

Vinning, Gurpreet S EDUC:EX

From: Silver, Matt GCPE:EX
Sent: Thursday, May 28, 2015 10:59 AM
To: Miniaci, Mario EDUC:EX; Delisle, Corrie EDUC:EX; Vinning, Gurpreet S EDUC:EX
Cc: Pauliszyn, Robert GCPE:EX; Sutherland, Scott GCPE:EX; Lowther, Brett GCPE:EX
Subject: FYI: final property taxation statutes amendment act materials
Attachments: IN_Property Taxation Statutes (Exemptions) Amendment Act_28May15_FINAL.doc; 2015FIN0050-000777.pdf

FYI

From: McLachlin, Jessica GCPE:EX
Sent: Thursday, May 28, 2015 10:56 AM
To: Sutherland, Scott GCPE:EX; Silver, Matt GCPE:EX
Cc: Lowther, Brett GCPE:EX; Pauliszyn, Robert GCPE:EX; Clarke, Brennan GCPE:EX
Subject: FYI: final property taxation statutes amendment act materials

Updated IN and final info bulletin which has now been distributed.

Jessica McLachlin
Communications Manager
Ministry of Finance
250 356-9872
cell 250 886-7738

INFORMATION BULLETIN

For Immediate Release
2015FIN0050-000777
May 28, 2015

Ministry of Finance

Amendments address property tax exemptions for independent schools

VICTORIA – Amendments proposed to the existing property tax exemption provided to independent schools in the Community Charter and the Taxation (Rural Area) Act would ensure that property reasonably necessary for school purposes will continue to be exempt from property tax.

The Property Taxation Statutes (Exemptions) Amendment Act, 2015, was introduced by Minister of Finance Michael de Jong today.

The provisions ensure independent schools that provide equivalent education to the K-12 public system will continue to receive property tax exemptions for playgrounds, playing fields, athletic facilities and other property reasonably necessary for school purposes.

Mandatory exemptions have been in place for independent school property since 1957, covering buildings wholly in use for school purposes and the land directly underneath them. Municipalities also have authority to grant further exemptions for auxiliary property, such as playing fields, playgrounds and parking lots.

In practice, municipalities have historically granted property tax exemptions to additional property owned and operated by independent schools. The proposed amendments include this type of property within the mandatory exemption.

The Vancouver Charter is not being amended as it already contains mandatory exemptions for the associated properties.

Government introduced the legislation for first reading. Second reading will occur at a future sitting of the legislature.

Media Contact:

Jamie Edwardson
Communications Director
Ministry of Finance
250 356-2821

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ADVICE TO MINISTER

CONFIDENTIAL
GCPE-FIN ISSUE NOTE

Ministry of Finance

Date: May 28, 2015

Minister Responsible: Michael de Jong

Property Taxation Statutes (Exemptions) Amendment Act

ADVICE AND RECOMMENDED RESPONSE:

- **This bill ensures that independent schools in municipalities across British Columbia will be treated the same when it comes to property taxation.**
- **In addition to buildings and land used for teaching purposes, the legislation would exempt property such as playgrounds, sports fields, athletic facilities and school parking lots.**
- **Our government supports choices for parents and students whether that's through public or independent schools.**
- **Government introduced the legislation for first reading. Second reading will occur at a future sitting of the legislature.**

KEY FACTS REGARDING THE ISSUE:

Minister de Jong introduced the Property Taxation Statutes (Exemptions) Amendment Act, 2015, on May 28, 2015. This bill amends the Community Charter and the Taxation (Rural Area) Act in order to expand the existing mandatory property tax exemption provided to independent schools.

Currently, only the buildings and land directly under those buildings owned by independent school authorities are statutorily exempt. Historically, municipalities have granted property tax exemptions to additional property owned by independent schools, such as playgrounds, sports fields and parking lots through bylaw, commonly known as permissive exemptions. This amendment would cause these additional properties to also be statutorily exempt.

The City of Victoria and the District of Lantzville have begun to assess property taxes against the additional properties of independent schools' within their jurisdictions, and other municipalities have said they are considering doing the same.

The Federation of Independent School Associations BC (FISA BC) calls the imposition of property tax on additional properties a "third tax on parents who choose to send their children to an independent school". FISA BC estimates that the financial burden to B.C.'s independent schools of taxing these additional properties would be in the range of \$5-7 million, and could cause them to raise fees, cut programs or close altogether.

Business in Vancouver previously covered this issue: <https://www.biv.com/article/2013/9/bc-private-school-tax-fight-looms/>. As outlined in the article, some will oppose the change because independent schools already receive public funding while charging tuition fees and they believe these schools shouldn't receive any further taxpayer-funded breaks.

Communications Contact: Sonja Zoeller, 387-1248
Program Area Contact: Richard Purnell, 387-9072
File Created: May 19, 2015
File Updated:
File Location: J:\NEW - OPERATIONS\Issues Notes\Tax Policy

Program Area	Comm. Director	DM	Minister's Office
SH/RP			



Federation of Independent School Associations British Columbia

150 Robson Street, Vancouver, BC V6B 2A7 • Tel (604) 684-6023 • Fax (604) 684-3163 • info@fisabc.ca • www.fisabc.ca

July 15, 2014

Hon. Peter Fassbender
Minister of Education
PO Box 9045 Stn Prov Govt
Victoria, BC V8W 9E2

Dear Minister Fassbender:

It has been one year since our first meeting with you as the new Minister of Education in BC. What a tumultuous year in education it has been with the BCTF continuing to provide challenges in terms of contract negotiations with public sector teachers. The cost of achieving an agreement within the compensation zone established by government for the public service sector will be substantial, even if the BCTF agrees to terms consistent with other public sector unions. FISA BC, on the other hand, has tried to keep issues pertaining to independent schools to non-monetary matters in order to support the government's desire to achieve another balanced budget.

There is one issue that we raised with you one year ago that continues to be the primary concern for independent school authorities. Four municipalities have attempted to remove the permissive property tax exemption from independent school property, and two of these municipalities are no longer providing the full Permissive Property Tax Exemption. FISA BC is firm in its position that all independent schools should be property tax exempt. Our fear is that if the legislative language is not strengthened soon, other municipalities will very quickly follow suit and a wave of taxation will follow.

FISA BC met with representatives of UBCM on June 6, 2014, and were given a full hearing on exactly what independent schools are asking in terms of property tax exemption. The June 6, 2014 letter to Mr. Gary MacIsaac, Executive Director, is attached for your information. This letter indicates that *the role of the municipality is not diminished*, since only land that is reasonably necessary and wholly in use for the purpose of giving instruction equivalent to that given in a public school would be statutorily exempt. All additional land owned by an independent school authority that is unused, used for the benefit of the community as parks and recreational land, or endowment land that is not wholly used for instruction would require decision from the municipality for property tax exemption provided by municipal bylaw.

We were also informed that no resolutions have ever been brought before the UMBC membership in reference to independent school authority property tax exemption. The reason given was that UBMC resolutions deal only with issues where municipalities are seeking changes in matters that require action from other levels of government and since the permissive exemption already falls within the scope of regulation by municipalities, it has not been a matter for discussion at the convention.

This is precisely the reason that FISA BC has concerns. Municipalities have control over whether or not to grant property tax exemption *for all land beyond the footprint of the building*. Some municipalities now believe that independent schools should not be property tax exempt because they are perceived as businesses. This was clearly not the intent of the original legislation in 1957. The original legislation was

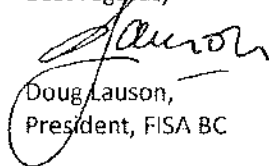
provided after years of independent school representatives lobbying government for tax relief, and the argument of double taxation for families attending independent schools is as valid now as it was then. Today, families that choose to attend independent schools continue to pay property taxes for public education in addition to varying amounts of tuition costs covering a portion of the operating costs, and all the capital costs, for land, buildings and equipment. They deserve to have the assurance that independent schools will continue to be property tax exempt by every municipality in the province in which an independent school is located.

FISA BC is appealing the statutory exemption for independent schools, arguing that the statutory exemption should extend beyond the building to include land that is reasonably necessary and wholly in use for providing an educational program equivalent to that provided in the public sector. This has already incurred significant cost to FISA BC with an uncertain decision from the appeal Board since BC Assessment considers itself bound by the BC Supreme Court decision in *Assessor of Area 20 – Vernon v. Interior Health Authority SC 499 2006 BCSC 930* in limiting the statutory exemption to the land directly beneath the building. Whether the appeal is successful or not, independent school authorities will continue to demand that FISA BC press government for legislative changes to ensure that independent schools will be protected with property tax exemption, especially from those municipalities that are not favourable to choice in education.

FISA BC is respectfully asking that the government proceed with legislative amendments on independent school authority property tax exemption for the 2014 fall or 2015 spring sitting of the Legislature. FISA BC is asking that property tax exemption be moved from the *Community Charter* to the *Independent School Act* to mirror similar property tax exemption provisions for public schools in s. 129 in the *School Act*. The role of municipalities should be retained in deciding on taxation of additional land owned by independent school authorities that is not used for providing an educational program. This recommendation was presented to you in a letter dated March 14, 2014, and is attached for information.

As always, we remain open to discussions with you and/or representatives of the government at any time in order to remove the uncertainty concerning independent school property tax exemption that some municipalities have already exploited.

Best regards,



Doug Lauson,
President, FISA BC

Cc: Hon. Michael De Jong, Minister of Finance
Mark Dalton, Parliamentary Secretary to the Minister of Education on Independent Schools
Dave Byng, Deputy Minister designate, Ministry of Education
Dr. Ian Rongve, Assistant Deputy Minister, Knowledge Management and Accountability Division
FISA BC Board of Directors

Enclosures (3)

June 6, 2014 letter to Mr. Gary MacIsaac, Executive Director, UBCM
March 14, 2014 letter to the Hon. Peter Fassbender, Minister of Education
June 14, 2013 Proposed Amendments to Independent School Property Tax Exemption Legislation



Federation of Independent School Associations British Columbia

150 Robson Street, Vancouver, BC V6B 2A7 • Tel (604) 684-6023 • Fax (604) 684-3163 • info@fisabc.ca • www.fisabc.ca

June 6, 2014

Mr. Gary MacIsaac
Executive Director
UBCM
525 Government Street
Victoria, BC V8V 0A8

Dear Mr. MacIsaac:

The purpose of this letter is to introduce you to the Federation of Independent School Associations in British Columbia (FISA BC), and to discuss how independent school authorities propose to address the issue of municipalities withholding, in whole or in part, the Permissive Property Tax Exemption provided under the *Community Charter*, s. 244 (2) (h).

A. INTRODUCTION

There are 76,072 students enrolled in BC independent schools, representing 12% of the total K-12 provincial enrolment of 635,057 students. These students are enrolled in 347 schools. Our organization represents 93% of the total enrolment in BC independent schools.

FISA BC is comprised of five separate member associations consisting of 29% Catholic Independent Schools (CIS), 17% University Preparatory Schools (ISABC), 29% Protestant Evangelical Schools (ACSI BC and SCSBC), and 25% in a variety of individual independent schools that form the Associate Member Group (AMG). These schools focus on strong academic programs, are certified to teach Ministry of Education curriculum, and instruct students from a variety of faith-based, philosophical and pedagogical perspectives. A 2013-14 enrolment document is provided for information.

B. ISSUE

Independent schools have been granted property tax exemption through an amendment to the *Municipal Act* in 1957. School authorities had been lobbying the government for property tax fairness since parents were paying taxes for public education and were also having to pay property tax for independent schools. Tuition fees were also paid by families of students that attended an independent school. This legislation has remained unchanged, except for the renaming of the Act from the *Municipal Act* to the *Community Charter*.

From 1957 to 2012 independent schools that offered an educational program equivalent to the public school system were provided with a Statutory property tax exemption under s.220 (1) (i) and a Permissive exemption under s. 224 (2) (h) of the *Community Charter*.

However, since October, 2012 four municipalities have attempted to amend the property tax entitlement for independent schools by limiting, in whole or in part, the permissive property tax exemption for independent schools. FISA BC recognizes that municipalities have the authority to grant or deny the property tax exemption. At the same time, independent schools should not be perceived by municipalities as taxable entities.

Based on an historic review of the legislation on property tax exemption for independent schools, enacted in 1957, FISA BC argues that limiting the Permissive exemption for qualifying independent schools is inconsistent with the intent of s.220 (1) (l) and s.224 (2) (h) of the *Community Charter*.

C. WHAT ACTION HAS FISA BC TAKEN?

Property tax exemption is a very important entitlement for independent schools. The board of directors have instructed FISA BC to challenge the actions of several municipalities in two ways:

1. FISA BC has initiated an appeal with the BC Assessment Review Panel challenging the interpretation by BC Assessment of s.220 (1) (l) of the *Community Charter* as well as the classification used by BC Assessment to assess independent school property. Our position is that the area of land on which an operational school actually stands is substantially larger than the "footprint" beneath the main school buildings.
2. Because some municipalities are no longer respecting the property tax exemption that has been provided for over fifty years, FISA BC is asking the BC government to amend the current legislation to bring the language in the three Provincial property taxation statutes [*Community Charter*, *Vancouver Charter*, *Taxation (Rural Area) Act*] into alignment and to strengthen property taxation language so that school authorities will not have to waste valuable time and resources in appealing to municipalities to protect independent schools from property taxation. Independent schools are not asking for anything more than what they have been granted by the BC government in 1957.

Attached to this letter are two documents which outline FISA BC's position. The first document is entitled, "Proposed Amendments to Independent School Property Tax Exemption Legislation," dated June 14, 2013 and the second is a letter dated March 14, 2014 sent to the Hon. Peter Fassbender, Minister of Education.

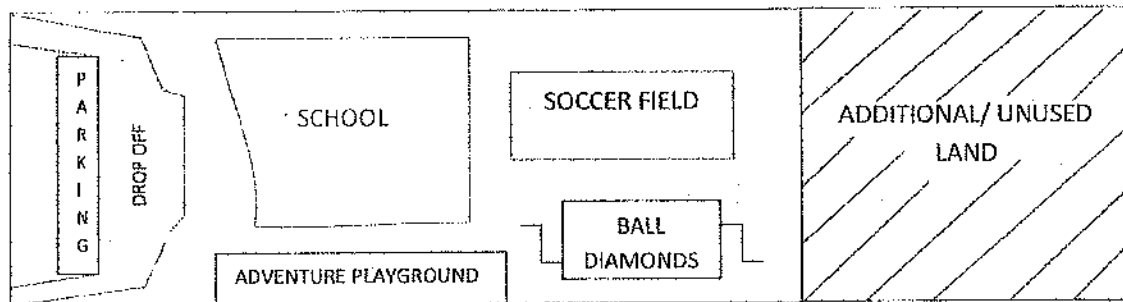
D. THE ESSENCE OF FISA BC'S PROPOSAL




The process of property tax exemption appears to be confusing for many individuals who may not understand the legislation that regulates independent school property tax exemption. If all municipalities continued to provide property tax exemption for independent schools **on land that is reasonably necessary and wholly in use for the purpose of giving instruction**, then there would be no issue for independent schools. Independent schools would receive a statutory exemption for their buildings and a permissive exemption for their land used for educational purposes. However, since 2012, four municipalities have considered removing the permissive property tax exemption from

independent schools in their jurisdiction. Two municipalities provide only a partial exemption (Victoria, Lantzville) and two others have retained/restored the permissive property tax exemption (West Vancouver, Nelson). We know that others are considering removing the permissive exemption subject to the appeal that FISA BC has currently launched.

To clarify what independent school authorities are seeking, FISA BC has prepared three diagrams that show current practice on property tax exemption in most municipalities, current legislation for public school property tax exemption and FISA BC's proposal to government for amending the current legislation for independent schools.

i. CURRENT LEGISLATION – INDEPENDENT SCHOOLS



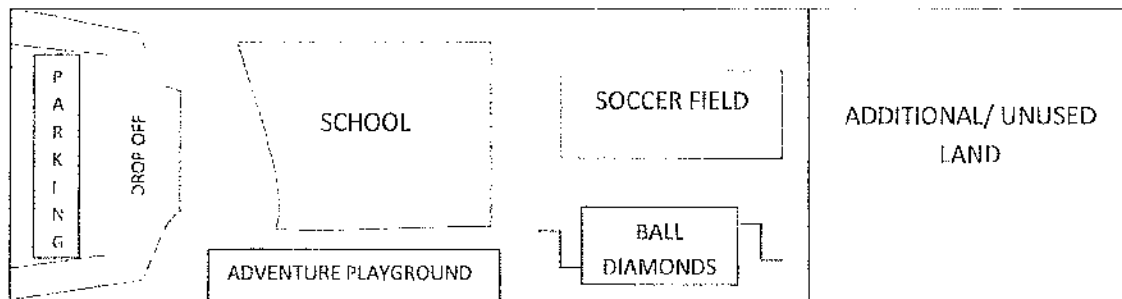
-  a. STATUTORY EXEMPTION (Community Charter S.220(1)(1))
-  b. PERMISSIVE EXEMPTION (Community Charter S.224(2)(h))
-  c. Additional property for which school authorities would need to apply for a permissive exemption. It may or may not be property tax exempt.

Independent schools are provided with a statutory exemption for the buildings and the land directly below the buildings, commonly referred to as the "footprint" of the building.

The municipalities, through local bylaw, have provided the permissive exemption on school property, and in many cases, additional land owned by the independent school authority for residences or endowment lands, for example. The decision on how much land to exempt is a decision of the municipal council. Some councils are very generous with the exemption; others are not.

FISA BC believes that there needs to be more consistency between municipalities so that independent schools throughout the province are treated similarly.

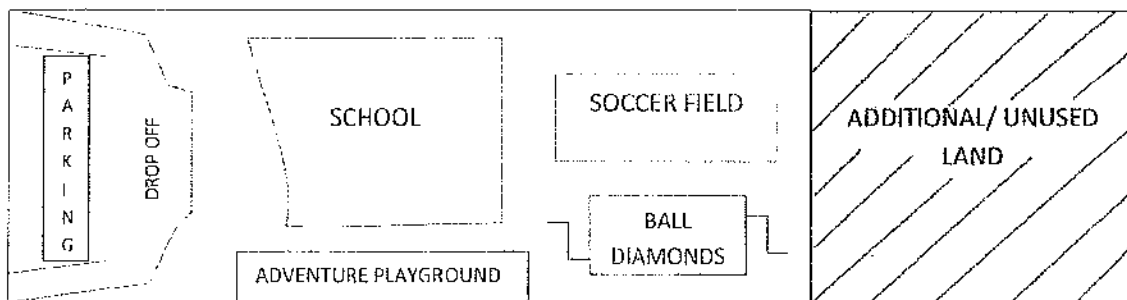
ii. CURRENT LEGISLATION PUBLIC SCHOOLS





a. STATUTORY EXEMPTION (School Act S129(1)(2))

Public schools have a statutory exemption for all their property, regardless of whether the land is used for educational purposes or not. Ironically, any independent school that leases property from a public school district is able to benefit from the statutory exemption as well.

iii. FISA BC PROPOSAL FOR INDEPENDENT SCHOOL ACT



-  a. STATUTORY EXEMPTION -- Buildings, structures, or related improvements together with any land owned by an incorporated institution of learning that is giving children instruction accepted as equivalent to that given in a public school, in actual occupation by the institution and reasonably necessary for and wholly in use for the purpose of giving instruction.
-  b. PERMISSIVE EXEMPTION -- "Any additional land near or immediately surrounding the exempt building, structure, related improvement or land" which may or may not be property tax exempt as recommended by municipal bylaw.

FISA BC's proposal would strengthen the statutory exemption for independent schools to the buildings and surrounding land that is reasonably necessary and wholly in use for the purpose of giving instruction equivalent to that given in a public school. A permissive exemption would continue to apply for any

additional land that may be unused, used for the benefit of the community as parks or recreational land, or endowment land.

The amount of land that would be statutorily exempt would be similar to what is currently provided for public schools under the Ministry of Education - Area Standards (05/2012)
<http://www.bced.gov.bc.ca/capitalplanning/resources/areastandards.pdf>.

Municipalities would retain the discretion to exempt as a matter of local government policy any additional lands owned by the independent school authority beyond those currently occupied and wholly used and reasonably necessary for instruction.

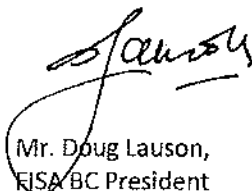
E. SUMMARY

FISA BC is asking for the support of the Union of BC Municipalities in clarifying the property tax exemption for independent schools. Independent school authorities would like the assurance of knowing that buildings and land needed for providing an educational program will remain property tax exempt. Any additional land near or immediately surrounding the exempt building and educational land remains the responsibility and will of the municipalities on whether the exemption is granted or not.

Due to the variance in legislation in the three Provincial property taxation statutes, and due to some municipalities denying the permissive property tax exemption to independent schools within the municipality, FISA BC is seeking a legislative solution that will clarify the scope of the statutory exemption for independent schools as well as the role of municipalities in assessing the permissive exemption for additional lands owned by independent school authorities.

We ask for your assistance and support in this matter.

Sincerely yours,



Mr. Doug Lauson,
FISA BC President

Attachments: (3)

Proposed Amendments to Independent School Property Tax Exemption Legislation



Prepared by: Dr. Peter Froese, Executive Director

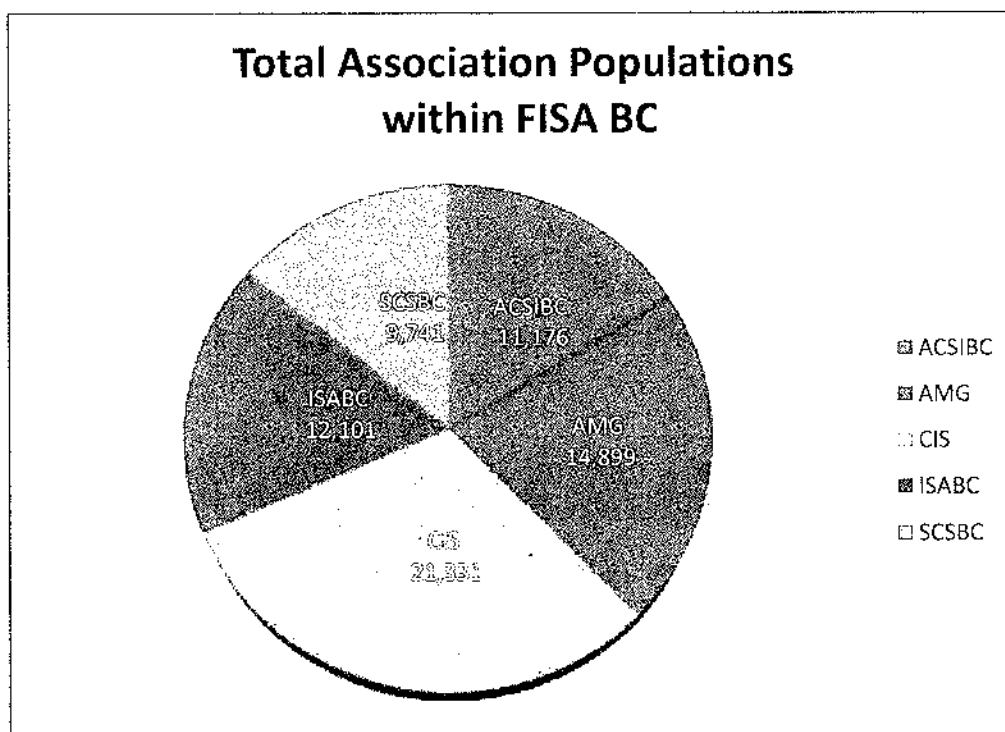
Approved by the FISA BC Executive Board

June 14, 2013

A. INTRODUCTION

There are 76,335 students enrolled in BC independent schools, representing 12% of the total K–12 provincial enrolment of 638,835. The Federation of Independent School Associations in British Columbia (FISA BC) is a voluntary organization of 292 independent schools serving 71,245 of the K-12 students of British Columbia, or 11.2% of BC's K-12 school population.

FISA BC is comprised of five separate member associations: the Catholic Independent Schools (21,331) whose purpose is to inculcate justice, compassion and biblical principles as a lifestyle; the Independent Schools Association of BC (12,101) which focuses on academic excellence, leadership skills, and global citizenship; the Association of Christian Schools International in BC (11,176) and the Society of Christian Schools in BC (9,741) which emphasize Christian living and service; and the Associated Member Group (16,896) which consists of a variety of schools or school associations that are too small to be individual member groups of FISA BC and focus on a variety of faith values, pedagogical and philosophical perspectives.



B. BACKGROUND INFORMATION

The entitlement to property tax exemption was granted to independent schools in British Columbia through an amendment to the *Municipal Act* in 1957. This was a significant issue that was essential for the sustainability of independent schools in BC. There have been no amendments to provincial legislation that have altered this entitlement since the property tax exemption was granted initially in the *Municipal Act*. Although the name of the Act was changed to the *Community Charter*, the legislation regarding independent school property taxation remained unchanged. All independent schools that offer an educational program equivalent to the public school system are provided with a Statutory property tax exemption under s.220 (1) (l) and Permissive exemption under s.224 (2) (h) of the *Community Charter*.

In October 2012 the City of West Vancouver attempted to amend the property tax entitlement to independent schools in that municipality by limiting the property tax exemption to a statutory exemption only. This meant that only the buildings, and the land directly below the buildings, would be given a property tax exemption. The property tax exposure to three independent schools would have been \$228,000 annually. Independent schools successfully challenged this position of the City of West Vancouver and were granted permissive exemption for the current year.

On January 30, 2013, the City of Victoria notified independent schools in its municipality that they would have their permissive exemption reduced to 50% over a ten year period. There are two independent schools that will be affected.

On April 10, 2013, the principal of St. Joseph School in Nelson received a call from the BC Assessment Office informing the school authority that it would not be receiving a permissive tax exemption in the current year. The school principal had received no prior communication from the City of Nelson indicating the intentions of the municipality.

The dual property tax exemption strategy of a statutory and permissive exemption worked well until recently, when three municipalities decided to deny the permissive exemption. Until 2012, independent schools providing an education equivalent to public schools had been granted property tax exemption.

Permissive exemptions for independent schools are granted through a bylaw in each municipality in BC, however, it appears that some municipalities are considering removing a portion of the property tax exemption of independent schools. The potential property tax exposure to independent schools is significant.

FISA BC has obtained a legal opinion that supports a broad interpretation of the Statutory property tax exemption under s.220(1)(l) and are seeking protection similar to that of public schools on property tax exemption, as FISA BC believes that some municipalities are now misinterpreting the intent of the property tax exemption granted in 1957 by denying independent schools a permissive property tax exemption.

FISA BC has appealed the 2013 property tax assessments to the Property Assessment Appeal Board (the "Board") for three schools: Mulgrave School (West Vancouver), St. Anthony's School (West Vancouver) and Glenlyon-Norfolk (Victoria), challenging BC Assessment Authority's ("BCA's") interpretation of the definition of a Statutory exemption under s. 220 (1) (l) as well as the classification of land and land values used by BCA to assess independent school property.

The appeal process is underway and on the strength of its legal opinion FISA BC will be pursuing a ruling from the Board and if necessary the courts on the three independent schools identified in the appeal. However, this process is a costly initiative that FISA BC would prefer to avoid. The FISA BC Board of Directors has instructed its consultant and legal counsel to assist FISA BC in asking government to make a legislative amendment that would protect independent schools from municipalities arbitrarily removing permissive tax exemptions from independent schools, especially when public schools are fully protected by property tax exemption under section 129 of the *School Act*.

This brief will review existing legislation regarding property tax exemption and propose changes that will provide reasonable protection for independent school authorities from municipalities that may wish to deny independent schools a permissive tax exemption under s. 220 (1) (l) and s. 224 (2) (h) of the *Community Charter*.

C. REVIEW OF THE CURRENT LEGISLATION

There are three pieces of legislation that govern exemptions from property tax for independent schools in the Province. These are the *Community Charter*, the *Vancouver Charter* and the *Taxation (Rural Area) Act*. The relevant sections have been documented below:

Community Charter

- A statutory exemption in the *Community Charter*, s. 220 (1) (l) states that, "A building owned by an incorporated institution of learning that is regularly giving children instruction accepted as equivalent to that given in a public school, in actual occupation by the institution and wholly in use for the purpose of giving the instruction, together with the land on which the building stands."
- A permissive exemption in the *Community Charter*, s. 224 (2) (h) states that, "In relation to property that is exempt under section 220 (1)(i) seniors homes, (j) hospitals or (l) private schools, any area of land surrounding the exempt building;"

Vancouver Charter

- Exemptions of property tax for Vancouver independent schools arise under *Vancouver Charter* section 396 (1) (c) (ii) which states that all real property in the city is liable to taxation subject to the following exemptions: “...*Certain institutions of learning of which an incorporated institution of learning regularly giving to children instruction accepted as equivalent to that furnished in a public school is the registered owner, or owner under agreement, and which is in actual occupation by such institution and is wholly in use for the purpose of furnishing such instruction;*” and
- Section 397 (1) (l), “*the exemptions provided for under clause (c) of section 396 (1) shall extend to so much real property as is reasonably necessary for the purpose of the instruction, hospital, or religious organization, and no further; provided that if a parcel is partly taxable, it need not be severed, but the taxes on the taxable portion shall be deemed to apply to the whole parcel.*”

Taxation (Rural Area) Act

- Rural area independent schools under section 15 (1)(o) of the *Taxation (Rural Area) Act*, are granted a mandatory property tax exemption for “*a building, including the land on which it actually stands, of which an incorporated institution of learning regularly giving to children instruction accepted as equivalent to that provided in a public school is the registered owner or the owner under agreement, and which is actually occupied by the institution and wholly in use for the purpose of the instruction, and also including an area of the land surrounding the buildings determined by the minister to be reasonably necessary in connection with them, and if the land and improvements are primarily in use for the purpose of the instruction, the minister may determine the proportions of the land and improvements that are exempt and taxable respectively.*”

FISA BC notes that while each of the three provincial Acts provide different wording on which to determine property tax exemption for institutions of learning, there appears to be a common theme – that the exemption apply to property that is wholly occupied and presently used for instructional purposes. As set out below, while the Legislative intent to exempt property that is reasonably necessary for this purpose is manifest in the *Vancouver Charter* and *Taxation (Rural Area) Act*, it is unfortunately not so clear in the *Community Charter*. The lack of consistency in wording of the three provincial tax statutes has given rise to the problem that FISA BC asks the Province to address through legislation.

The problem stems from the wording of the *Community Charter* which grants an exemption to the “building” and “the land on which the building stands”. It is FISA BC’s understanding that BCA considers itself bound by the BC Supreme Court decision in *Assessor of Area 20 – Vernon v. Interior Health Authority* SC 499 2006 BCSC 930 to limit the exemption for land on which school

buildings stand as referred to in s. 220 (1) (l) only to the footprint of the buildings. Therefore, the Statutory exemption for independent schools is currently being interpreted as though it applies to the main school buildings only (and the land directly beneath the buildings). The remaining property, which in most cases comprises other structures and improvements beyond the main buildings together with land required for the operation of the school, is not statutorily exempt from property tax. Instead, only so much land as a municipality decides should be granted a permissive exemption by bylaw under s. 224 (2) (h) receives a property tax exemption. Three municipalities are now in the process of withdrawing, in whole or in part, even this limited permissive exemption for independent schools in their regions.

FISA BC's legal opinion suggests that both the "buildings" and the "land on which the buildings stand" which are statutorily exempt under s.220(1)(l) should be more broadly interpreted than simply the "footprint" of "main school buildings" because although the exemption is clearly intended to extend to school property that is wholly in use for educational purposes, this narrow interpretation does not take into consideration two practical and legal realities of operating schools:

- First, that no school can be built or operated without underground and above-ground plumbing and electrical services, paved areas for bus/parent drop-off and pick-up, sidewalks, access roads and playing fields, and
- Second, that zoning bylaws, building codes and applicable standards and guidelines for the design, construction and operation of schools require that improvements be sited on school property so as to meet site coverage, set-back and other requirements. From a practical perspective, if a school authority were to apply to a municipality for a building permit to construct a school with no sidewalks, access road, parking lot, utility connections, or playing fields, the application would be rejected. Yet under the existing interpretation of current property tax exemptions, these basic school-use improvements and the underlying land are not statutorily exempt under s.220 (1) (l) of the *Community Charter*.

While the precise area of land needed for each school to meet these threshold requirements will depend on its particular circumstances, there is no question that the area of land on which any operational school actually stands is substantially larger than the footprint beneath the main school buildings.

As set out below, FISA BC suggests that the existing Statutory exemption in the *Community Charter* does not achieve the intent of the Legislature reflected both in the *Vancouver Charter* and *Taxation (Rural Area) Act*, that improvements and land reasonably required for an operational independent school be exempt from property tax.

FISA BC suggests that this intent can be better achieved under the *Community Charter* by exempting under s. 220 (1) (l) as "buildings" all improvements that are wholly used and

reasonably necessary for the operation of an independent school, together with all lands that are wholly used for and reasonably necessary to operate those improvements.

Recognizing that the Legislature intends the Provincial taxing statutes to exempt operational independent schools from property tax, FISA BC does not suggest that the exemption should necessarily capture all lands surrounding school buildings, some of which may support non-educational operations of the school. For example, residences owned by the school authority adjacent to the school and occupied by staff members should not be property tax exempt as their function is not “wholly used for and reasonably necessary to operate” the school. Further, endowment lands owned by the school and held for future school expansion should not be exempt until they are actually used for the operation of the school.

As noted earlier, the Legislature’s intent to exempt improvements and land that are wholly in use and reasonably necessary to the operation of an independent school is clearly reflected both in the *Taxation (Rural Area) Act* and the *Vancouver Charter*.

Taxation (Rural Area) Act s. 15 (1) (o) provides exemption from taxation to an incorporated institution of learning for:

- a) a building including the land on which it stands,
- b) is regularly giving instruction to children equivalent to that provided in a public school
- c) is the registered owner under agreement
- d) is actually occupied by the institution
- e) is wholly in use for the purpose of instruction, and
- f) includes an area of land surrounding the buildings determined by the minister to be necessary in connection with them

The *Taxation (Rural Area) Act* specifically recognizes that property tax exemption should include the building owned by an authority that is giving instruction equivalent to a public school, along with an area of land that is deemed by the minister to be necessary for the purpose of operating a school. The minister is given the discretion to determine whether land surrounding the school is exempt, and the extent of that exemption.

Likewise, *Vancouver Charter* s. 396(1) (c) (ii) and s.397 (1) provide the property exemption for real property (which includes land and improvements) that is:

- a) owned by the independent school
- b) operated by the independent school
- c) used to provide instruction that is equivalent to that offered in a public school, and
- d) reasonably necessary for the purpose of providing instruction

Unfortunately, the *Vancouver Charter* applies only to institutions of learning within the City of Vancouver and does not extend to independent schools in the remainder of the province. This

leaves independent schools, such as those located in West Vancouver, Victoria, and Nelson at a disadvantage as BCA is limiting the statutory exemption to the footprint of the buildings, exposing the remainder of school property to the will of municipalities in control of permissive property tax exemption regulated under municipal bylaw.

FISA BC argues that a reasonable amendment to the property tax exemption legislation for independent schools, wherever they are situated in the Province, should include an area of land and improvements under a statutory exemption to address two important issues:

1. An acknowledgement that a school requires land beyond the footprint of the buildings in order to fulfill the purpose of instruction, and
2. A recognition that the exemption applies to the land and improvements primarily used wholly for the purpose of instruction and may not necessarily include all lands owned by the incorporated institution of learning.

It seems to FISA BC that this interpretation of property tax exemption is what is intended by the *Community Charter* under s. 220 (1) (l) and s. 224 (2) (h). Independent schools should be provided with a statutory exemption under s. 220 (1) (l) for buildings that are necessary and wholly used for instruction along with an area of land surrounding the buildings that is necessary for instruction. All remaining land and improvements should be subject to a permissive exemption under s. 224 (2) (h).

FISA BC is asking government to bring the three Provincial property taxation statutes into alignment so that school authorities will not have to waste time and resources in appealing statutory property tax exemption entitlements to the Board and courts that are reasonably necessary for the purpose of instruction. Independent schools are, therefore, proposing the following amendments to the *Community Charter* so that the *Community Charter* is in alignment with the *Vancouver Charter* and the *Taxation (Rural Area) Act*.

D. PROPOSED LEGISLATIVE AMENDMENTS

FISA BC is respectfully requesting that s. 220 (1) (l) and s. 224 (2) (h) of the *Community Charter* be amended so that the statutory exemption for independent schools would extend beyond the footprint of the main school buildings to include land reasonably necessary for and wholly used by the independent school for the purpose of instruction equivalent to that given in a public school.

Recognizing that the specific language of an amendment will be determined by Legislative draftspersons, FISA BC proposes the following language to illustrate the principles FISA BC recommends be implemented. Amended words are shown in bold italics:

Statutory Exemption

Section 220.1 (l) a building, ***structure or related improvement together with any land*** owned by an incorporated institution of learning that is regularly giving children instruction accepted as equivalent to that given in a public school, in actual occupation by the institution and ***reasonably necessary for and*** wholly in use for the purpose of giving the instruction.

The intent would be that the scope of “building, structure or related improvements and land” that are reasonably necessary for independent school instruction would include the improvements and associated land listed as necessary for public schools in the BC Ministry of Education – Area Standards (05/2012), s.2.10 Sites and Grounds, ss. 2.10.1 Site Development Costs and ss.2.10.2 Playfield Areas. A copy of these recommendations is attached under Appendix A.

Permissive Exemption

Section 224(2)(h) in relation to property that is exempt under section 220 (1) (i) [*seniors' homes*], (j) [*hospitals*] or (l) [*private schools*], any ***additional*** area of land ***near or immediately*** surrounding the exempt building, ***structure, related improvement or land***.

The intent would be that the scope of land that a municipality could choose to exempt from property tax would include land adjacent to the basic school property that is statutorily exempt, but not wholly used for instruction (eg. school residences or endowment lands).

This amendment brings consistency to the *Community Charter*, the *Vancouver Charter* and the *Taxation (Rural Area) Act* by exempting buildings, related structures and improvements and associated land that is reasonably necessary for instruction. It also brings independent schools more in line with public schools that are provided with a statutory exemption for land and buildings under Section 129 of the *School Act*.

The objective “test” of “reasonableness” in the amended legislation will ensure fairness in its administration. Independent school authorities will be required to identify to BCA those buildings and improvements and related areas of land that are reasonably necessary for and wholly used and occupied for instruction. Any disagreement over what is reasonably required for instruction can be resolved through an appeal.

Municipalities retain the discretion to exempt as a matter of local government policy any additional lands owned by the school authority beyond those currently occupied and wholly used and reasonably necessary for instruction.

Amendment to Independent School Act

Besides amending the *Community Charter*, there is another mechanism for achieving the Legislative intent that independent school property be exempt from property tax. This involves

adding language to the *Independent School Act* to mirror the equivalent property tax exemption provided to public schools in section 129 in the *School Act*, which currently provides as follows:

Taxation of school property

129 (1) In this section, "**property**" means property as defined in the *Assessment Act*.

(2) Despite any other enactment, property in which a board has an ownership interest is exempt from taxation if it is

- (a) vacant,
- (b) used in whole or in part for a school,
- (c) used in whole or in part for a purpose ancillary to the operation of a school,
- (d) used in whole or in part by the board as a residence, if the residence is available exclusively to the following individuals and the individuals with whom they reside:
 - (i) students attending a school within the board's school district;
 - (ii) employees of the board,
- (e) leased by the board to an authority within the meaning of the *Independent School Act* and used in whole or in part for an independent school including any purpose ancillary to the operation of the independent school,
- (e.1) leased by the board to a francophone education authority and used in whole or in part for a francophone school including any purpose ancillary to the operation of the francophone school, or
- (f) exempted from tax by a bylaw under section 224 [*general authority for permissive exemptions*] of the *Community Charter* by the council of the municipality in which the property is located.

FISA BC proposes that the following language be added to the *Independent School Act* ("*ISA*"), preferably in conjunction with the amendments to the *Community Charter*.

Taxation of independent school property

20 (1) In this section, "**property**" means property as defined in the *Assessment Act*, and "**authority**" means the entity defined in Section 1(1)(a),(b) and (c) of the *Independent School Act*.

(2) Despite any other enactment, property in which an authority has an ownership interest is exempt from taxation if it is

- (a) used in whole for a school,
- (b) used in whole for an educational purpose ancillary to the operation of a school,
- (c) leased by the authority to another authority within the meaning of the *Independent School Act* and used in whole for an independent school including any educational purpose ancillary to the operation of the independent school,
- (d) used in whole or in part by the authority as a residence, if the residence is available exclusively to the following individuals and the individuals with whom they reside:
 - (i) students attending a school within the authority's district;
 - (ii) senior administration for the authority, or
- (e) exempted from tax by section 220 of the *Community Charter*, or by a bylaw under section 224 [*general authority for permissive exemptions*] of the *Community Charter* by the council of the municipality in which the property is located.

As with the Provincial taxing statutes, the proposed exemption in the *Independent School Act* applies only to improvements and land wholly in actual use as a school. Municipalities would retain the discretion to exempt further areas of land not wholly in use for school purposes, as suits local policy.

D. CONCLUSION

FISA BC is not asking for anything more than what has been provided to independent schools for half a century. There is no cost to government in making this change and there is no financial loss to municipalities in adopting these amendments. Independent schools are simply asking for government to strengthen the legislative language guaranteeing property tax exemption for independent schools; schools that are providing an education to approximately 76,000 students in British Columbia. The dual exemption strategy of a statutory and permissive exemption has worked well until recently when three municipalities decided to deny the permissive exemption. The financial risk to independent schools is too great to simply hope that no other municipalities will follow suit.

FISA BC would be pleased to have a further discussion on this important matter and are willing to meet with the representatives of the Ministry of Education and the Ministry of Community, Sport and Cultural Development at any time. We thank you in advance for your consideration.

Appendix A

2.10 SITE AND GROUNDS

2.10.1 Site Development Costs

All "essential" site development is a shareable cost. Essential work for schools shall include the items described below, plus any other item agreed to in writing by the ministry.

- Site preparation to clear, grade, drain and service the site to provide for the building and all other shareable site work.
- Playfield up to the areas described in section 2.10.2.
- Grass
- Access roads as reasonably required.
- Fire lanes where required by the B.C. Building Code.
- Asphalt paved parking up to one space for every twenty grades K-10 students, ten grades 11 and 12 students, and five staff, or as required by municipal by-law.
- Bus drop-off area.
- Paved pathways and entrance ways up to an area the equivalent of 2 metres around the perimeter of the building.
- Asphalt paved play areas up to 50 m², plus 50 m² for every 50 grades K-7 students.
- Grounds sprinkler systems.
- Sub-surface drainage systems in locations with demonstrated need.
- Fencing necessary for safety and school property protection purposes.
- One chainlink backstop for every 300 students.
- Essential steps, ramps and retaining walls, including associated handrails.
- Site lighting required for safety and loss protection.
- One flagstaff.
- Bike racks.
- Shrubs, trees, playground equipment, seats and other landscaping features up to 0.5 percent of the building cost.

2.10.2 Playfield Areas

<u>School Type</u>	<u>Nominal Capacity</u>	<u>Area</u>
Elementary	50-150	0.5 ha
	175-600	1.0 ha
	625-800	1.2 ha
Middle	200-400	1.0 ha
	450-700	1.2 ha
	750-1000	1.4 ha
Secondary	200-550	1.2 ha
	600-1000	2.0 ha
	1100-1500	3.0 ha
	1600-2000	4.0 ha
	2100-2500	5.0 ha

Ministry of Education - Area Standards (05/2012) <http://www.bced.gov.bc.ca/capitalplanning/resources/areastandards.pdf>

Craib, Patrick MTIC:EX

From: fisabc@gmail.com on behalf of FISA BC <info@fisabc.ca>
Sent: Friday, November 21, 2014 12:01 PM
To: Jonker, Brian EDUC:EX
Subject: Letter to Minister de Jong
Attachments: de Jong M Nov 7 2014.pdf; Property tax exemption diagrams.pdf

Hi Brian,

Further to your phone call with Peter, attached is a copy of the Nov. 7th letter and a copy of the attachment to the letter.

Magda

--

Federation of Independent School Associations in BC
150 Robson Street
Vancouver, BC V6B 2A7
Ph. 604-684-6023
Email: info@fisabc.ca

November 7, 2014

Hon. Michael de Jong, Minister of Finance
PO Box 9153 STN PROV GOVT
Victoria, BC V8W 9H1

Dear Minister de Jong:

A. Introduction

s.21

FISA BC represents almost 300 independent schools, or 93% of the total enrolment in independent schools, which include Catholic, Protestant, university preparatory, Montessori, Waldorf, special needs, distributed learning, philosophical and other faith-based schools.

Independent schools appreciate the support that is being provided by government through the 35% and 50% operating grants. The grant percentages have not changed since they were enacted in 1989 following the Sullivan Commission and the implementation of the *Independent School Act*. Independent school authorities have also valued property tax exemption, which was first provided in 1957 in the *Municipal Act* and continued in the *Community Charter* in 2004. For over 50 years, independent schools have received the support of government and the municipalities by their granting of the statutory and permissive exemptions to independent schools throughout the province, but that began to change in 2012.

B. What are the Issues?

There are three issues that are of concern to independent school authorities:

1. The three pieces of legislation governing property taxation exemption provide differing levels of protection for independent schools.
2. Municipalities are beginning to deny the permissive property tax exemption to independent schools for their own various reasons.
3. Municipalities are applying s. 220 and 224 of the *Community Charter* differently for independent schools in the same municipality.

1. Provincial Legislation on Property Tax Exemption is not Consistent.

There are three pieces of legislation that govern exemptions from property tax for independent schools in the Province. These are the *Community Charter*, the *Vancouver Charter* and the *Taxation (Rural Area) Act*. Each Act uses different language to address the property tax exemption for “private schools,” resulting in some independent schools gaining a benefit that others do not, depending on their location.

Schools in Vancouver are protected by the *Vancouver Charter*, which, under Sections 396 and 397, includes an exemption for institutions of learning that are regularly giving instruction accepted as equivalent to that furnished in the public school system (paraphrased) as well as “so much real property as is reasonably necessary for the purpose of the instruction” [s. 397 (1) (l)]. These two sections provide strong protection from property taxation for independent schools located in Vancouver.

The *Taxation (Rural Area) Act* also provides a mandatory tax exemption for “a building, including the land on which it actually stands” and “an area of land surrounding the buildings determined by the minister to be reasonably necessary in connection with them” [Section 15 (1) (o)].

The same protection is not provided in the *Community Charter*. The *Community Charter* grants an exemption to the “building” and “the land on which the building stands” [s. 220 (1) (l)]. FISA BC has been informed that BC Assessment considers itself bound by the BC Supreme Court decision in Assessor on Area 20 – Vernon v. Interior Authority SC 499 2006 BCSC 930 to limit the statutory exemption for land on which the buildings stand to refer only to the footprint of the building. Therefore, the statutory exemption for independent schools is currently being interpreted as though it applies to the main buildings only. The remaining land is subject to the will of the municipalities under the permissive exemption provided under s. 224 (2) (h).

Independent schools within the City of Vancouver or located in an unincorporated area of the province have the distinct advantage of a statutory exemption for land that is reasonably necessary for the purpose of instruction or determined by the Minister to be necessary for providing education equivalent to the public sector. They are not subject to the will of elected representatives in municipalities in BC who choose to remove the permissive exemption from independent schools in whole or in part in their jurisdiction for their own reasons.

FISA BC is asking government to bring the three Provincial property taxation statutes into alignment so that school authorities will not have to waste time and resources in appealing property tax exemption entitlements to the BC Appeal Board or the courts to protect the entitlement that was negotiated with the government in 1957.

2. Some municipalities are beginning to deny the permissive property tax exemption to independent schools for their own reasons.

Under the *Community Charter*, the permissive exemption is a municipal responsibility, and in FISA BC's view, some municipalities are now misinterpreting the intent of the property tax exemption granted in 1957 by arguing that this exemption takes revenue away from municipalities, causes residents to pay a higher property tax, and threatens the financial sustainability of the community (Greater Victoria PowerPoint).

What is lost in the discourse is the benefit that independent schools are providing to the community. Both the public school system and independent schools provide students with a Dogwood diploma, but only the public system is provided with a statutory exemption on all its land, buildings and improvements. In the City of Victoria, for example, independent schools are seen as a burden to the resident taxpayers since the property tax exemption causes home owners to pay higher taxes. There is no mention that the same argument is true for public schools within the city because public schools have a statutory exemption.

Some municipalities take issue with granting a property tax exemption to independent schools because they believe only the public system should be supported with public funding and property tax exemption. Since 1977, this province has embraced choice in education by providing partial funding to independent schools and full funding to public schools.

Unlike the past fifty years, municipalities are no longer guided by the intent of the legislation provided in the *Municipal Act* in 1957, after independent school representatives lobbied the government to protect them from double taxation; parents in independent schools were having to pay taxes to support public schools while their own schools, which received no public funding at that time, were having to pay property taxes.

Currently, Victoria and Lantzville have removed the permissive exemption in whole or in part for 2015. West Vancouver granted the permissive exemption on an annual basis in 2012, after a huge lobby by parents on October 1, 2012. For 2016, the council has instructed the city's new CFO to change the exemption form from a simple sign-off, to a document asking independent schools to demonstrate how the independent school contributes to the community.

3. Municipalities are applying s.220 and 224 of the Community Charter differently for independent schools in the same municipality.

The permissive exemption for independent schools is granted at the will of municipalities through local bylaws. For the most part, independent schools have benefitted from fair treatment by municipalities for over five decades. In FISA BC's view, this began to change in 2012 when four municipalities, West Vancouver, Victoria, Nelson, and Lantzville considered removing the permissive exemption, in whole or in part, from independent schools.

However, we find that the application of the permissive exemption varies considerably within municipalities as well. Consider the following examples from Greater Victoria:

a. s.21

b.

c.

d.

e.

Again, FISA BC acknowledges with appreciation that the majority of municipalities respect the service that independent schools provide to the community and grant the

permissive exemption without issue. Please note the following two examples that demonstrate this fact:

f. s.21

g.

As seen from the above examples, the *Community Charter* is being applied differently in different cases by the Greater Victoria municipality, causing confusion and financial hardship to independent schools that should be property tax exempt. As a result, independent schools around the province are united in wanting a legislative solution to property tax exemption so that all certified independent schools are granted the same benefit applied consistently by municipalities throughout the province.

C. Recommended Solution

On June 14, 2013 the FISA BC Board of Directors approved a brief entitled, "Proposed Amendments to Independent School Property Tax Exemption Legislation," which was submitted to the Hon. Peter Fassbender, Minister of Education and the Hon. Coralee Oakes, Minister of Community, Sport, and Cultural Development. This brief suggests that the language within the *Community Charter* be strengthened so that municipalities cannot deny property tax exemption to independent schools at will. The intent is to maintain the practice of granting independent schools the same property tax exemption that has been in effect for all our schools for the past five decades. The recent decisions by some municipalities suggest that the legislation governing independent school property tax exemption is being interpreted inconsistently between districts, and even within districts.

The *Community Charter* under s. 224 (2) (h) links "private schools" together with seniors homes and hospitals. FISA BC does not consider independent schools as private, since they are fully regulated by the province of British Columbia. Therefore, the current wording in the *Act* is problematic.

Conversely, there may be some unintended consequences for seniors' homes and hospitals if the language in the *Act* were to be amended. Therefore, FISA BC is asking that the property tax exemption for independent schools be removed from the *Community Charter* and placed in the

Independent School Act to parallel the property tax exemption provided to public schools in the *School Act*.

Independent schools are asking for a statutory exemption on buildings together with land that is reasonably necessary to provide an education equivalent to that given in a public school, and wholly used for the purpose of giving instruction. The attached schematic describes in detail what the amended legislation would be designed to achieve. A statutory exemption would extend from only buildings to a reasonable amount of land needed to provide an educational program, and any additional land would remain the responsibility of the municipalities to determine if they met the test of “land reasonably necessary to provide an educational program.”

Until 2012, all municipalities consistently granted the permissive exemption to independent schools. There was no tax revenue for municipalities so strengthening the statutory exemption would not have a negative effect on municipal property tax revenue. However, they would still maintain the responsibility of determining whether additional land owned by school authorities is eligible for an exemption.

The benefit to independent schools would be statutory protection for buildings and land that is reasonably necessary to provide an educational program. Municipalities would not be able to remove that entitlement as some are currently doing by denying the permissive exemption.

D. Summary

Independent schools continue to support the government in its efforts to maintain a sound fiscal framework by balancing its budget. Monetary requests have been tabled. However, there is no cost associated with this request. Our schools are simply asking that the legislation be changed to ensure that all independent schools are provided with the statutory provision of property tax exemption on land reasonably necessary for instruction so that it is not subject to the political will of some municipalities. Some municipalities suggest that the permissive exemption is being removed because the permissive exemption places an additional tax burden on the community. Others say they are acting in the interests of equity and fairness.

Independent schools agree that this is an issue of equity and fairness. It is equitable and fair that institutions of learning be treated similarly when applying property tax exemptions. Both public and independent schools serve the public interest by educating students that meet or exceed the provincial regulatory requirements for K-12 education in BC. Independent schools are asking for similar legislative protection granted to public schools that will give them a statutory entitlement to property tax exemption on their buildings and land that is wholly used, and reasonably necessary, for the purpose of giving instruction.

Independent schools are asking that the property tax exemption in the *Community Charter* under s. 220 and 224 be moved to the *Independent School Act* to mirror similar legislation for public schools in the *School Act*.

Sincerely yours,

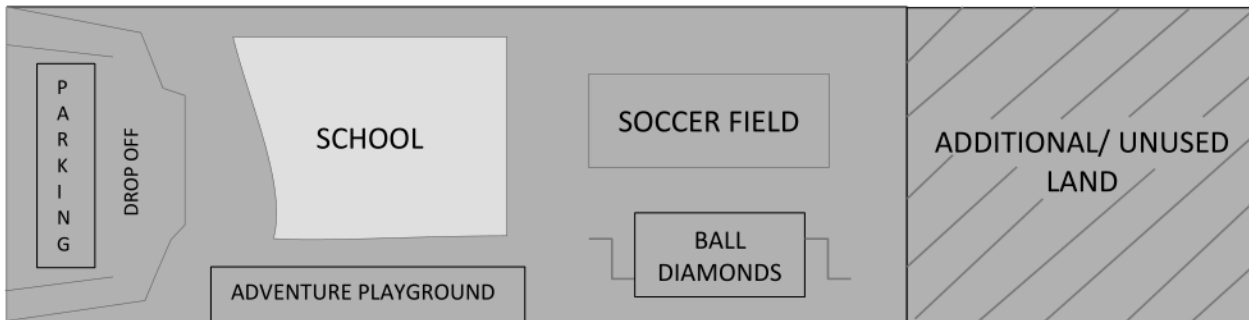
Mr Doug Lauson,
President, FISA BC




Cc: Hon. Peter Fassbender, Minister of Education
Hon. Coralee Oakes, Minister of Community, Sport and Cultural Development
MLA Marc Dalton, Parliamentary Secretary for Independent Schools
Mr. Theo Vandeweg, Inspector of Independent Schools in BC

Enclosure (1)

INDEPENDENT SCHOOL PROPERTY TAX EXEMPTION DIAGRAMS

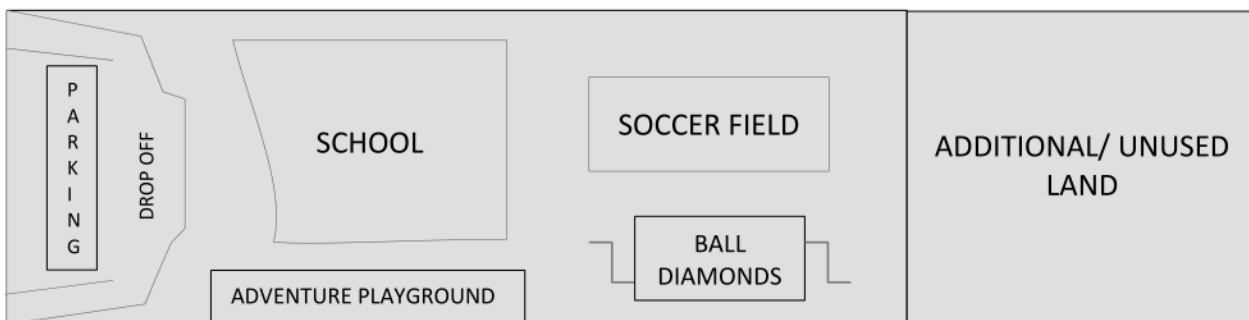
A. CURRENT LEGISLATION – INDEPENDENT SCHOOLS



- i.  STATUTORY EXEMPTION (Community Charter S.220(1)(1))
- ii.  PERMISSIVE EXEMPTION (Community Charter S.224(2)(h))
- iii.  Additional property that school authorities would need to apply for a permissive exemption. It may or may not be property tax exempt.

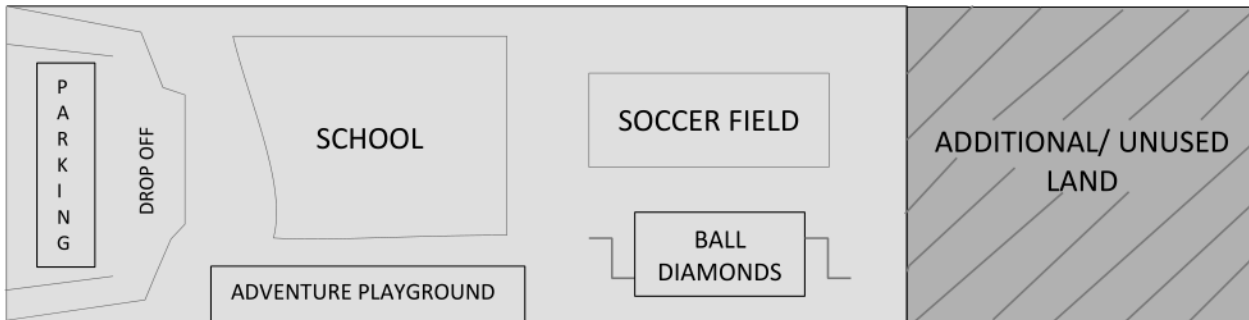
ISSUE: Some municipalities are imposing property taxes on land that is reasonably necessary for the purpose of giving instruction.



B. CURRENT LEGISLATION - PUBLIC SCHOOLS



-  i. STATUTORY EXEMPTION (School Act S129(1)(2))

C. FISA BC PROPOSAL FOR INDEPENDENT SCHOOL ACT



-  i. STATUTORY EXEMPTION – Buildings, structures, or related improvements together with any land owned by an incorporated institution of learning that is giving children instruction accepted as equivalent to that given in a public school, in actual occupation by the institution and reasonably necessary for and wholly in use for the purpose of giving instruction.
-  ii. PERMISSIVE EXEMPTION – “Any additional land near or immediately surrounding the exempt building, structure, related improvement or land” which may or may not be property tax exempt as recommended by municipal bylaw.

Craib, Patrick MTIC:EX

From: Peter Froese <peter.fisabc@gmail.com>
Sent: Thursday, April 16, 2015 10:52 AM
To: Jonker, Brian EDUC:EX
Subject: Fwd: letter to UBCM
Attachments: Letter to UBCM June 2014.pdf

Hi Brian,

FISA BC met with representatives of UBCM on Friday, June 6, 2014. The meeting was with Gary MacIsaac, Executive Director and Paul Taylor, along with Doug Lauson, FISA President and Peter Froese, Executive Director.

The purpose of the meeting was to ask for UBCM support in ensuring that land and buildings used by independent schools would remain property tax exempt.

We were told (taken from my notes):

- UBMC is a membership driven organization, much like FISA
- municipalities are autonomous local governments when making decisions from their municipality
- province must consult with municipalities when making changes to the Community Charter that have financial implications on municipalities.
- We asked if the UMBC had ever table a motion to reduce/eliminate tax exemption for independent schools; we were emailed a response that confirmed no resolution of this kind had been tabled.
- we left a letter (attached) which outlined the FISA BC position on property tax exemption, and confirmed our desire for a legislative solution to the property tax issue.
- the meeting tone was cordial and friendly

Best regards,

Peter

----- Forwarded message -----

From: <info@fisabc.ca>
Date: Thu, Apr 16, 2015 at 10:20 AM
Subject: letter to UBCM
To: "peter.fisabc@gmail.com" <peter.fisabc@gmail.com>

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Peter Froese, EdD
Executive Director
Federation of Independent School Associations (FISA BC)

4885 St. John Paul II Way
Vancouver, British Columbia
V5Z 0G3
Web: www.fisabc.ca
Phone: 604 684 6023
Cell: 604 309 0985



Federation of Independent School Associations British Columbia

150 Robson Street, Vancouver, BC V6B 2A7 • Tel (604) 684-6023 • Fax (604) 684-3163 • info@fisabc.ca • www.fisabc.ca

June 6, 2014

Mr. Gary MacIsaac
Executive Director
UBCM
525 Government Street
Victoria, BC V8V 0A8

*delivered in person on
Friday June 6/14 in Victoria
Doug, Peter*

Dear Mr. MacIsaac:

The purpose of this letter is to introduce you to the Federation of Independent School Associations in British Columbia (FISA BC), and to discuss how independent school authorities propose to address the issue of municipalities withholding, in whole or in part, the Permissive Property Tax Exemption provided under the *Community Charter*, s. 244 (2) (h).

A. INTRODUCTION

There are 76,072 students enrolled in BC independent schools, representing 12% of the total K-12 provincial enrolment of 635,057 students. These students are enrolled in 347 schools. Our organization represents 93% of the total enrolment in BC independent schools.

FISA BC is comprised of five separate member associations consisting of 29% Catholic Independent Schools (CIS), 17% University Preparatory Schools (ISABC), 29% Protestant Evangelical Schools (ACSIBC and SCSBC), and 25% in a variety of individual independent schools that form the Associate Member Group (AMG). These schools focus on strong academic programs, are certified to teach Ministry of Education curriculum, and instruct students from a variety of faith-based, philosophical and pedagogical perspectives. A 2013-14 enrolment document is provided for information.

B. ISSUE

Independent schools have been granted property tax exemption through an amendment to the *Municipal Act* in 1957. School authorities had been lobbying the government for property tax fairness since parents were paying taxes for public education and were also having to pay property tax for independent schools. Tuition fees were also paid by families of students that attended an independent school. This legislation has remained unchanged, except for the renaming of the Act from the *Municipal Act* to the *Community Charter*.

From 1957 to 2012 independent schools that offered an educational program equivalent to the public school system were provided with a Statutory property tax exemption under s.220 (1) (I) and a Permissive exemption under s. 224 (2) (h) of the *Community Charter*.

However, since October, 2012 four municipalities have attempted to amend the property tax entitlement for independent schools by limiting, in whole or in part, the permissive property tax exemption for independent schools. FISA BC recognizes that municipalities have the authority to grant or deny the property tax exemption. At the same time, independent schools should not be perceived by municipalities as taxable entities.

Based on an historic review of the legislation on property tax exemption for independent schools, enacted in 1957, FISA BC argues that limiting the Permissive exemption for qualifying independent schools is inconsistent with the intent of s.220 (1) (l) and s.224 (2) (h) of the *Community Charter*.

C. WHAT ACTION HAS FISA BC TAKEN?

Property tax exemption is a very important entitlement for independent schools. The board of directors have instructed FISA BC to challenge the actions of several municipalities in two ways:

1. FISA BC has initiated an appeal with the BC Assessment Review Panel challenging the interpretation by BC Assessment of s.220 (1) (l) of the *Community Charter* as well as the classification used by BC Assessment to assess independent school property. Our position is that the area of land on which an operational school actually stands is substantially larger than the "footprint" beneath the main school buildings.
2. Because some municipalities are no longer respecting the property tax exemption that has been provided for over fifty years, FISA BC is asking the BC government to amend the current legislation to bring the language in the three Provincial property taxation statutes [*Community Charter*, *Vancouver Charter*, *Taxation (Rural Area) Act*] into alignment and to strengthen property taxation language so that school authorities will not have to waste valuable time and resources in appealing to municipalities to protect independent schools from property taxation. Independent schools are not asking for anything more than what they have been granted by the BC government in 1957.

Attached to this letter are two documents which outline FISA BC's position. The first document is entitled, "Proposed Amendments to Independent School Property Tax Exemption Legislation," dated June 14, 2013 and the second is a letter dated March 14, 2014 sent to the Hon. Peter Fassbender, Minister of Education.

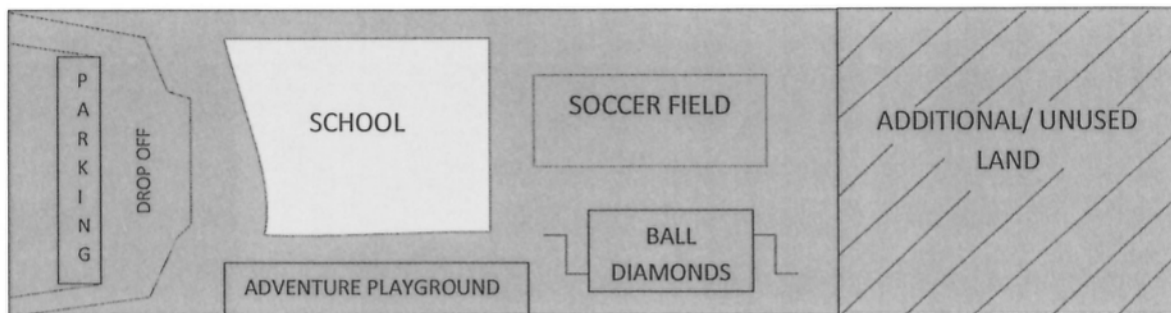
D. THE ESSENCE OF FISA BC'S PROPOSAL




The process of property tax exemption appears to be confusing for many individuals who may not understand the legislation that regulates independent school property tax exemption. If all municipalities continued to provide property tax exemption for independent schools **on land that is reasonably necessary and wholly in use for the purpose of giving instruction**, then there would be no issue for independent schools. Independent schools would receive a statutory exemption for their buildings and a permissive exemption for their land used for educational purposes. However, since 2012, four municipalities have considered removing the permissive property tax exemption from

independent schools in their jurisdiction. Two municipalities provide only a partial exemption (Victoria, Lantzville) and two others have retained/restored the permissive property tax exemption (West Vancouver, Nelson). We know that others are considering removing the permissive exemption subject to the appeal that FISA BC has currently launched.

To clarify what independent school authorities are seeking, FISA BC has prepared three diagrams that show current practice on property tax exemption in most municipalities, current legislation for public school property tax exemption and FISA BC's proposal to government for amending the current legislation for independent schools.

i. CURRENT LEGISLATION – INDEPENDENT SCHOOLS



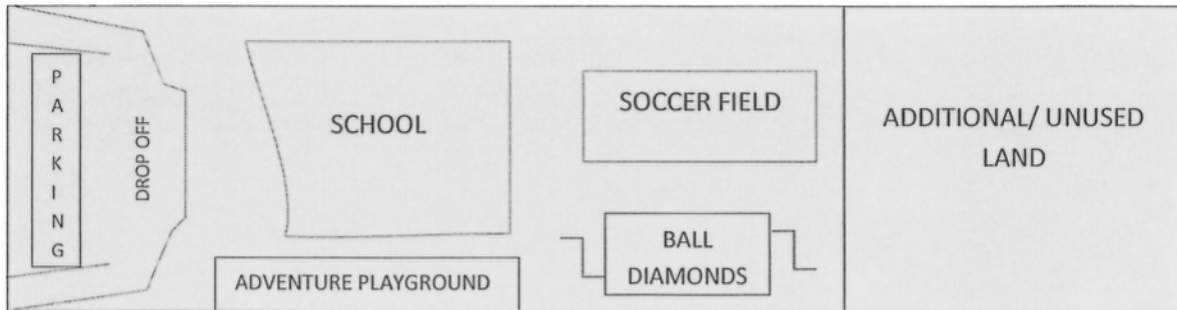
-  a. STATUTORY EXEMPTION (Community Charter S.220(1)(1))
-  b. PERMISSIVE EXEMPTION (Community Charter S.224(2)(h))
-  c. Additional property for which school authorities would need to apply for a permissive exemption. It may or may not be property tax exempt.

Independent schools are provided with a statutory exemption for the buildings and the land directly below the buildings, commonly referred to as the "footprint" of the building.

The municipalities, through local bylaw, have provided the permissive exemption on school property, and in many cases, additional land owned by the independent school authority for residences or endowment lands, for example. The decision on how much land to exempt is a decision of the municipal council. Some councils are very generous with the exemption; others are not.

FISA BC believes that there needs to be more consistency between municipalities so that independent schools throughout the province are treated similarly.

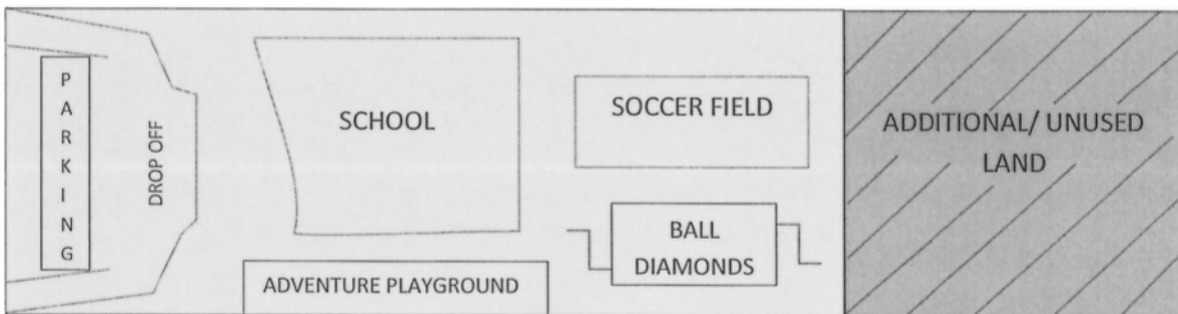
ii. CURRENT LEGISLATION PUBLIC SCHOOLS





-  a. STATUTORY EXEMPTION (School Act S129(1)(2))

Public schools have a statutory exemption for all their property, regardless of whether the land is used for educational purposes or not. Ironically, any independent school that leases property from a public school district is able to benefit from the statutory exemption as well.

iii. FISA BC PROPOSAL FOR INDEPENDENT SCHOOL ACT



-  a. STATUTORY EXEMPTION – Buildings, structures, or related improvements together with any land owned by an incorporated institution of learning that is giving children instruction accepted as equivalent to that given in a public school, in actual occupation by the institution and reasonably necessary for and wholly in use for the purpose of giving instruction.
-  b. PERMISSIVE EXEMPTION – “Any additional land near or immediately surrounding the exempt building, structure, related improvement or land” which may or may not be property tax exempt as recommended by municipal bylaw.

FISA BC’s proposal would strengthen the statutory exemption for independent schools to the buildings and surrounding land that is reasonably necessary and wholly in use for the purpose of giving instruction equivalent to that given in a public school. A permissive exemption would continue to apply for any

additional land that may be unused, used for the benefit of the community as parks or recreational land, or endowment land.

The amount of land that would be statutorily exempt would be similar to what is currently provided for public schools under the Ministry of Education - Area Standards (05/2012)
<http://www.bced.gov.bc.ca/capitalplanning/resources/areastandards.pdf>.

Municipalities would retain the discretion to exempt as a matter of local government policy any additional lands owned by the independent school authority beyond those currently occupied and wholly used and reasonably necessary for instruction.


E. SUMMARY

FISA BC is asking for the support of the Union of BC Municipalities in clarifying the property tax exemption for independent schools. Independent school authorities would like the assurance of knowing that buildings and land needed for providing an educational program will remain property tax exempt. Any additional land near or immediately surrounding the exempt building and educational land remains the responsibility and will of the municipalities on whether the exemption is granted or not.

Due to the variance in legislation in the three Provincial property taxation statutes, and due to some municipalities denying the permissive property tax exemption to independent schools within the municipality, FISA BC is seeking a legislative solution that will clarify the scope of the statutory exemption for independent schools as well as the role of municipalities in assessing the permissive exemption for additional lands owned by independent school authorities.

We ask for your assistance and support in this matter.

Sincerely yours,



Mr. Doug Lauson,
FISA BC President

Attachments: (3)