

**Ministry of Finance**

**BRIEFING DOCUMENT**

**To:** Honourable Carole James  
Minister of Finance  
and Deputy Premier

**Date Requested:** August 16, 2018  
**Date Required:** September 7, 2018

**Initiated by:** Lori Wanamaker  
Deputy Minister

**Date Prepared:** August 24, 2018

**Ministry  
Contact:** Keith Preston  
Strategic Advisor  
Tax Policy Branch

**Phone Number:** 778 698-9581  
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**Cliff #:** 372219

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**TITLE:** Scope of PST exemption for LNG facility construction

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**PURPOSE:**  
**(X) DECISION REQUIRED**

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**COMMENTS:**

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Executive Director approval: \_\_\_\_\_

ADM approval: \_\_\_\_\_

DM approval: \_\_\_\_\_

**DATE PREPARED:**

**TITLE:** Scope of PST exemption for LNG facility construction

**ISSUE:** PST exemption for all goods and services directly related to the construction of the Kitimat LNG facility.

**BACKGROUND:**

In March 2018, Premier Horgan proposed a provincial sales tax ("PST") exemption for "all goods and services directly related to the construction of the LNG Facility" planned for Kitimat by LNG Canada ("LNGC"). This exemption is a key consideration in LNGC's final investment decision, expected around the beginning of October.

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The ministry is targeting the October 17, 2018 Cabinet date for the presentation of regulations to give this proposed exemption legal effect. In order to draft regulations to provide this exemption, decisions to set the scope of the exemption are required.

**DISCUSSION:****Core exemptions**

The LNG facility can be thought of as the LNG plant (in general, the infrastructure used in liquefaction, storage, and loading of LNG for export, and various ancillary components) and all of the immediately surrounding land used or held for the operations of the plant.<sup>1</sup>

This definition does not include sites used to support the facility or its construction unless they are located on land contiguous with the facility. For example, worker accommodation camps or machine shops separated from the facility by other land, such as a farm, are not part of the LNG facility.

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LNGC project site is appended to this note.

An aerial view of the

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PST applies to goods, taxable services,<sup>3</sup> and software unless a specific exemption is provided by legislation or regulation. Many services (e.g. construction labour, accounting, engineering, consulting, and others) are already not subject to PST, so no specific exemptions are required. The following parameters describe how the proposed exemption could work.

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<sup>3</sup> Under the *Provincial Sales Tax Act*, services to goods (e.g. repair, installation, or modification services), legal services, accommodation (e.g. hotel stays), and telecommunication services are subject to PST.

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s.13; s.17

**OPTIONS:**

s.13; s.17

**Option 2: Provide the "core" exemptions for goods and services, plus exemptions for goods and services for the wharf replacement, and "support" facilities, and offsetting fish habitats<sup>5</sup>**

s.13; s.17

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Withheld pursuant to/removed as

s.17; s.13

s.13; s.17

**RECOMMENDATION: Option 2**

**DECISION: Option 1 / Option 2 / Option 3 / Option 4**



Carole James  
Minister and Deputy Premier

September 10, 2018

Date

Appendix: LNG facility

Project site – aerial view

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Figure 1: LNGC project site  
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**To:** Honourable Carole James  
Minister of Finance  
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**Date Requested:** August 16, 2018  
**Date Required:** September 7, 2018

**Initiated by:** Lori Wanamaker  
Deputy Minister

**Date Prepared:** August 16, 2018

**Ministry**  
**Contact:** Keith Preston  
Strategic Advisor  
Tax Policy Branch

**Phone Number:** 778 698-9581  
**Email:** Keith.D.Preston@gov.bc.ca

**Cliff #:** 372220

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**TITLE:** PST exemption for LNG facility construction: revenue protection and competitiveness measures

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**PURPOSE:**  
**(X) DECISION REQUIRED**

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**COMMENTS:**

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Executive Director approval: \_\_\_\_\_

ADM approval: \_\_\_\_\_

DM approval: \_\_\_\_\_

**DATE PREPARED:**

**TITLE:** PST exemption for LNG facility construction: revenue protection and competitiveness measures

**ISSUE:** Mitigating risks to provincial revenue and business competitiveness

**BACKGROUND:**

In March 2018, Premier Horgan proposed a provincial sales tax ("PST") exemption for "all goods and services directly related to the construction of the LNG Facility" planned for Kitimat by LNG Canada ("LNGC"). This exemption is a key consideration in LNGC's final investment decision, expected around the beginning of October.

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**DISCUSSION:**

s.13; s.17

The traditional approach to mitigating these risks in purpose-based PST exemptions is two-pronged:

1. Exemptions can require that the goods be obtained for some measure of use, such as "solely for use," "primarily for use," or "substantially for use" in a particular activity.<sup>1</sup>
2. The *Provincial Sales Tax Act* contains "change-in-use" provisions that impose PST if non-exempt use—including use outside one of the measures described above—occurs. Change-in-use tax applies to the depreciated purchase price of goods at the time the infringing use occurs.

s.13; s.17

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<sup>1</sup> "Solely" has its ordinary meaning (only, entirely, wholly); "primarily" is defined by regulation to mean "more than 50%"; "substantially" is defined by legislation to mean "more than 90%."

**OPTIONS:**

s.13; s.17

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s.13; s.17

**EVALUATION:**

s.13; s.17

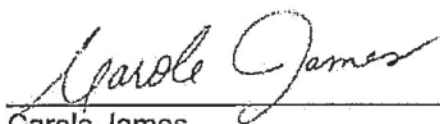
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s.13; s.17

RECOMMENDATION: Option 3

DECISION: Option 1 / Option 2 / Option 3



Carole James  
Minister and Deputy Premier

September 10, 2018  
Date

**Ministry of Finance**  
**BRIEFING DOCUMENT**

**To:** Lori Wanamaker  
Deputy Minister

**Date Requested:** August 28, 2018  
**Date Required:** August 28, 2018

**Initiated by:** Paul Flanagan  
Ministry of Finance

**Date Prepared:** August 28, 2018

**Ministry** Paul Flanagan  
**Contacts:** Senior Executive Director  
Tax Policy Branch

**Phone Number:** 778-698-5828  
**Email:** Paul.Flanagan@gov.bc.ca

**Cliff #:** 372755

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**TITLE:** Natural Gas Income Tax Credit

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**PURPOSE:** FOR DECISION

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**COMMENTS:**

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**TITLE:** Natural Gas Income Tax Credit

**ISSUE:** LNG Canada has asked that the policy around the application of the Natural Gas Tax Credit which was set by the previous government be clarified.

**BACKGROUND:**

On March 22, 2018, Premier Horgan stated that if LNG Canada proceeds with their LNG project the government will support several measures to reduce the project's cost. These measures included repealing the *Liquefied Natural Gas Income Tax Act* and another is to implement the corporate income tax natural gas tax credit.

The corporate income tax natural gas tax credit was legislated as part of the *Liquefied Natural Gas Income Tax Act* through amendments to the *Income Tax Act*. However, the *Liquefied Natural Gas Income Tax Act* is not in force and, if the government wants to keep the natural gas tax credit, it will have to introduce legislation to do so.

The natural gas tax credit is structured to be available to the owner of natural gas at the point it enters an LNG facility. The credit rate was set at 3 per cent of the cost of natural gas at the facility. The credit amount can then be used to reduce the effective BC corporate income tax rate paid by the person claiming the credit. The legislation states that the credit can be used to reduce the effective corporate tax rate to as low as 8 per cent rather than the 11 per cent rate that existed at that time.

In 2015, the *Liquefied Natural Gas Project Development Agreements Act* received royal assent allowing the government to enter into agreements with LNG proponents. The intent of this Act is to allow for an agreement with a project's proponents that would indemnify the proponents if a future government changed or eliminated certain things that would add costs to the project such as certain changes to the natural gas tax credit. This Act clarified the policy around the natural gas tax credit. That is, the credit can be used to reduce the effective BC corporate rate by at most three percentage points or to 8 per cent whichever is higher (see attached).

The corporate income tax rate was increased to 12 per cent from 11 per cent on January 1, 2018. As a result, the existing legislation suggests that the natural gas tax credit can reduce the effective corporate income tax rate to as low as 9 per cent using the higher of the 3 percentage point reduction or 8 per cent whichever is higher criteria. LNG Canada has requested that the government have the natural gas tax credit lower the effective corporate income tax rate to 8 per cent.

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**Attachment**

Below is the definition of natural gas tax credit change, which can trigger indemnification. Note that (c) below describes changes that would not trigger indemnification.

**Liquefied Natural Gas Project Agreements Act**

**"natural gas tax credit change"** means an amendment enacted after this Act comes into force

(a) to section 172 of the *Income Tax Act*, to a regulation that prescribes a percentage for the purposes of subsection (4.1) of that section to change that percentage or to an enactment that provides substantially the same benefit as provided under that section, whether the enactment is structured as a tax credit or refund, or

(b) to the *Liquefied Natural Gas Income Tax Act* or the regulations under that Act, if the amendment results in a reduction of a benefit referred to in paragraph (a) of this definition,

other than an amendment

(c) to the description of "B" in section 172 (2) (b) of the *Income Tax Act*

(i) to change the reference to "11%" to a lower percentage as a consequence of an amendment to section 14 (2) or 16 (1) (b) of that Act, or

(ii) to change the reference to "11%" to a higher percentage as a consequence of an amendment to section 14 (2) or 16 (1) (b) of that Act, if the reference to "8%" is also changed to a comparably higher percentage,

(d) to, or the enactment of, an administrative, enforcement or anti-avoidance provision, or

(e) to correct a technical error;