevent this *expansion* because some of our members reached out to us to advise what was happening on the ground....
- ...and what they were hearing was VERY different from what ACEC-SK was originally told by senior Finance Ministry officials immediately after the budget came out.

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## Definitions..... .....Definitions!



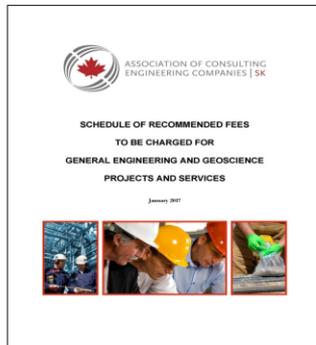
- A little digging behind the scenes quickly pointed to industry jargon being misinterpreted. Various terms were being used interchangeably by consulting engineering firm employees and by clients alike.
- We also recognized the Ministry's lack of understanding of our industry may have been the reason for PST expansion into more engineering services. We could not allow misinformation to be the basis of that kind of decision. It was up to ACEC-SK to educate all relevant stakeholders.
- Association leadership recognized we had to get right back to basics in order to convince the Ministry of Finance that engineering services were fundamentally different from construction services.

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# ACEC-SK Recommended Schedule of Fees



The first step in educating all stakeholders was to reference ACEC-SK's Recommended Schedule of Fees – a guideline published annually by Saskatchewan's consulting engineering association.

Most members of the association will turn immediately to the rate updates for various categories of professionals and technologists when they are preparing their own annual budgets. But many may not be aware that the foundation of the document is describing the various types of services engineering firms offer.

And further to this, the Saskatchewan Ministry of Finance uses these categories when determining which services are PST-chargeable.

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## Categories 1 – 7...



**Categories**

These categories are:

- Consultative and Advisory
- Pre-Design
- Design
- General Engineering or Geoscience Services During Construction or Field Projects
- Resident Engineering or Geoscience Services During Construction or Field Projects
- Geological or Geophysical Services of Defined Scope
- Geological or Geophysical Services on Comprehensive Projects

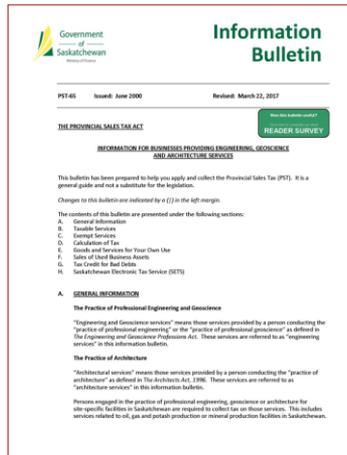
And we are circulating a hand-out which is an excerpt from this document that clearly defines what each of these categories consists of

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# Bulletin 65



## PST chargeable on Engineering Services

PST was not always chargeable on engineering services. In the mid-2000's, 30% of category 3 design services became PST-chargeable. Now EPC services fall into this category as well.

However, it is important to understand why the association has attempted to shelter engineering services from provincial sales tax. The decision to invest in infrastructure by many, particularly in tight fiscal times, is already challenging. Having services that support this infrastructure investment being taxed incurs another expense for these investors, which ultimately reduces the amount of money that goes directly into infrastructure renewal. The tax amounts are material to the outcome of these projects, so the association leadership continues to defend engineering services from provincial sales tax where it can.

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## Category 3

# Design Services

Bulletin 65 states provincial sales tax applies to 30 per cent of the services as defined by: Category III in the Consulting Engineers of Saskatchewan (CES) Schedule of Fees.

Category III states:

These services consist of the preparation of engineering design, drawings and specifications as well as other appropriate contract documents. ... Design normally includes the following services:

1. Preparation of preliminary sketches and development of specification notes;
2. Preparation of calculations, equipment selection, working drawings, and specifications;
3. Preparation of cost estimates and completion schedules;
4. Assisting in preparing tender packages and calling for tenders;
5. Analysis of Tender Responses and advising the Client regarding tender acceptance; and
6. Designing software/systems.

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## Categories 4 & 5

# Engineering Services During Construction Phase

- These are the two categories that came under scrutiny by the Finance Ministry.
- With their limited understanding of the industry, they viewed what engineers do on-site during the construction phase of a project to be the same as what contractors do.
- ACEC-SK emphatically argued that its not, and then set out to educate them as to why not.

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## “Services During Construction...”



“Review versus Direct”

- CCDC documents very clearly articulate the different roles and responsibilities of the consultant on the construction site versus the role of the contractor.
- However, we needed to boil down the argument in layman's terms, and this is how we approached it:
- Consultants **review** on-site
- Contractors **direct** on-site

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## Quality Assurance vs Quality Control



Quality assurance and quality control processes are intended to make a product defect-free and ensure it conforms to requirements.

The purpose of both processes is the same, but the approach is different. Quality assurance is a process based approach and quality control is a product based approach.

Quality assurance designs a process so that the product coming from this process is defect free, while quality control checks the product when you are producing it so no defected product gets into the market.

Engineers perform quality assurance. Contractors perform quality control.

Here is another hand-out that explains it in more detail.

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## Engineer = QA

**“...provides assurance the  
item being constructed  
meets the design  
specifications...”**

- Many in the consulting engineering industry can't clearly articulate the distinction between the two. Its no wonder then that our clients and the Ministry of Finance are confused.
- We have to be clear what we mean by quality assurance, and we have to be crystal clear that is the role of the engineer.
- We then have to be able to articulate that the contractor performs quality control.

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## Contract Administration



- contract administration.....construction MANAGEMENT.....

Contract Administration (CA) is the work of the Engineer, Architect, contract administrator and / or Owners' representative to ensure that the final construction is in general conformance with the contract documents. CAs do not control the work, but rather review the work in stages after the work is already completed. CCDC-2011 provides a list of tasks that are typically required of the Contract Administrator and can include:

- Visiting the place of work at intervals appropriate to the progress of the construction
- Becoming familiar with the progress and quality of the work
- Determining if the work is in general conformity with the Contract documents
- Determining the money owed to the contractor (based on observations above)
- Interpreting the Contract Documents
- Providing Supplemental Instructions (SI)
- Reviewing Shop drawings and Submittals to ensure conformance
- Determining Substantial Performance
- Receiving and reviewing warranties

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# Construction Management



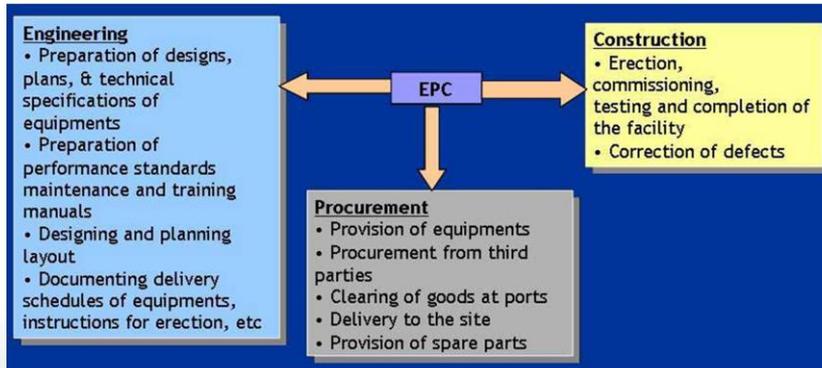
Construction Management (CM) is the sole realm of the Contractor, and includes all the activities that are directly related to the construction of the capital asset, with the key word being that the Contractor “controls” the work throughout the project on a construction site, and may include:

- Employing and scheduling of tradesmen
- Scheduling shipments of materials
- Tracking materials and costs
- Anything to do with building or the physical construction

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# Engineering, Procurement, Construction (EPC)



EPC is a particular form of contracting arrangement used in some industries where the EPC representative is responsible for all the activities from design, procurement, construction, to commissioning and handover of the project to the Owner.

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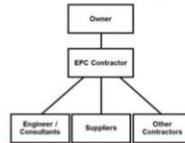


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# Engineering, Procurement, Construction (EPC)

## What is an EPC Contract?

- **EPC:** Engineering, Procurement, Construction
  - “Turnkey” contracts: delivery of a completed project from design;
  - Contractor is responsible for Design, Procurement, Construction and Commissioning of a project;
  - Typically associated with developing an operating facility (ie: power station)
  - Contract contains performance standards the completed facility is required to achieve.



(Loos 2007:3-5 and Cullen and Higgins 2011:2-5)



Recognize the Engineering, Procurement, and Construction is performed by organizations that often intertwine these service units. It would become too much of an administrative burden to “back out” of their current systems in order to invoice these services separately.

Consultation with industry representatives in this sector indicated they were prepared to be billed the full 6% PST for EPC services.

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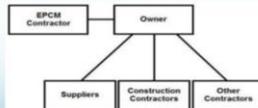


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# Engineering, Procurement, Construction Management (EPCM)

## What is an EPCM Contract?

- **EPCM**: Engineering, Procurement, Construction, Management
  - "Professional Services Contract";
  - Contractor is responsible for Engineering, Procurement and Management of the construction phase of the project, on behalf of the owner;
  - Management of construction only as the owner's representative;
  - No responsibility for the construction or quality of the project;
  - Popular in major works sectors (i.e. mining, petrochemicals, power plants etc)



(Lloids and Hansche 2007:8-11 and Godwin 2012:1-2 and Cullen and Higgins 2011:2-5)



EPCM is a particular form of contracting arrangement used in some industries where the EPC representative is responsible for all the activities from design, procurement, construction, to commissioning and handover of the project to the Owner.

In the real world, what this means is they are “administering” the EPC contract. They have no direct control during the construction phase of the project.

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Information  
Bulletin

PST-12 Issued: February 1985

Revised: June 30, 2017

THE PROVINCIAL SALES TAX ACT

www.finance.gov.sk.ca  
READER SURVEY

## Bulletin 12

### INFORMATION FOR BUSINESSES PROVIDING SERVICES TO REAL PROPERTY

This bulletin has been prepared to help you apply and collect the Provincial Sales Tax (PST). It is a general guide and not a substitute for the legislation.

The changes to this bulletin are indicated by a (1) in the left margin.

The contents of this bulletin are presented under the following sections:

- A. Registrations and Reporting Requirements
- B. Collection and Remittance of Tax
- C. Services to Real Property
- D. Equipment, Materials and Consumables
- E. Subcontractors
- F. Builders of Residential or Commercial Premises
- G. Exempt Services
- H. Definition of Real Property
- I. Contractors Who Make Retail Sales
- J. Services to Real Property on Indian Reserves
- K. Bonding and Clearance Process
- L. Casual Rentals
- M. Sales of Used Business Assets
- N. Goods and Services for Your Own Use
- O. Saskatchewan Electronic Tax Service (SETS)

#### A. REGISTRATION AND REPORTING REQUIREMENTS

Effective April 1, 2017, a business providing services to real property is required to be registered with the Revenue Division as a Licensed Vendor for the purpose of collecting and remitting PST on their sales of taxable services and to report any tax payable on equipment, supplies and taxable services purchased for their own consumption or use.

Prior to April 1, 2017, contractors were issued Registered Consumer numbers. PST account numbers will no longer identify businesses as vendors or consumers therefore contractors with a Registered Consumer number will retain and use their existing number when reporting as a Licensed Vendor. Contractors not previously registered for PST are required to become licensed by completing and submitting the application form found at the following link: <http://finance.gov.sk.ca/forms/F1-223ApplicationforVendorsLicense-ConsumerRegistration.pdf>

The original release of the Ministry of Finance Bulletin 12 (Provincial Sales Tax on Real Property) after the budget clearly indicated that services that would be taxed would be those that either “changed the value or use of the real property.”

The crux of our argument was that engineering services fundamentally do not change the use or value of real property.

The June 30 update no longer incorporated this specific wording.

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## How to Defend Your Choice



The best way to defend how you bill is to ensure you understand the meanings of each one of these terms, and that everyone in the industry uses terms consistently.

One practical way to accomplish this is to ensure both those managing the projects and those responsible for billing the project participate in team meets so all can identify the services that will be performed.

Then the next thing we need to do is educate our clients.

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## Summary:

- **Identify the service provided**
- **What Category in Fee Guidelines**
- **Why are you doing the service (QA/QC)**
- **Document why you believe service is either PST-chargeable or not**

Using the same terminology for services rendered is the first step.

Ensuring you are pointing out which services you plan to perform is the next step.

Then identify in which category or categories these services reside, and then translate this into your invoicing process.

Most importantly, though, is the need to identify **WHY** you are performing this service. Is it supporting “quality assurance” or “quality control”? Most engineering support quality assurance regardless of whether your client is the owner or the contractor.

**Then document in your invoice why you have chosen the category of service you have.**

Articulate your rationale.

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## **When in Doubt:**

➤ **Call or email the Ministry of Finance**

**1-800-667-6102**

**[Sask.tax.info@gov.sk.ca](mailto:Sask.tax.info@gov.sk.ca)**

But when in doubt, contact the Ministry of Finance directly, get a ruling, and then ensure you GET IT IN WRITING.

Remember, the Ministry of Finance cannot be expected to understand the nuances of the consulting engineering industry because they are responsible for interpreting all industries in this province.

We are the experts and the onus is on us to defend our decisions, and then be able to educate those who review these decisions as to why we made the choices we did based on the regulations we have been provided.

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