



Federation of Independent School Associations British Columbia

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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,



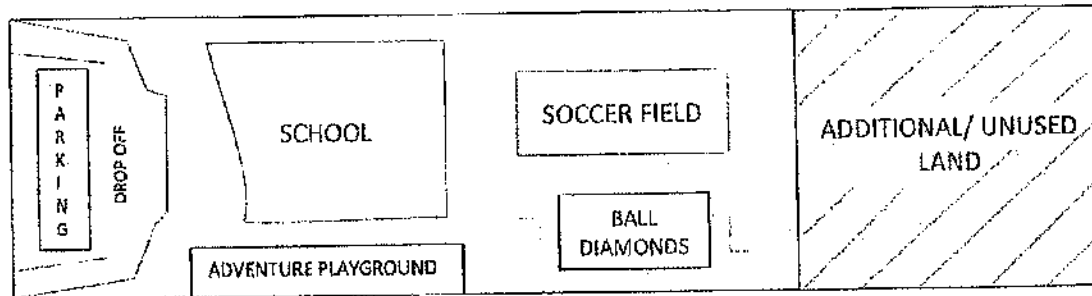
Mr Doug Lauson,
President, FISA BC




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

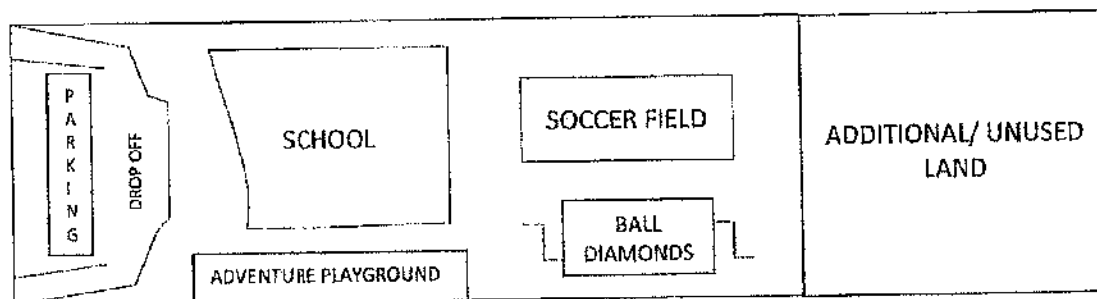
A. CURRENT LEGISLATION – INDEPENDENT SCHOOLS



- 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.

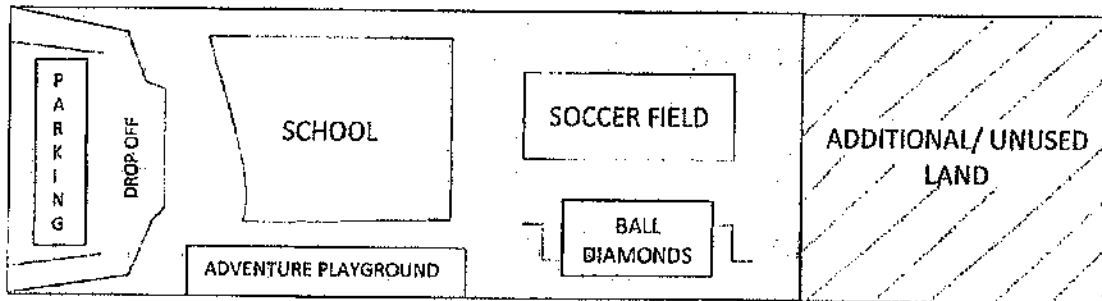
ISSUE: Some municipalities are imposing property taxes on land that is reasonably necessary for the purpose of giving instruction.

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.

BACKGROUNDER

Issue: Private Schools and Permissive Exemptions

Meeting: Federation of Independent Schools Association: George Peary, Peter Froese and Doug Lauson

Date: November 7, 2014

Cliff: 339674

MEETING

KEY FACTS REGARDING THE ISSUE:

The Federation of Independent Schools Association (FISA) is arguing for removing municipal discretion on whether or not to grant a permissive property tax exemption for property of independent schools.

Property of independent schools is eligible for both permissive and statutory tax exemptions. **Statutory exemptions** apply, by provincial law, to buildings used for providing instruction, together with the land on which the building stands. The concept of "used for instruction" is relatively broad and includes dormitories, cafeterias, and lunch rooms. **Permissive exemptions** may be provided by the municipality for any area of land surrounding the property that has the statutory exemption, such as: parks, playgrounds or parking lots.

These exemptions exist in the *Community Charter*, *Vancouver Charter* and *Taxation (Rural Area) Act*. These exemptions all flow through to other taxing statutes, so that property exempted under them is exempt for all property taxes including provincial school tax.

FISA is raising this issue because a small number of municipalities have started to reduce or eliminate the permissive exemption. Lantzville has recently voted to eliminate the permissive exemption. Victoria is partially phasing out its permissive exemption at a rate of 5 per cent per year to a maximum of 50 per cent. Nelson and West Vancouver have both considered reducing or eliminating the permissive exemption. FISA is arguing that municipalities should not have the discretion to deny independent schools the permissive exemption.

According to a BC Assessment report for 2013, there were 313 independent school properties located in 75 municipalities and 3 rural areas. The total assessed value of these properties was \$1.7 billion (60 per cent land and 40 per cent improvements). The taxable status was as follows:

- 81 per cent of total assessment was statutorily exempt (not at the discretion of council).
- 19 per cent of total assessment was potentially taxable but also eligible for a permissive exemption at the discretion of council.
 - 17 per cent was currently permissively exempt.
 - 2 per cent was currently taxable (total cost to taxpayers: \$400,000).

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ADVICE AND RECOMMENDED RESPONSE:

NOTE: THIS MEETING IS WITH THE TAXPAYER.

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◆ s.13

Program Area Contact:	Name Duncan Jillings	Number 250 387-7324
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Ministry of Finance

BRIEFING DOCUMENT

To: Honourable Michael de Jong, Q.C. **Date Requested:**
Minister of Finance **Date Required: Apr 13, 2015**

Initiated by: Duncan Jillings **Date Prepared: April 10, 2015**
Director, Property Taxation

Ministry Contact: Stephen Hawkshaw **Phone Number:** 250-387-7364
Tax Policy Analyst **Email:** steve.hawkshaw@gov.bc.ca
Tax Policy Branch

342910

TITLE: Expanded statutory (mandatory) property tax exemption for independent schools

PURPOSE:

(X) DECISION REQUIRED

COMMENTS: The proposed amendments expand the mandatory property tax exemption provided to independent schools in the *Community Charter* and the *Taxation (Rural Area) Act*. If the amendments are enacted, the mandatory exemption will be expanded to include the land and improvements surrounding an exempt building provided they are reasonably necessary for the independent school's purposes.

Executive Director approval: _____

ADM approval: _____

DM approval: _____

DATE PREPARED: April 10, 2015

TITLE: Expanded mandatory property tax exemption for independent schools.

ISSUE: A portion of the property tax exemption for independent schools is granted at the discretion of taxing authorities and a portion of the exemption is mandatory. The proposed RFL would expand the mandatory portion of the property tax exemption.

BACKGROUND:

The Federation of Independent School Associations (FISA) represents almost 300 independent schools, which include Catholic, Protestant, university preparatory, Montessori, Waldorf, special needs, distributed learning, philosophical and other faith-based schools. A November 2014 letter from FISA to the Minister of Finance requested removal of municipal discretion on whether or not to grant a property tax exemption for property that surrounds an exempt school building (the **exemption issue**). FISA also expressed a desire that the exemption be moved to the *Independent School Act* if possible, on the grounds that this would parallel the fact that public schools receive their exemption in the *School Act*.

In addition to the exemption issue, the letter also raised a number of other concerns but did not ask for a solution to those concerns. Those other concerns all centered on how land used by independent schools was held (the **ownership issues**):

- Some land is leased from churches and is permissively exempt only at the discretion of a municipality.
- Some land is leased from private entities and is not exempt.
- Some land is only partially owned by an independent school and may or may not be exempt.
- Some land owned by independent schools has been rezoned and is sitting vacant and as a result is not exempt.

s.13

DISCUSSION:

There are three statutes that govern property tax exemptions for independent schools. In Vancouver, the *Vancouver Charter* applies. In other municipalities the

Community Charter applies. In rural areas the *Taxation (Rural Area) Act* applies. Each Act provides the exemption in a slightly different fashion. The exemption issue is not an issue for independent schools located in Vancouver.

In Vancouver, a qualifying school building and all land and improvements reasonably necessary for the purposes of that building are automatically exempt. Municipal discretion does not come into play. For this reason the *Vancouver Charter* is not discussed further or addressed in the attached RFL.

Under the current legislation, independent schools located outside of Vancouver are eligible for two types of property tax exemption:

- A mandatory exemption for buildings and the land a building sits on, that applies automatically if certain tests are met; and
- A follow on permissive exemption for land surrounding a statutorily exempt building that applies at the discretion of the taxing authority (municipalities or in rural areas, the Minister of Finance).

Under this scheme, a qualifying school building owned by an independent school is automatically exempt. The playing fields, parking lots and other surrounding land are only exempt if the taxing authority chooses to exempt them. Until very recently, all municipalities have provided the permissive tax exemption for independent schools. In rural areas the policy of the Surveyor of Taxes has been to provide a blanket exemption.

In 2012, two municipalities (Lantzville and Victoria) reviewed their permissive property tax exemptions and notified independent schools that their permissive property tax exemption will be either partially or fully removed. To date, only two municipalities have taken concrete action, affecting five independent schools. However, other municipalities have considered removing the partial exemption for some schools. FISA is concerned that these municipalities will cease to provide a permissive tax exemption to independent schools in the future.

The proposed amendments

The attached RFL proposes amendments be made to the *Community Charter* and the *Taxation (Rural Area) Act*. ^{s.13}

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s.13,s.14

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s.13

Cost of expanding the mandatory exemption

s.13

Currently for independent school property in the province, 81 per cent is statutorily exempt, and of the 19 per cent that could be subject to a permissive exemption, 17 per cent is exempt and 2 per cent is not. Of the 2 per cent, most is land and buildings not associated with the school purpose.

The permissive exemption as currently applied by municipalities costs the province about \$2.25 million annually compared to a situation where those lands and improvements were fully taxable.

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Consultation and Notice

There is a statutory obligation to consult with the Union of British Columbia Municipalities (UBCM) on any amendments to the *Community Charter*. s.13

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s.13

OPTIONS:

1. Approve the attached RFL and forward to Cabinet for consideration.
2. Do not approve the attached RFL.

RECOMMENDATION:

s.13

APPROVED / NOT APPROVED

Michael de Jong, Q.C.
Minister

Date



Legislative Review Committee

Briefing Note (2015 Legislative Program)

Minister: Honourable Michael de Jong, Q.C., Minister

Ministry: Finance

Date: 29/4/2015

Ministry Document #: 342910

Legislation: *Property Taxation Statutes (Exemptions) Amendment Act, 2015*

Summary and Purpose:

The proposed legislation will expand the statutory property tax exemptions for independent schools found in the *Community Charter* and the *Taxation (Rural Area) Act*.

Qualifying independent school buildings and the land on which the school buildings sit are currently statutorily exempt from property taxes. The land surrounding exempt buildings is currently subject to a permissive property tax exemption rather than a statutory exemption. In municipal areas, the permissive exemption is at the discretion of the local government. In rural areas the exemption is at the discretion of the Minister of Finance.

These amendments will expand the statutory exemption to include surrounding land and improvements reasonably necessary for the purposes of an independent school.

Issues to be Resolved by the Amendment/Bill:

Two municipalities have recently exercised their discretion to deny an exemption on the land surrounding exempt independent school buildings. This has caused school property such as playing fields and parking lots to be subject to property tax. Other municipalities have considered following suit.

These amendments will ensure that land and improvements that are reasonably necessary for a school, such as playgrounds, playing fields, parking lots and green spaces, are statutorily exempt from property tax. This will provide certainty for



independent schools that property that is required to instruct students and to run a school will not be taxed in the future.

Land that is not reasonably necessary for school purposes will remain taxable at the discretion of municipalities or the Minister of Finance.

s.12,s.13,s.14

s.12,s.13,s.14

Page 19 to/à Page 20

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s.12;s.14;s.13

Regulatory
Reform BC

Regulatory Criteria Checklist

The purpose of the checklist is to demonstrate that legislative and regulatory changes have been developed according to the Regulatory Reform Policy, while still protecting public health, safety and the environment.

Name of authorizing legislation: Property Taxation Statutes (Exemptions) Amendment Act, 2015

Name of regulation, if applicable: N/A

Purpose: To expand the statutory property tax exemption for independent schools to cover all property reasonably necessary for the purposes of an independent school.

Regulatory Criteria

✓ I certify that the following Regulatory Reform Principles were considered for this legislation or regulation:

1. Is needed and efficient
2. Is outcome based and will be regularly reviewed
3. Was transparently developed and will be clearly communicated
4. Is cost effective and evidence based
5. Is supportive of BC's economy and small business

s.12,s.13,s.14

Signature, Responsible Minister or Head of Regulatory Authority

Signator Name:

Ministry/Agency Name: Finance

Contact Name: Duncan Jillings

Last Revised October 2013

Page 22

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s.12;s.14;s.13

QUESTIONS AND ANSWERS

LRC

Community Charter, Taxation (Rural Area) Act **Property Tax Exemptions for Independent Schools**

s.12,s.13,s.14

Page 24 to/à Page 26

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s.12;s.14;s.13

LRC

Community Charter, Taxation (Rural Area) Act

Speaking Points: **s.13**

s.12,s.13,s.14

Page 28

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s.12;s.14;s.13



Request for Legislation Privacy & Access Consultation Summary

Privacy and Legislation (PLB)

Name of Legislation:	Community Charter, Taxation (Rural Area) Act		
Date of RFL:	April 15, 2015		
Name of Ministry:	Ministry of Finance		
Ministry Contact:	Duncan Jillings	Phone:	(250) 387-7324
Email:	Duncan.Jillings@gov.bc.ca		
Brief Summary of Legislative Proposal:			
The proposed amendments expand the existing statutory property tax exemptions for independent schools to also include all property reasonably necessary for the purposes of the institution, including sports fields, playgrounds, green space and parking lots, gazebos, utilities and lighting.			

s.12,s.13,s.14

Page 30 to/à Page 34

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DUPLICATE

Ministry of Finance
Amendments to the *Community Charter and Taxation (Rural Area) Act*

Section Notes

Section 1 - repeals and replaces section 220(1)(l) of the *Community Charter*

Purpose:

- Section 1 amends section 220(1)(l) of the *Community Charter* to expand the statutory property tax exemption to areas of land surrounding an exempt school building that are reasonably necessary for the purposes of a qualifying independent school.
- The amendment provides a non-exhaustive list of land and improvements that are considered to be reasonably necessary for school purposes. s.12,s.13,s.14

Existing Provision:

- Section 220(1)(l) of the *Community Charter* currently provides a statutory property tax exemption for qualifying independent school buildings and the land on which the school building sits.
- Section 224(2)(h) permits a municipal council to permissively exempt the land surrounding an exempt school building.

Significance:

- s.12,s.13,s.14
-

Section 2 - amends section 224 of the *Community Charter*

Purpose:

- Section 2 consists of consequential amendments to section 224 of the *Community Charter*.
- The amendment removes the permissive exemption for independent schools from paragraph (h) and creates a new paragraph, (h.1), that allows a municipality to permissively exempt land surrounding the statutorily exempt land or improvements of an independent school.

Existing Provision:

- Section 224(2)(h) permits a municipal council to permissively exempt the land surrounding a statutorily exempt seniors home, hospital, or school building.

Significance:

- s.12,s.13,s.14

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Section 3 - repeals and replaces section 15(1)(o) of the *Taxation (Rural Area) Act*

Purpose:

- Section 3 amends section 15(1)(o) of the *Taxation (Rural Area) Act* to expand the statutory property tax exemption to areas of land surrounding an exempt school building that are reasonably necessary for the purposes of a qualifying independent school.
- The amendment provides a non-exhaustive list of lands and improvements that are considered to be reasonably necessary. s.12,s.13,s.14
s.12,s.13,s.14
- A new section, 15(1)(o.1), grants the Minister of Finance the power to permissively exempt land surrounding exempt property by order. s.12,s.13,s.14
s.12,s.13,s.14

Existing Provision:

- Section 15(1)(o) of the *Taxation (Rural Area) Act* currently provides a statutory property tax exemption for qualifying independent school buildings and the land on which the school building sits.
- Section 15(1)(o) also permits the Minister of Finance to permissively exempt all land, or a portion of land, surrounding an exempt school building provided some portion of that land is primarily in use for the purpose of providing instruction. In practice all land surrounding exempt school buildings is permissively exempt.

Significance:

- s.12,s.13,s.14
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• s.12,s.13,s.14

Legislation Privacy Impact Assessment

Why do I need to do a PIA?

Section 69(5) of the *Freedom of Information and Protection of Privacy Act* (FOIPP Act) states that the head of a ministry must conduct a privacy impact assessment (PIA) in accordance with the directions of the minister responsible for the FOIPP Act. Section 69 (5.1) states that the PIA must be submitted to the minister responsible for the FOIPP Act for review during the development of any new project, program or activity, system or proposed enactment or when making changes to an existing one. Knowledge and Information Services (KIS) is the representative of the Minister for the purposes of PIAs. Ministries must attach a Legislation PIA (LPIA) to their RFLs when submitting to KIS for review and comment. If you have not prepared an RFL, please attach the LPIA to your draft legislation. If you have any questions regarding this process or when filling out the LPIA, please contact KIS at 250 356 0361.

What if my proposed enactment does not include personal information?

Ministries need to complete a PIA and submit it to KIS even if it is thought that no personal information is involved. This allows KIS to ensure that the proposed or revised enactment has been accurately assessed.

Part 1 – GENERAL

Name of Legislation:	<i>Community Charter, Taxation (Rural Area) Act</i> – Enhanced statutory property tax exemption for independent schools		
Date of RFL:	April 15 2015		
Name of Ministry:	Finance		
Ministry Contact:	Duncan Jillings	Phone:	(250) 387-7324
Email:	Duncan.Jillings@gov.bc.ca		

1. Please indicate whether the legislation is:

<input type="checkbox"/>	New
<input checked="" type="checkbox"/>	Amended
Name of the Act being replaced (if applicable):	<i>Community Charter, Taxation (Rural Area) Act</i>

2. Provide a brief summary of the legislative proposal.

The proposed amendments expand the existing statutory property tax exemptions for independent schools to also include all property reasonably necessary for the purposes of the institution, including sports fields, playgrounds, green space and parking lots, gazebos, utilities and lighting.

Legislation Privacy Impact Assessment

3. Please advise:

a)	For which legislative session is the proposed amendment scheduled?	Spring 2015	
b)	Do you have a policy committee date?	Yes	Date: April 23 2015
c)	Has Knowledge and Information Services Branch (KIS) reviewed any part of this amendment for a previous legislative session?	s.12,s.13,s.14	
(If yes, please list relevant parts, date reviewed and changes that have been made since. If you previously completed an LPIA or PIA, please attach a copy.)			

Part 2 - PRIVACY (Protection of Privacy)

In the following questions "**proposed legislation**" means the new or amended legislation that is being put forward by your Ministry. This PIA does not assess your compliance under the *Freedom of Information and Protection of Privacy Act* as it applies to existing legislation or the programs that are operational under your legislation.

4. a) Within the proposed legislation, what personal information, if any, is authorized to be collected, used or disclosed?

No personal information is authorized to be collected, used or disclosed by these amendments.

- b) Will there be a change to the scope (amount or type) of personal information being collected, used or disclosed? (If so, please describe.)

There will be no change in scope.

5. Collection of personal information

a)	Does the proposed legislation specifically authorize the collection of personal information?		
	Yes	*	No (Go to question 6)



Legislation Privacy Impact Assessment

If yes, please describe and provide the rationale to support the collection.

b) Will the personal information be collected directly from the individual concerned?

☐ Yes (Go to question 6) ☐ No

If no, will the proposed legislation authorize the indirect collection of the personal information? (Please specify)

6. Use of personal information

a) Does the proposed legislation specifically authorize the use of personal information?

☐ Yes ☒ No (Go to question 7)

If yes, please describe and provide the rationale to support the use.

7. Disclosure of personal information

a) Does the proposed legislation specifically authorize the disclosure of personal information?

☐ Yes ☒ No (Go to question 8)

If yes, please describe and provide the rationale to support the disclosure.

b) Does the proposed legislation permit or require the disclosure of personal information outside Canada? (This includes information posted on the internet)

☐ Yes (Please describe and provide the rationale) ☐ No (Go to question 8)

8. Does the proposed legislation address the retention/disposal of personal information? If so, please explain.

It does not address the retention/disposal of personal information.

Legislation Privacy Impact Assessment

9. Will the proposed legislation support a regulation-making function related to the administration of personal information?

<input type="checkbox"/>	Yes – please explain (Please follow-up with KIS during the regulation development)
<input type="checkbox"/>	No
<input type="checkbox"/>	Unknown (If one is developed please follow-up with KIS during the regulation development)

Part 3 – ACCESS (Freedom of Information)

10. Does the proposed legislation include a section that overrides or limits provisions of the *Freedom of Information and Protection of Privacy (FOIPP) Act* (examples of this include a notwithstanding clause or “despite the FOIPP Act” clause)?

<input type="checkbox"/>	Yes	<input type="checkbox"/>	No (Go to question 11)
a)	Identify the provisions of the FOIPP Act that will be affected,		
b)	cite section in proposed legislation (if available), and		
c)	explain why the override or limitation is necessary.		

11. Does the proposed legislation include a confidentiality clause or any other provision that limits the access of an individual to their personal information or other records of the public body?

<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
a)	Cite section reference in proposed legislation (if available)		
b)	Explain why the confidentiality clause or other limiting provision is necessary		



Legislation Privacy Impact Assessment

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Part 4 – Conclusion

This LPIA is based on the RFL dated and identified on page one. If there are any changes in scope from the original RFL you may need to complete a new Legislation Privacy Impact Assessment. Please inform Knowledge and Information Services if you make any changes to the scope.

LPIA Completed by:	Stephen Hawkshaw	Title:	Policy Analyst	Date:	April 27 2015
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Please note that KIS's review and comment on your PIA is confirmed through the summary it sends to Cabinet Operations.

REQUEST FOR LEGISLATION – 2015

MINISTER:

Minister of Finance

DATE:

April 13, 2015

NAME OF ACT:

Community Charter, Taxation (Rural Area) Act

s.13

PURPOSE:

s.13

s.13

There are three taxing statutes, the *Community Charter*, the *Taxation (Rural Area) Act* and the *Vancouver Charter* that provide statutory exemptions for buildings and the land under them if the buildings are occupied by an independent school offering education equivalent to that offered in a public school and if other conditions are met. However, land surrounding the building, including land used for sports fields, playgrounds, green space or parking lots, may or may not be exempt. Municipalities, or in rural areas, the Province, can choose to exempt these facilities using a permissive tax exemption.

s.12,s.13,s.14

Page 45 to/à Page 49

Withheld pursuant to/removed as

s.12;s.14;s.13

Appendix A: Legislative Counsel Comments

s.12,s.13,s.14

Page 51

Withheld pursuant to/removed as

s.12;s.14;s.13

Appendix B: Treasury Board Staff Comments

Request for Legislation Treasury Board Staff (TBS) Comments
Section 1: General Information (to be completed by the sponsoring ministry)
<p>Honourable Mike De Jong, QC</p> <p>Ministry of Finance</p> <p>Name of Legislation: <i>Community Charter, Taxation (Rural Area) Act,</i></p> <p>Draft/ID Number: (Insert Number if Available)</p> <p>Sent Date: (Insert Date Ministry sent to TBS)</p> <p>Originator: Duncan Jillings</p> <p>RFL Summary: s.13 s.13</p> <p><i>Community Charter 220(1)(l) and 224(2)(h)</i> <i>Taxation (Rural Area) Act 15(1)(o)</i></p>
Section 2: TBS Comments (to be completed by TBS)
<p>s.12,s.13,s.14</p>
Section 3: TBS Contact Information
<p>Analyst Name: Randall Gerlach</p> <p>Phone Number: 250-356-9778</p> <p>Date: April 1, 2015</p>

Appendix C: Three Column Document

Current	Proposed	Reasons
<p><i>Community Charter</i></p> <p>Section 220 of the <i>Community Charter</i> statutorily exempts from municipal property tax buildings of independent schools wholly used for providing instruction, together with the land on which the building stands provided ownership and occupancy tests are met. The concept of “used for instruction” is relatively broad and includes some dormitories, cafeterias, and lunch rooms.</p> <p>The <i>Community Charter</i> also provides for a permissive property tax exemption at the sole discretion of the municipalities through bylaw for any area of land surrounding the property that has the statutory exemption. This has been used to exempt from taxation property such as sports fields, playgrounds, green space or parking lots, vacant land or land for future school or commercial development and practice has been to permissively exempt improvements as well as land.</p>	<p>s.12,s.13,s.14</p>	
<p><i>Taxation (Rural Area) Act</i></p> <p>The <i>Taxation (Rural Area) Act</i> statutorily exempts from taxation buildings of independent schools wholly used for providing instruction, together with the land on which the building stands provided ownership and</p>		

occupancy tests are met.

s.12,s.13,s.14

The Act also provides for a permissive tax exemption for the surrounding land that meets a school-purpose test as determined by the Minister of Finance. The Minister may also exercise discretion to exempt a portion of land, if that land is primarily, but not wholly, in use for instruction.

APPENDIX D – Drafting Instructions**Item**

Amend the *Community Charter* and the *Taxation (Rural Area) Act* to expand the statutory tax exemption for independent schools.

s.12,s.13,s.14

Page 56 to/à Page 57

Withheld pursuant to/removed as

s.12;s.14;s.13

Side-by-side View of Current Exemptions		
Community Charter	Vancouver Charter	Taxation Rural Area Act
<p>220 (1) Unless otherwise provided in this Act or the <i>Local Government Act</i>, the following property is exempt from taxation to the extent indicated:</p> <p>(f) 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 <u>the land on which the building stands</u>;</p>	<p>Property tax exemptions</p> <p>396. (1) All real property in the city is liable to taxation subject to the following exemptions: —</p> <p>...</p> <p>(c) Real property</p> <p>...</p> <p>And certain institutions of learning</p> <p>(ii) 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;</p>	<p>15 (1) The following property is exempt from taxation:</p> <p>(o) 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</p> <p>....(permissive section below)</p>
<p>224 (1) A council may, by bylaw in accordance with this section, exempt land or improvements, or both, referred to in subsection (2) from taxation under section 197</p> <p>(1) (a) [municipal property taxes], to the extent, for the period and subject to the conditions provided in the bylaw.</p> <p>(2) Tax exemptions may be provided under this section for the following:</p> <p>(h) 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;</p>	<p>Extent of property tax exemptions</p> <p>397. (1) The exemptions provided for under clause (c) of section 396 (1) shall extend to so much real property as is reasonably necessary for the purposes of the institution, hospital, or religious organization, and no further; provided that if a parcel is partly exempt and partly taxable, it need not be severed, but the taxes on the taxable portion shall be deemed to apply to the whole parcel.</p>	<p>... 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;</p>