

Ministry of Finance
BRIEFING DOCUMENT

To: Hon. Michael de Jong
Minister of Finance

Date Requested: March 6, 2013
Date Required: March 7, 2013

Initiated by: MCU

Date Prepared: March 6, 2013

Ministry Contact: Jordan Goss
Executive Director
Consumer Taxation Programs
Branch

Phone Number: 250-387-0611
Email: Jordan.Goss@gov.bc.ca

Cliff #: 268119

XREF: 267112

TITLE: Assessment of Tax on Vehicle Acquired by s22

PURPOSE: FOR INFORMATION

COMMENTS: To provide information on the circumstances which led to the assessment of tax issued to s22

Executive Director approval: _____

ADM approval: _____

DATE PREPARED: March 6, 2013

TITLE: Assessment of Tax on Vehicle Acquired by s22

ISSUE: Tax-Exemption for gift vehicles

BACKGROUND:

s22, s21

Loan takeovers and transfers are not considered gifts as the loan takeover itself is a form of consideration and therefore, constitutes a sale under the Act. To ensure gift claimants are aware of this, the gift form includes a bolded note saying, ``**Loan takeovers are not considered gifts. Tax is payable on the outstanding loan amount.** ``

s22, s21

DISCUSSION:

Under the *Consumption Tax Rebate and Transition Act* (the Act), vehicles and other designated property are generally subject to Tax on Designated Property (TDP) acquired at a private sale in British Columbia. The tax rate under the Act is 12% of the purchase price of the vehicle.

The Consumer Taxation Programs Branch routinely reviews vehicle transfers to ensure compliance with the legislation. Where records do not indicate that tax was paid or that a valid exemption exists, the ministry contacts the purchaser by means of standardized letters requesting information with respect to the vehicle transfer.

Where an exemption from tax is claimed due to a vehicle being transferred as a gift, a lien search is conducted on the vehicle. Where a lien is found in the name of the

recipient of a vehicle, the financial institution is contacted to confirm whether the lien was in relation to “assuming an existing car loan”.

s22, s21

As with all cases where a loan takeover is identified, the ministry issued a letter advising s22 obligation to pay the tax and provided an opportunity for s22 to pay the tax without interest accruing, if the tax was paid prior to a notice of assessment being issued.

In this case s22 was also provided information regarding the application of tax, detailed information on why the exemption claimed was not valid and advised that if the tax was not paid within the allotted time an assessment for the tax including applicable interest charges would be issued.

In addition, where a gift is falsely claimed, the ministry issues a 25% penalty of the tax that should have been paid.

As with other taxpayers, failure to pay the tax within the allocated time period results in a notice of assessment for the tax, interest and any penalty being issued to the taxpayer. As such, after having failed to pay the tax in the time provided, an assessment was issued s22

The legislation provides taxpayers a right to appeal a notice of assessment to the minister and a further right of appeal to the Supreme Court. The information on the right to an appeal is included on the notice of assessment and in this case s22 was also sent the information on the right to appeal directly. No appeal was received and the time limit for appeal has now expired.

s22, s21 the transfer of the vehicle did not meet the criteria for a gift and as such, the Consumer Taxation Programs Branch followed the same process that is used for all taxpayers where it is discovered that the gift criteria were not met.

Ministry of Finance
BRIEFING DOCUMENT

To: Honourable Michael de Jong, Q.C. Minister of Finance	Date Requested: Date Required:
Initiated by: Peter Milburn Deputy Minister Ministry of Finance	Date Prepared: March 12, 2013
Ministry Contact: Jim Hopkins Assistant Deputy Minister	Phone Number: 250 387-9295 Email: Jim.Hopkins@gov.bc.ca Cliff #: 268223

TITLE: HSBC: Breach of anti-money laundering laws

PURPOSE:
(X) DECISION REQUIRED

COMMENTS:

Executive Director approval: _____

ADM approval: JH.

DM approval: [Signature]

DATE PREPARED: March 12, 2013

TITLE: HSBC: Breach of anti-money laundering laws

ISSUE:

In December 2012, HSBC was strongly disciplined by US and UK Regulatory authorities for inadequate compliance with anti-money laundering and sanction laws, and agreed to pay a fine of \$1.92 billion to the US Department of Justice. s13

s13

BACKGROUND:

1) HSBC

HSBC Holdings is headquartered in London, UK. Over 267,000 employees work for the bank serving 130 million customers with more than 7200 offices in 85 countries and territories worldwide. HSBC Holdings ranks as the largest banking institution in the world based on numerous financial comparators. For example, it has the world's largest market capitalization of \$207 billion, total assets of \$2.7 trillion, and total revenue of \$71 billion resulting in \$21 billion in pretax profit in 2012.

HSBC Bank Canada, headquartered in Vancouver, is one of the largest private sector employers in BC (about 3500 employees) and is Canada's largest foreign bank, with over 260 offices, including 140 branches.

2) Inadequate Compliance with Anti-money Laundering Laws

For matters related to laundering money through HSBC's Mexican operations and allegedly for terrorist groups in 2007 and 2008, HSBC was placed under investigation by US and UK authorities for inadequate compliance with anti-money laundering laws. The US Senate investigative committee reported that HSBC Mexico had sent about \$7 billion in cash to the US and had been warned about weak internal controls by US authorities for a number of years to no avail. In December 2012, HSBC entered into agreements to establish effective compliance, to provide for a 5-year deferred prosecution under the US Bank Secrecy Act and Trading with the Enemy Act, and to pay a \$1.92 billion fine to the US Department of Justice.

On January 21, 2013, you wrote Mr. Paulo Maia, CEO of HSBC Canada to express your concerns with the Bank's involvement in money laundering and requested that he meet with Deputy Minister Peter Milburn to explain the Bank's response to this incident and the measures being taken to guard against a re-occurrence.

On February 28, 2013, Mr. Maia came to Victoria.

s13, s21

s13 s21

Further to the meeting with Mr. Maia and review of the Banks' 2012 Annual Report, HSBC has launched a multi-year action plan to guard against a re-occurrence of money laundering or other illegal or unethical activity:

- over the 5-year term of the deferred prosecution agreement, HSBC has appointed an independent monitor to assess HSBC's progress with achieving effective compliance with anti-money laundering laws and report on same;
- increased global compliance department by four times to 3500 employees at an estimated cost of \$500 million in 2012 . HSBC has created and recruited for two new compliance leadership roles –Global Head of Regulatory Compliance and Head of Group Financial Crime Compliance;
- added a new criteria called 'financial crime risk' for screening new acquisitions and clients;
- sold non-strategic or non-core businesses in order to simplify the Bank's structure and management thereof. Since 2011, HSBC has sold or announced the disposal of 47 businesses including with drawl from certain South American countries and retail banking in some Middle Eastern nations ;and
- strengthened and centralized governance , and affected closer integration with a streamlined global platform comprised of only four global businesses and eleven global functions, each headed by global executives

The HSBC Annual Report states that the Bank aspires to be the lead bank in standards of conduct. The Bank claims to commit to adopting and enforcing the highest compliance standards.

The Annual Report also advises that HSBC is the subject of other investigations along with other banks with whom the province does business.

HSBC has agreed to make a payment of \$96 million into a fund for the benefit of residential mortgage clients who were impacted by errors in HSBC's foreclosure process. HSBC states that it may be subject to additional charges, litigation and regulatory scrutiny in connection with this matter.

Further, HSBC is cooperating with an international investigation into the contrived and erroneous setting of the London interbank offered rates (LIBOR) and the Bank's participation in this activity. HSBC has not been named by regulatory authorities but states it may be possible. It has been named as a defendant in private lawsuits filed in the US with respect to the setting of LIBOR. Other banks with which the province does business have already settled with various regulatory authorities on this matter and paid fines.

3) Province's business relationship with HSBC.

HSBC Securities is a member of the Province's domestic bond syndicate as a junior banking group member based on its performance in Provincial Treasury's quarterly syndicate evaluation. HSBC Bank Canada has entered into an agreement with the province allowing them to be derivatives counterparty to the province on swap transactions.

HSBC Securities' main capital market relationship with the province is as joint lead manager for US dollar global bond offerings. HSBC manages one of the largest international capital market platforms in the world. HSBC has been involved in each of the province's three US dollar bond offerings since 2011, totaling US \$ 3.5 billion, and done an excellent job. HSBC arranged the province's Euro 40 million (about \$56 million Canadian) private placement in October 2011 – the province's first issue launched in Euros. In June 2012, HSBC assisted the province on its investor tour of Asia led by then Finance Minister Kevin Falcon. In December 2012, the firm accompanied the province on its investor tour of Asia to market the province as a prospective issuer in the new offshore Renminbi bond market.


HSBC Bank Canada provides banking services to the Banking/Cash Management Branch. HSBC is the principal banker to the Liquor Distribution Branch (deposit taking, cash disbursement, etc) with a contract that is worth about \$300,000 annually. It also provides paper remittance processing for the MSP program.

DISCUSSION:

It is still early to opine on HSBC's success in responding to the requirements of US and UK regulatory authorities for compliance with anti-money laundering standards. However, the Bank is not wasting anytime by trying to deny its guilt and is getting on with improving its situation with an impressive list of action items. The clear communication of its intentions and action plan subjects the Bank to transparent terms for judging progress and exposes its reputation to serious reproach if it fails. In our experience with banks that have been assailed by regulators we have seen few go to the lengths which HSBC proposes for redressing the situation and this is noteworthy when considering actions the province might take to show its displeasure for the Bank's misconduct.

As far as we are aware, no other HSBC government client has taken any punitive measures against the Bank for the money laundering breaches. This is not surprising given that governments generally accept the punishment meted out by regulatory authorities as appropriate when banks are found guilty of regulatory or legal infractions. A government may be provoked to, for example, discontinue business with a bank which it believes has harmed its commercial interests but that does not apply to the HSBC situation under discussion here. Since 2009, there have been several banks who have paid settlements related to allegations that they moved money for people or companies that were on the US sanctions list. These banks include firms with whom the province does treasury business, e.g. Credit Suisse, Barclays.

It bears noting that neither the Office of the Superintendent of Financial Institutions nor securities' regulators have found HSBC guilty of breaching any regulatory standards in Canada. Further, HSBC has been a good corporate citizen in British Columbia ever since it bought the Bank of British Columbia in the 1980's.

**OPTIONS:**

s13

2. Encourage rigorous compliance with anti-money laundering laws

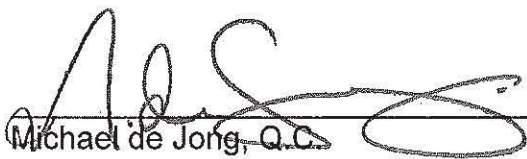
In keeping with the province's longstanding and positive relationship with the Bank, a letter is recommended from the Minister to the CEO of HSBC Canada which affirms the gravity of the Bank's legal violations, applauds their actions to date and encourages rigorous implementation of the necessary measures for compliance. The letter should also put the Bank on notice that if it breaches the terms of the deferred prosecution agreement the province will consider it as a serious failing. At this time, it is recommended to leave open how the province would respond to such a breach. It is further recommended that the province focus its expectations of HSBC on compliance with anti-money laundering laws only and not on other matters such as charges which may arise related to US mortgages and LIBOR setting; these should be dealt with separately based on the facts as they become known.

S13

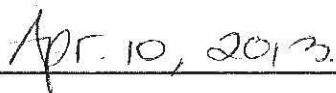
RECOMMENDATION:

- Option 2 and letter attached

APPROVED / NOT APPROVED



Michael de Jong, Q.C.
Minister



Date



268223

Paulo Maia, Chief Executive Officer
HSBC Bank Canada
3rd Floor, 885 West Georgia Street
Vancouver BC V6C 3E9

Dear Mr. Maia:

Thank you for following up on my letter to you of January 21, 2013, and meeting with my Deputy Minister, Peter Milburn, to discuss HSBC's response to the deferred prosecution agreement for non compliance with anti-money laundering and sanction laws.

I am pleased to understand that HSBC has taken this matter very seriously, and I believe you and your executive colleagues have developed a comprehensive action plan in order to guard against a reoccurrence of breaches in the future.

The province and HSBC have enjoyed an excellent relationship over the years and I encourage HSBC to follow through with a rigorous implementation of your plan and legal obligations. I expect HSBC will be successful and must underscore that we would also view it as a serious matter if the Bank failed and was prosecuted for money laundering.

I understand that the independent monitor will regularly assess and report on HSBC's progress on compliance and I would appreciate if you would keep me and my Deputy Minister apprised.

Again, I wish HSBC success, and Mr. Milburn and I will be pleased to hear from you if you have any questions.

Sincerely,

Michael de Jong, Q.C.
Minister

cc: Peter Milburn
Deputy Minister of Finance