

Changes to Legislation Administered by the Revenue Programs Division

On February 17, 2004, the Minister of Finance announced a number of changes to the taxation statutes administered by the Revenue Programs Division, Ministry of Provincial Revenue. This bulletin provides a summary of these changes. *Unless otherwise indicated, these amendments come into effect on February 18, 2004.*

Additional information on these amendments may be found on the Ministry of Provincial Revenue Web site at www.rev.gov.bc.ca or by calling the telephone numbers provided at the end of this bulletin. Information on the provincial budget may be found at www.bcbudget.gov.bc.ca

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CONSUMER TAXES

SOCIAL SERVICE TAX ACT

AQUACULTURE EXEMPTION EXPANDED

The list of items that qualifying aquaculturists may purchase without payment of tax for an aquacultural purpose has been expanded to include:

- Aquacultural planting and harvesting machines and parts
- Artificial seaweed
- Artificial lighting systems used in hatchery and nursery operations to promote plant growth, including replacement bulbs
- Automated shellfish nursery systems and parts
- Ladder racks
- Predator traps
- Tumblers for oyster grow-out operations
- Scallop ear hanging equipment (includes ear hanging pins)
- Steam generators for cleaning hatcheries and nurseries
- Styrofoam, barrels, whole logs and other items used for floatation
- Winches

FAIR MARKET VALUE

A definition of fair market value was added to the Act because of changes to the application of tax to bundled purchases and to gifts brought into the province. Those changes are outlined later in this bulletin.

Fair market value means the price at which the legal and beneficial interest in the tangible personal property would, if unencumbered, be conveyed by a willing seller acting in good faith to a willing buyer acting in good faith in an arm's length retail sale in the open market.

In most cases, the fair market value is the purchase price. Where the purchase price is unknown, such as with a gift, the fair market value is the price for which the item is normally sold at retail. If the item is used, the fair market value is the depreciated value, or the price at which it would generally be sold at a retail sale.

BUNDLED PURCHASES

The application of tax where taxable and non-taxable goods and/or services are sold for a single price (bundled purchase) has changed.

For bundled purchases that take place on or after February 18, 2004, tax applies to the fair market value of the taxable component with the following exceptions:

- Tax applies to the total purchase price if the package is sold for \$500 or less and the fair market value of the taxable portion is 90% or more
- No tax applies if the value of the taxable portion is \$50 or less and represents 10% or less of the total selling price
- No tax applies if the tangible personal property is incidental to the purchase of a service that is not subject to tax under the Act (see below)

PROVISION OF TANGIBLE PERSONAL PROPERTY INCIDENTAL TO A NON-TAXABLE SERVICE

The application of tax where non-taxable services and taxable tangible personal property are sold for a single price and the tangible personal property is incidental to the service has been clarified.

Tax does not apply to the tangible personal property if the provision of the tangible personal property is merely incidental to the contract for the service.

Examples of where tangible personal property is incidental to the sale include:

- Drawings provided under a contract for architectural services
- Original research reports provided under contract for research services
- The master copy of a movie provided under a movie production contract

As a result, services provided by recording studios and graphic artists are now treated consistently with other non-taxable services, such as those listed above.

GIFTS FROM OUTSIDE OF BRITISH COLUMBIA

Residents of British Columbia are required to pay social service tax on the fair market value of gifts purchased outside the province for use in British Columbia where:

- the donor of the gift is a British Columbia resident, and
- sales tax, other than GST, has not been paid to another jurisdiction.

This change does not affect gifts purchased in British Columbia, received from non-residents or transferred from the estate of a deceased.

COMMERCIAL FISHERS' EXEMPTION EXPANDED

The list of items that qualifying fishers may purchase or lease without payment of tax for fishing purposes has been expanded to include:

- Electronic monitoring equipment used to monitor fishing activities
- Fish tags and tagging equipment

CONDITIONAL SALE CONTRACT

Interest charges under a conditional sale contract are no longer subject to tax if:

- the interest charges are separately stated on the invoice or bill of sale, or billed separately to the purchaser; **and**
- the interest charges are payable over the term of the contract.

Tax continues to be payable on the full purchase price at the time the conditional sale contract is entered into.

Tax paid on interest charges before February 18, 2004 is not refundable.

DEALER USE FORMULA – EXPANSION TO INCLUDE SHUTTLE VEHICLES

Motor vehicle dealers are now eligible to pay a reduced tax on vehicles that have been temporarily removed from inventory for use as a shuttle vehicle. Shuttle vehicles are used to transport customers whose vehicles are being serviced by the dealer.

The tax on such vehicles is now calculated on the dealer use formula. To qualify, the vehicles must be temporarily removed from inventory on or after February 18, 2004.

FARMERS' EXEMPTION EXPANDED

The list of exempt items for qualifying farmers has been expanded to include:

- On-farm incineration units
- Treatment products to reduce gas and bacteria levels in litter, bedding, and manure
- Treatment products to promote the decay of organic matter in water in on-farm ponds, dug-outs and reservoirs
- Rolling benches

HYDROELECTRIC POWER GENERATION – PENSTOCK ELIGIBILITY REQUIREMENT CHANGED

The requirement that penstock pipe be at least 30 centimeters in diameter for the penstock system to be eligible for exemption is removed. It has been replaced by a requirement that the facility hold a valid water license for power production purposes under the *Water Act*.

There is no change to the other requirements for exemption.

MANUFACTURED HOMES FOR RESIDENTIAL USE

The Act is amended to bring the application of tax to manufactured homes used as residential dwelling units within the general scheme of the Act.

Manufactured homes are sold in one of two ways: as improvements to real property under lump sum supply and install contracts or as tangible personal property under time and material contracts.

The amendments do not change the application of tax where the manufactured home is sold on a lump sum supply and install basis. Under such real property contracts, the seller continues to be the user of all materials and goods supplied and installed under the terms of the contract.

The seller is therefore required to pay the tax on the appropriate percentage of the seller's cost of the home or, if the seller is the manufacturer, on the materials used to construct the home.

If the manufactured home is sold under a time and material contract, the home is sold to the customer before installation and is therefore tangible personal property at the time of sale. Sellers are now required to collect tax from their customers on 50% of the purchase price of a qualifying mobile home and 55% of the purchase price of a qualifying modular home under time and material sales contracts.

While the amendments are retroactive to January 1977, the amendments confirm the validity of tax paid on manufactured homes before February 18, 2004. As a result, past sales or purchases are not affected.

Dealers and manufacturers who have tax-paid inventory may be eligible for a refund of the tax. Refund applications must be submitted before February 18, 2005.

NEWSPAPER EXEMPTION EXPANDED

Effective December 18, 2003, the amount of qualifying content required for a newspaper to become exempt from tax is reduced from 25% to 20%.

Effective April 1, 2000, the content in newspapers that is considered "qualifying content" is expanded to include a public service listing of an event, activity, or attraction that has been provided free of charge by the publisher and over which the publisher has full editorial control.

PRODUCTION MACHINERY AND EQUIPMENT EXEMPTION CLARIFIED

The exemption for production machinery and equipment (PM&E) purchased by manufacturers and other eligible persons is clarified as it applies to pollution control and waste management machinery and equipment.

The exemption applies only if both of the following conditions are met:

- the machinery and equipment is purchased by manufacturers or their contractors who are eligible for the PM&E exemption; and
- the machinery and equipment is purchased for use at an eligible site.

RETURNABLE AND REUSABLE CONTAINERS

The legislation has been clarified regarding the application of tax to returnable and reusable containers used to package or deliver products for sale.

Tax applies to containers that are capable of being returned and reused. Tax applies regardless of whether the containers are purchased in British Columbia or brought into the province from another jurisdiction.

Tax does not apply if there is evidence that the containers will not be returned after sale. For example, containers shipped to a foreign country are not subject to tax if there is no established system under which the container can be returned to British Columbia.

The amendment is retroactive to February 17, 1998.

SAFETY EQUIPMENT EXEMPTION EXPANDED

The exemption for safety equipment has been expanded to include the following avalanche safety and rescue equipment:

- Avalanche airbag backpack systems designed to inflate to keep the wearer above the snow during an avalanche
- Avalanche beacons and probes for locating avalanche victims
- Equipment that provides an artificial airpocket that prevents the formation of an ice mask

SOFTWARE PURCHASED FOR RESALE

The existing exemption for software purchased for the purpose of being incorporated into other software has been expanded to include software purchased and used exclusively for one or more of the following purposes:

- incorporating copies of the software into other tangible personal property for retail sale; or
- re-licensing copies of the software for retail sale.

Exclusively means more than 90%.

MOTOR FUEL TAX ACT

ALTERNATIVE MOTOR FUEL TAX AMENDMENTS

Modifications are made to the provisions under the *Motor Fuel Tax Act* regulations which establish lower rates of tax for qualifying alternative motor fuels (AMFs).

The number of emissions groups used to evaluate potential AMFs has been reduced from 6 to 4. The new groups are:

- Greenhouse gases
- Nitrogen oxides
- Particulate matter combined with air toxics
- Volatile organic compounds

In addition, the categories of alternative fuels are increased from two to three, and the criteria have been adjusted.

Further work is underway to develop motor fuel tax regulations and an administrative model that will provide an exemption for the AMF portion of low level blends of AMFs and either clear gasoline or clear diesel fuel, such as E10. It is expected that the regulations will be implemented by June 1, 2004.

FAMILY FARM EXEMPTION EXPANDED

The definition of a family farm corporation under the *Motor Fuel Tax Act* has been expanded to include any corporate structure, provided that at least 75% of the voting shareholders are direct family members actively engaged in operating the land as a farm, and each corporation's sole activity is operating the land as a farm.

FUEL TAX REFUND PROGRAM FOR PERSONS WITH DISABILITIES – INCREASE TO YEARLY MAXIMUM REFUND

The maximum allowable refund of tax paid on motor fuel purchased by persons with disabilities has been increased to \$500 per year. Applicants are eligible for the new \$500 maximum rebate starting with the 2004 calendar year. Refunds for tax paid in any annual period prior to 2004 are still limited to a \$400 maximum.

TEMPORARY MOTIVE FUEL USER PERMITS – INCREASE TO FEE FOR DISTANCE-BASED PERMITS

The fee for temporary distance-based permits for interjurisdictional carriers not registered under the International Fuel Tax Agreement (IFTA) is increased from 4.5¢ per kilometer to 7¢ per kilometer. The increase brings the cost of distance-based permits in line with the tax paid by IFTA carriers and in-province carriers.

TOBACCO TAX ACT

TOBACCO TAX LOCATION SPECIFIC AMENDMENT

Previously, all persons registered as vendors under the *Social Service Tax Act* were authorized to make retail sales of tobacco.

However, a vendor registration is not an authorization to sell tobacco if:

- the tobacco will be sold from the same location where a dealer's permit or authorization was previously cancelled, **and**
- the relationship between the vendor and the person whose authorization or permit was previously cancelled for that location is not at arm's length.

Persons proposing to sell tobacco from such locations are required to obtain written authorization from the Consumer Taxation Branch. In addition, they may be required to post a bond as security for the tax collectable on proposed tobacco sales.

TOBACCO TAX RATES INCREASED

As previously announced, effective December 20, 2003, the tax rate on purchases of tobacco products, other than cigars, is increased by 1.9¢ per cigarette (\$3.80 per carton of 200) and 1.9¢ per gram of fine cut tobacco.

Effective December 20, 2003, the tax rate on tobacco products is as follows:

Tobacco Product	Tax Rate	Previous Tax Rate	Change
Cigarettes:			
Individual	17.9¢ / cigarette	16¢ / cigarette	+ 1.9¢ / cigarette
Carton of 200	\$35.80 / carton	\$32 / carton	+ \$3.80 / carton
Tobacco Sticks:			
Individual	17.9¢ / stick	16¢ / stick	+ 1.9¢ / stick
Carton of 200	\$35.80 / carton	\$32 / carton	+ \$3.80 / carton
Loose Tobacco:			
Per Gram	17.9¢ / gram	16¢ / gram	+ 1.9¢ / gram

INCOME AND CORPORATE TAXES

INCOME TAX ACT

INDIVIDUAL INCOME TAX - CHANGES IN CREDITS FOR MULTIJURISDICTIONAL TAXPAYERS

Effective January 1, 2004, the pension credit, dividend tax credit and overseas employment tax credit are restricted to individuals that are residents of British Columbia on the last day of their taxation year.

As a result, residents of British Columbia with income earned outside the province will qualify for the full amount of these credits. Non-residents of the province with income earned in British Columbia will not qualify for these credits.

SCIENTIFIC RESEARCH AND EXPERIMENTAL DEVELOPMENT TAX CREDIT EXTENSION

The British Columbia Scientific Research and Experimental Development (SR&ED) Tax Credit provides a 10% tax credit for corporations incurring qualified expenditures for scientific research and experimental development in British Columbia.

The tax credit, originally scheduled to expire on August 31, 2004, is extended for BC qualified expenditures made before September 1, 2009.

SCIENTIFIC RESEARCH AND EXPERIMENTAL DEVELOPMENT TAX CREDIT – CHANGE IN PHASE OUT OF EXPENDITURE LIMIT FOR REFUNDABLE CREDIT

A qualifying Canadian Controlled Private Corporation may claim a refundable SR&ED tax credit on qualified expenditures up to a \$2,000,000 limit. The expenditure limit is phased out when taxable income increases beyond a certain amount. Currently the phase out range is between \$200,000 and \$400,000 of taxable income.

For 2003 and later taxation years, subject to transition rules, the phase out range on this expenditure limit is between \$300,000 and \$500,000 of taxable income.

CORPORATION CAPITAL TAX ACT

BC ELIGIBLE EXPENDITURE DEDUCTION

The legislation has been clarified to ensure that only capital assets that are used *directly* in a qualifying activity are eligible for the deduction.

The BC Eligible Expenditure Deduction was not intended to apply to assets used only in relation to, or connection with, the activity.

The clarification is effective April 1, 1993, and applies to taxation years starting before September 1, 2002.

INSURANCE PREMIUM TAX ACT

UNLICENSED INSURERS

The taxing provisions for unlicensed insurance are amended to harmonize with the provisions for licensed insurance.

Unlicensed insurers are insurers who are not required to have a business authorization under

the *Financial Institutions Act (FIA)* to carry on an insurance business in the province.

Previously, residents of BC were required to pay tax only on premiums paid under a contract of insurance they entered into with an unlicensed insurer.

Tax is now also payable by residents of BC on premiums paid under a contract of insurance entered into by a non-resident with an unlicensed insurer on behalf of the resident of BC. Tax is applicable to that portion of the premium that is reasonably attributable to risks that are located in BC.

PROPERTY TAXES

PROPERTY TRANSFER TAX ACT

FAMILY FARM CORPORATION EXEMPTION

A new exemption is provided on the transfer of a family farm to a family farm corporation from either the estate of a deceased or a living trust.

To qualify, the land must have been the deceased's family farm immediately prior to the death, or the settlor's family farm at the time of transfer to the trust. In addition, the deceased or the settlor and the shareholders of the corporation must be related individuals, siblings or spouses of siblings at the time of the death or at the time of the transfer.

This exemption parallels an existing exemption for transfers of a family farm from an estate or a living trust to eligible individuals.

FAMILY FARM EXEMPTION

The exemption for transfers of the family farm to related individuals has been expanded to include transfers to siblings and their spouses.

A new definition for "family member" expands who can use, own and farm a family farm to include siblings, cousins, aunts, uncles, nieces and nephews and their spouses. The siblings, cousins, aunts, uncles, nieces and nephews of a person's spouse are also included.

PROPERTY HELD IN TRUST ON BEHALF OF RELIGIOUS REGISTERED CHARITIES EXEMPTION

An exemption is provided on property transfers to trustees that hold property in trust for a congregation, religious organization or religious society that is a registered charity.

To qualify for this exemption, the congregation, religious organization, or religious society must

- be a registered charity under the federal *Income Tax Act*, and
- must be required or encouraged, under a statute prescribed by regulation, to hold the property in trust.

TRANSFERS TO THE PUBLIC GUARDIAN AND TRUSTEE ON BEHALF OF A MINOR EXEMPTION

An exemption is provided on the transfer of a family farm, principal residence, or recreational residence to the Public Guardian and Trustee on behalf of a minor.

In addition, all property held in trust by the public trustee for the sole benefit of a minor beneficiary can be transferred to the beneficiary tax exempt.

TAXATION (RURAL AREA) ACT

RURAL AREA RESIDENTIAL PROVINCIAL PROPERTY TAX CHANGE

In 2004, the provincial rural general residential property tax rate will fall in response to the rising average property values. Consistent with 2003, the rural general residential property component of total property taxes will increase by an average of 2.1%, the provincial rate of inflation.

Non-residential provincial rural area property tax rates remain unchanged.

SCHOOL ACT

RESIDENTIAL SCHOOL PROPERTY TAX

A separate residential tax rate is set for each school district according to the province's residential school tax rate formula, which has been used since 1991. That formula automatically reduces tax rates as the average property value rises. For 2004, the school tax payable before home owner grant on the average home will increase by 2.1%, the 2003 provincial rate of inflation.

Residential school property tax rates will be set in April, when revised assessment roll data is available. For each of the eight non-residential property classes, a single, province wide rate is set. Non-residential school tax rates will remain unchanged from the previous year.

HOME OWNER GRANT ACT

The threshold for the phase out of the home owner grant is increased to \$585,000 from \$525,000 for the 2004 tax year.

A partial grant will apply to properties valued between \$585,000 and \$632,000. For seniors and other homeowners receiving the additional grant, the phase out begins at \$585,000 and a partial grant will be available for properties valued up to \$659,500.

This change comes about as a result of the sharp rise in assessed values over the past year. The increase will, on average, offset the rise in assessed values.

For more information, contact Home Owner Grant Administration at 250 356-8904.

COMMUNITY CHARTER

DUST AND PARTICULATE MATTER ELIMINATORS

The legislation has been amended to grandparent the property tax exemption for those improvements that were determined to be exempt dust and particulate matter eliminators in the 2003 tax year. This change is effective for the 2004 tax year and subsequent tax years.

For more information, contact BC Assessment at 250 595-6211.

MISCELLANEOUS

LIMITATION PERIOD FOR COLLECTIONS ACTIONS EXTENDED

Taxation statutes administered by the Ministry of Provincial Revenue have been amended to establish a seven year limitation period for undertaking collection action. The limitation period begins from the date of an assessment or reassessment. The amendments are retroactive to February 18, 1998.

The Acts affected are the *Corporation Capital Tax Act*, *Hotel Room Tax Act*, *Insurance Premium Tax Act*, *Logging Tax Act*, *Mineral Tax Act*, *Mining Tax Act*, *Motor Fuel Tax Act*, *Social Service Tax Act*, and the *Tobacco Tax Act*.

NEED MORE INFO?

This bulletin is provided for convenience and guidance. If interpretation problems occur, please refer to the legislation.

Consumer Taxes:
In Vancouver, call 604 660-4524.
Elsewhere in Canada, call toll-free
1 877 388-4440

Income and Corporate Taxes:
250 387-3332

Property Transfer Tax:
250 387-0604

Other Real Property Taxes:
250 387-0555

References: Bill 6, *Taxation Statutes Amendment Act, 2004*; Bill 7, *Social Service Tax Amendment Act, 2004*