

Notice to Taxpayers Provincial Sales Tax (PST) on Legal Services

Social Service Tax Act

This notice explains how eligible low-income individuals can apply for a refund of PST paid on legal services billed after February 7, 2005 and before May 25, 2007.

In 2003, Dugald Christie, a Vancouver lawyer, challenged the constitutional validity of the PST on legal services under the *Social Service Tax Act*. After two lower court rulings, the Supreme Court of Canada ruled that the Province of British Columbia has the power to impose PST on legal services [see [British Columbia \(Attorney General\) v. Christie, 2007 SCC 21](#)].

While waiting for the Supreme Court of Canada ruling, the province said eligible low-income individuals did not have to pay the PST on legal services. Therefore, if you paid the PST and you meet the eligibility criteria listed below, you will be eligible for a refund.

Eligibility Criteria

1. You paid PST on legal services that were billed to you after February 7, 2005 and before May 25, 2007. Also, for services billed on or after December 20, 2005, the services provided met the definition of “barristers’ services” (see Barristers’ Services below),

AND

2. on the date you were billed for the legal services, your family household income was below the amounts set out in the financial eligibility test below.

Financial Eligibility Test	
Number of family* members	Annual/Monthly household net income**
4 or fewer	\$28,000/\$2,333.33 or less
5	\$33,000/\$2,750.00 or less
6	\$35,000/\$2,916.67 or less
7 or more	\$38,000/\$3,166.67 or less

***Family** means related individuals who live at the same address, including all family and extended family members related by blood, common law, adoption or marriage, regardless of age. Family also includes foster parents and their foster children. Address includes separate living areas in one household, such as shared accommodation, including basement suites, in-law suites and single rooms.

****Net Income** means net income for accounting purposes received by all family members in the household at the time the legal services were billed, except for the Canada Child Tax Benefit, the BC Family Bonus and the Goods and Services Tax Credit.

For detailed information on the amounts to include in calculating net income, please refer to the Income Worksheet attached to the *Application for Refund of Tax on Legal Services* ([FIN 197](#)).

Allowable deductions in calculating net income include the following:

- daycare expenses,
- child or spousal maintenance payments - ordered by a court or agreed to in a separation agreement - that you or your spouse are paying,
- court fines that if not paid, will mean you or your spouse will go to jail,
- medication you must personally pay for that a doctor says is necessary for you or your dependants, and
- the cost of an interpreter's services if you do not speak English and you needed an interpreter to help prepare for court.

Barristers' Services

For billings of legal services on or after December 20, 2005 and before May 25, 2007, the services must meet the definition of "barristers' services" to qualify for a refund of PST.

A barrister is a lawyer who provides legal services to clients who have a dispute, or potential dispute, with another party that could lead to court action. For

example, a client who has a claim against the Insurance Corporation of British Columbia (ICBC) or Workers' Compensation Board (WCB) will hire a barrister to make the claim. If the barrister is unable to negotiate a settlement of the claim to the client's satisfaction, then a court will hear the case and decide on the matter. Barristers also work for clients who have cases heard by independent administrative tribunals, such as the Human Rights Tribunal or the Workers' Compensation Appeal Tribunal. Barristers' services include:

- representing a client in a court action or independent administrative tribunal (e.g. representing a client who is suing for custody of a child),
- drawing up documents intended to be filed with a court or independent administrative tribunal (e.g. preparing an affidavit which will be filed in a child custody court action),
- advising a client on an issue that is, or is very likely to be, barring a settlement, the subject of a court action or independent administrative tribunal (e.g. advising a client to accept a settlement offer from ICBC so that a lengthy trial can be avoided),
- negotiating between a client and another party that, barring a settlement, will require a court or independent administrative tribunal to rule on the issue (e.g. negotiating a pension amount with WCB for a client who was injured on the job), and
- arbitration or mediation relating to matters that will otherwise require a court or independent administrative tribunal to rule on the issue (e.g. acting for a spouse who is using mediation to determine how to divide family assets after a separation).

"Barristers' services" does not include advice designed to avoid future disputes. For example, drafting a will is not a barrister service even though people often ask lawyers to draft wills to avoid future family disputes. Other examples of legal services that are not barrister services are writing a contract, such as a pre-nuptial agreement, handling the sale of a house, administering an estate and drafting a power of attorney for continuing care.

How to Apply for a Refund

1. Complete an *Application for Refund of Tax on Legal Services* (**FIN 197**), which is available on our website at www.sbr.gov.bc.ca/documents_library/forms (Please complete all parts of the application so we can consider your refund).
2. Provide copies of legal services invoices showing the name of the individual being billed, the name of the lawyer or law firm, the billing date, the legal services provided and the amount of PST paid.

3. If your claim contains more than one legal services invoice, provide a list of these invoices showing, for each invoice, the name of the individual being billed, the name of the lawyer or law firm, the billing date and the amount of PST paid. For billings on or after December 20, 2005, indicate whether the services provided were barristers' services.

Mail your application and supporting documentation to:

Consumer Taxation Branch
Refund Section
PO Box 9628 Stn Prov Govt
Victoria BC V8W 9N6

Please note: The ministry will contact individuals who have already applied for a refund. Please do not reapply.

Further Information

If you have any questions, please call us at 604 660-4524 in Vancouver or toll-free at 1 877 388-4440, or e-mail your questions to CTBTaxQuestions@gov.bc.ca

You can also find information on our website at www.sbr.gov.bc.ca/ctb