

Minishka, Bridget L FIN:EX

From: Foy, Anne FIN:EX
Sent: Tuesday, July 24, 2012 12:31 PM
To: Fairbairn, Joel FIN:EX; Goss, Jordan T FIN:EX
Cc: Minishka, Bridget L FIN:EX
Subject: PM&E paper

Here is the revised PM&E paper reflecting our discussions with Glen.

Please let me know if you have any final comments **by 10 am Tuesday July 25th** (needs to go to Peter after lunch)



PME.docx

Thanks

Anne Foy
Strategic Advisor
Tax Policy Branch
Ministry of Finance

EXEMPTIONS FOR PRODUCTION MACHINERY AND EQUIPMENT

- The exemptions under the *Social Service Tax Act* (SSTA) for production machinery and equipment were introduced in 2001. The purpose of these exemptions is to provide benefits to major industries: manufacturing, logging, mining, oil and gas.
- While it is common to speak of “*the* production machinery and equipment exemption” or “the PM&E”, there are in fact several exemptions under this general heading (see Appendix A). For some sectors, like manufacturing and logging, the exemptions are limited to specific classes of businesses using machinery and equipment for specific activities at specific sites. For all sectors, the exemptions are much narrower than the eligibility criteria for businesses to claim input tax credits under the *Excise Tax Act* (Canada).
- Over the years there have been multiple expansions and clarifications of the exemptions which have addressed some of the issues/complaints about the exemptions. For example, the regulations under the SSTA were amended to provide additional clarity with respect to what activities or processes qualified as manufacturing and the exemptions were expanded to both parts for exempt machinery and equipment and materials for exempt machinery and equipment.
- Even with these improvements, the exemptions are extremely complex for both industry and government.
- For example, eligibility for the manufacturing exemption depends on the following:
 - Whether the person purchasing or leasing the machinery and equipment meets the threshold requirements to be a “manufacturer”;
 - Whether the machinery and equipment is used primarily and directly in a manufacturing activity; and
 - Whether the machinery and equipment is used at a qualifying site.
- All three conditions must be met for the machinery and equipment to be eligible for the exemption. The other exemptions also have eligibility tests.
- Determining eligibility for the exemptions is complex in part as a result of the vast range of businesses, processes and site configurations that exist in the province (no two businesses are exactly alike) and as a result, eligibility must be determined on a case by case basis.
- There is no way to fundamentally simplify the exemptions further or eliminate the need for case-by-case determinations of how the exemptions apply in specific circumstances without either significantly narrowing or expanding the scope of the exemptions. Any expansions of the scope would likely be very costly. For example, *Budget 2009* made some very minor technical expansions of the exemptions to provide greater clarity and ease administration and the estimated annual cost of those changes was \$9 million.

Pages 3 through 4 redacted for the following reasons:

s13

APPENDIX A

Summary of the Production Machinery and Equipment Exemptions

Note: There are specific exclusions from the exemption for certain classes of tangible personal property (for example: buildings, furnishings, camp equipment, or machinery or equipment related to the use of a building as a building) and certain classes of persons (for example caterers, registered charities, schools, hospitals, the provincial government).

Manufacturers

- For the manufacturers' production machinery and equipment exemption, the exemption is limited to machinery and equipment (M&E) used **primarily** and **directly** in qualifying activities by qualifying businesses at a qualifying site.
- Qualifying activities are those activities defined to be manufacturing, for example:
 - The creation of a new product that is **substantially different** from the material or property from which it was made.
 - A series of operations or a complex operation that results in a **substantial change** in the form or physical or chemical characteristics of a product
 - The development of software and custom software.
 - Extraction or processing of minerals, petroleum or natural gas.
- Several activities are specifically excluded from the definition of manufacturing including
 - Radio, television and film production.
 - The production of heat or the transformation from one state to another (i.e. gas to liquid) unless the production or transformation is one step in a qualifying manufacturing activity.
- Qualifying businesses must carry out qualifying activities and have anticipated sales or total manufactured costs over \$30,000 per year.
- Qualifying sites are the site at which qualifying activities occur between the point that raw materials are received at the site and the point the finished product is **first** stored or removed. M&E used to transport raw materials to or finished products from a qualifying site are not eligible for the exemption. M&E located at the qualifying site **not** used primarily and directly in qualifying activities are not eligible for the exemption.

Logging

- Businesses that produce wood products must qualify for the manufacturers' exemption for their production M&E to be exempt.
- For the logging production machinery and equipment exemption, the exemption is limited to M&E used **exclusively** in qualifying activities by qualifying businesses at a qualifying site.
- Qualifying logging activities include felling and bucking trees, moving trees to landings or other first accumulation point, loading, unloading, sorting, storing or processing trees or logs and underwater logging.
- Qualifying logging businesses are those that regularly engage in logging for commercial purposes (there is no monetary threshold).
- Qualifying logging sites are the cut site (to the first accumulation point of logs) and landings, log dumps, sort yards, dry land sorts, booming grounds or mill yards. M&E used for transportation, road construction or silviculture are not eligible for the exemption. M&E located at a qualifying site **not** used exclusively in qualifying activities are not eligible for the exemption.

Mining

- There are 2 mining production machinery and equipment exemptions, one for producing mines and another for mineral exploration and development.
- For producing mines the production machinery and equipment exemption is part of the exemption for manufacturers and is limited to M&E used **primarily** and **directly** in qualifying activities by qualifying businesses at a qualifying mine site. A qualifying mine site is from the point the raw material is extracted to the point the finished product is removed from the mine site. M&E located at a mine site **not** used primarily and directly in qualifying activities are not eligible for the exemption. M&E used to transport product from a qualifying mine site to a qualifying manufacturing site are not eligible for the exemption
- For mineral exploration and development, the exemption is limited to M&E used **exclusively** in exploration of minerals and development of mines by businesses who regularly engage in exploration of minerals and development of mines for commercial purposes (there is no site related criteria).

Oil and Gas

- As with mining, there are 2 oil and gas production and machinery equipment exemptions, one for processing petroleum or natural gas and another for oil and gas exploration and development.
- The exemption for processing petroleum or natural gas is part of the exemption for manufacturers and is limited to M&E used **primarily** and **directly** in qualifying activities by qualifying businesses at a well site or processing plant or refinery up to the point where a **marketable product is produced** (a product which **could be** sold as domestic, commercial or industrial fuel or as an industrial raw material or petroleum or natural gas delivered to a storage facility).
- For oil and gas exploration and development, specifically listed M&E is exempt if purchased or leased by a person who regularly engages in exploration for, discovery or development of oil and gas for commercial purposes (there is no site criteria).

Additional Exemptions:

- Within the production machinery and equipment exemptions there are also exemptions for:
 - Specifically listed M&E if purchased or leased by a person who regularly engages in geophysical surveying for minerals, petroleum or natural gas for commercial purposes.
 - M&E used by eligible local government bodies or corporations **primarily** and **directly** to generate electricity or generate, at a cogeneration plant, electricity and heat and transmit or distribute that electricity or electricity and heat.
 - M&E used **exclusively** and **directly** for detection, prevention, measurement, treatment, reduction or removal of pollutants in water, soil or air by an eligible person at an eligible site if the pollutants are attributable to manufacturing.
 - M&E used **exclusively** and **directly** in management of waste from machinery and equipment exempt under the manufacturers' exemption or used exclusively and directly for exhausting dust or noxious fumes from M&E exempt under the manufacturers' exemption if the waste, dust or noxious fumes are attributable to manufacturing.
 - M&E **primarily** and **directly** by a qualifying business in the transmission or distribution of qualifying property at a qualifying site.
 - Specifically listed M&E used **exclusively** by an eligible manufacturer of qualifying property, other than electricity, to transmit or distribute electricity at a qualifying site if the electricity is used **primarily** and **integrally** in a qualifying activity or **primarily** to power qualifying machinery and equipment.

- Parts for use on exempt M&E and parts to assemble exempt M&E.
- Materials used to assemble, repair, maintain, or modify exempt M&E, with certain restrictions.
- Tangible personal property that is used in the course of providing a service to exempt M&E; provided certain conditions are met.
- M&E which would have been exempt if purchased directly by an eligible person that is purchased by a contractor; provided certain conditions are met.
- M&E purchased or leased by a person to provide a service (excluding telecommunication services or legal services) to a manufacturer; provided certain conditions are met.

Pages 9 through 14 redacted for the following reasons:

s13,s14

Minishka, Bridget L FIN:EX

From: Minishka, Bridget L FIN:EX
Sent: Thursday, July 12, 2012 3:31 PM
To: Foy, Anne FIN:EX
Cc: Goss, Jordan T FIN:EX
Subject: RE: Proposed PM&E paper



PME Information
Note - Bridget...

Some comments and suggestions.

Bridget Minishka
Director, Consumption and Aboriginal Tax
Tax Policy Branch
Ministry of Finance
Phone: (250) 387-3919
Fax: (250) 387-9061
Email: Bridget.Minishka@gov.bc.ca

From: Foy, Anne FIN:EX
Sent: Thursday, July 12, 2012 1:39 PM
To: Goss, Jordan T FIN:EX; Minishka, Bridget L FIN:EX
Cc: Fairbairn, Joel FIN:EX; Henderson, Jeff FIN:EX; Primeau, Joseph FIN:EX
Subject: Proposed PM&E paper

Here is the proposed PM&E paper – I have tried to capture the issues noted in the original paper at a slightly higher level.

<< File: PME Information Note.docx >>

If I have omitted something material or have mischaracterized anything let me know.

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Anne Foy
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EXEMPTIONS FOR PRODUCTION MACHINERY AND EQUIPMENT

- The exemptions for production machinery and equipment were introduced in 2001. The purpose of these exemptions is to provide benefits to major industries: manufacturing, logging, mining, oil and gas and local government power generation.
- While it is common to speak of "~~the~~ production machinery and equipment exemption", there are in fact several exemptions under this general heading (see Appendix A).
- Over the years there have been several expansions and clarifications of the exemptions which have addressed many issues. ~~F~~-(for example, the distinction between machinery and equipment and parts and materials for machinery and equipment has been, for the most part, eliminated for the purposes of the exemption).
- Even with these improvements, the exemptions are extremely complex. Part of this complexity is the result of the vast range of businesses, processes and site configurations that exist in the province (no two businesses are exactly alike).

Comment [b1]: I don't think this is needed here - it is confusing because it is also lumped in under the heading other exemptions in the Appendix. It isn't given much profile and I don't think it needs to be. Although you could say oil and gas production and exploration.

Comment [b2]: Since it is also readily referred to as PME or PM&E - you should probably include that reference here as well.

s13

s13

Appendix A

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