

SPECULATION AND VACANCY TAX ACT

[SBC 2018] CHAPTER 46

Form and contents of declaration

64 (1)A declaration must be in the form and contain the information required by the administrator.

(2)A person required to file a declaration must

(a)file the declaration in the manner required by the administrator, and

(b)file, with the declaration, any other information or records required by the administrator.

Social Insurance Numbers (SIN) are fundamental to British Columbia and Canada's taxation system. The *Speculation and Vacancy Tax Act*, subsection 64(1) authorizes the administrator to collect information from property owners through the annual declaration in order to administer the act. Requiring personal information, including the SIN, is necessary for the administrator to determine tax liability, identifying whether property owners pay income taxes in Canada and whether an individual may be eligible for a tax exemption or BC tax credit.

The collection of SIN is crucial to identify whether home owners pay tax in Canada and to confirm residency information. This information is relevant to ensure individuals that live in their home, and are eligible, receive the principal residence exemption. In addition, residency information is required to determine the amount of tax an individual is subject to, and, if applicable, the amount of speculation and vacancy tax credit an individual may receive.

The SIN is one piece of personal information that is collected through the online declaration application. eTaxBC is the online secure government application that is used for the declaration process. All information entered into eTaxBC is encrypted at the time of entry. Once a SIN is collected it is masked and the ability for employees to view the number is controlled by security access on a need to know basis. The personal information that is collected under the *Speculation and Vacancy Tax Act* is protected in a manner consistent with the BC Government's Information Security Policy, Federal Security Standards, and provisions of the *Freedom of Information and Protection of Privacy Act*.

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This Act is current to March 6, 2019

See the Tables of Legislative Changes for this Act's legislative history, including any changes not in force.

SPECULATION AND VACANCY TAX ACT

[SBC 2018] CHAPTER 46

Assented to November 27, 2018

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Part 1 — Interpretation, Special Rules and Application of Act

Division 1 — Definitions

Definitions

1 In this Act:

"administrator" means the person designated under section 117 by the minister to administer this Act;

"apartment" means a self-contained residential accommodation unit that has cooking, sleeping, bathroom and living room facilities;

"assessed value" means the assessed value determined under the *Assessment Act*;

"assessment", in relation to an assessment under this Act, includes a reassessment;

"assessment roll" has the same meaning as in section 1 (1) of the *Assessment Act*;

"beneficial owner", in relation to an interest in a residential property, means an individual who is, in respect of the interest, a beneficial owner within the meaning of section 2 [*meaning of "beneficial owner"*];

"class 1 property" means property that is assessed as property in the class 1 property class under the *Assessment Act*;

"class 9 property" means land that is assessed as property in the class 9 property class under the *Assessment Act*;

"corporate interest holder", in relation to a corporation, means an individual who is, in respect of the corporation, a corporate interest holder within the meaning of section 3 [*meaning of "corporate interest holder"*];

"declaration" means a declaration required to be filed under section 62 [*annual declaration*] or 63 [*declaration required on demand*];

"declaration due date", in relation to filing a declaration under section 62 for a calendar year, means, as applicable,

- (a) March 31 in the year following the calendar year, or
- (b) if the date referred to in paragraph (a) is extended by the administrator under section 119 [*extension of time*], the later date;

"federal Act" means the *Income Tax Act* (Canada);

"improvements" has the same meaning as in the *Assessment Act*;

"income taxation year" has the same meaning as "taxation year" in section 249 (1) of the federal Act;

"Indigenous nation" means any of the following:

- (a) a band as defined in section 2 (1) of the *Indian Act* (Canada);
- (b) the Nisga'a Nation;
- (c) a Nisga'a Village;
- (d) the Sechelt Indian Band established by section 5 (1) of the *Sechelt Indian Band Self-Government Act* (Canada);
- (e) the Sechelt Indian Government District established by the *Sechelt Indian Band Self-Government Act* (Canada);
- (f) a treaty first nation;
- (g) the Westbank First Nation as defined in the agreement approved under the *Westbank First Nation Self-Government Act* (Canada);
- (h) a prescribed Indigenous entity;

"land" has the same meaning as in section 1 (1) of the *Assessment Act*;

"medical practitioner" includes a person authorized to practise medicine in another jurisdiction;

"minor" has the same meaning as in the *Age of Majority Act*;

"non-arm's length tenant" has the meaning given to it in section 36 (1) *[definitions and interpretation]*;

"owner", except in a reference to a beneficial owner, means a person who is one of the following:

- (a) a registered owner of the estate in fee simple of a residential property, unless the registered owner has disposed of the registered owner's interest to a person referred to in paragraph (b), (c) or (d);
- (b) a registered holder of the last registered agreement for sale of a residential property;
- (c) a life tenant under a registered life estate in a residential property;
- (d) a registered occupier of a residential property;

"owner's interest" means the owner's interest in a residential property determined under section 8 *[determining owner's interest in residential property]*;

"parcel" has the same meaning as in section 1 (1) of the *Assessment Act*;

"partnership interest holder", in relation to an interest in a residential property that is partnership property and is registered in the name of a partner in a partnership, means an individual who is, in respect of the interest in the residential property, a partnership interest holder within the meaning of section 4 *[meaning of "partnership interest holder"]*;

"permanent resident of Canada" means an individual who is a permanent resident as defined in section 2 (1) of the *Immigration and Refugee Protection Act (Canada)*;

"person with disabilities" means any of the following:

- (a) an individual who is designated as a person with disabilities under section 2 (2) *[persons with disabilities]* of the *Employment and Assistance for Persons with Disabilities Act*;

- (b) an individual who is considered to be disabled under section 42 (2) of the *Canada Pension Plan*;
- (c) an individual who is entitled to a deduction under section 118.3 (1) of the federal Act, or would have been entitled to that deduction if that section were read without reference to paragraph (c) of that section;

"principal residence" means, subject to section 10 (1) [*rules relating to principal residence of spouses*], the place in which an individual resides for a longer period in a calendar year than any other place;

"property" has the same meaning as in section 1 (1) of the *Assessment Act* except in

- (a) the definition of "unreported income" in section 5 (1) [*meaning of "untaxed worldwide earner"*],
- (b) section 53 (c) [*amalgamations*], and
- (c) section 114 [*lien*];

"property class" has the same meaning as in section 1 (1) of the *Assessment Act*;

"provincial nominee" means an individual who is named in a valid nomination certificate issued by the government in accordance with an agreement referred to in section 8 (1) of the *Immigration and Refugee Protection Act* (Canada) between the government and Canada;

"registered" means registered in the books of the land title office;

"registered occupier" means a person who is in possession of property under a registered lease and in whose name the property is assessed under section 26, 27 or 28 of the *Assessment Act*;

"residence" means any of the following:

- (a) a detached house, cottage or other single family dwelling;
- (b) a dwelling that is a strata lot;
- (c) an apartment in
 - (i) a single family dwelling,
 - (ii) a dwelling that is a strata lot, or
 - (iii) a duplex or other multi-family dwelling;

"resident of British Columbia", in relation to a calendar year, means an individual who

- (a) is, for the calendar year, a specified Canadian citizen or specified permanent resident of Canada, and
- (b) is, for the income taxation year of the individual that ends at the end of the calendar year, either
 - (i) resident only in British Columbia for the purposes of the federal Act, or
 - (ii) deemed, under section 2607 of the Income Tax Regulations (Canada), to have been resident in British Columbia for the purposes of the federal Act,

but does not include an individual who is, for the income taxation year of the individual that ends at the end of the calendar year, deemed not to be a resident of Canada for the purposes of the federal Act;

"residential property", in relation to a calendar year, means any of the following property as assessed on an assessment roll for the calendar year:

- (a) a parcel or portion of a parcel of land that is class 1 property if there are no improvements on the parcel of land;
- (b) a parcel or portion of a parcel of land that is class 1 property, together with any improvement or portion of an improvement that is class 1 property;
- (c) improvements or portions of improvements, other than farm outbuildings as defined in section 1 of the *Home Owner Grant Act*, that are
 - (i) class 1 property, and
 - (ii) on a parcel or portion of a parcel of land that is class 9 property;
- (d) improvements or portions of improvements that are
 - (i) class 1 property, and
 - (ii) assessed separately from the parcel or portion of a parcel of land under the improvements,

but does not include

- (e) property the assessed value of which is equal to or less than \$150 000, or
- (f) prescribed land or improvements, or both;

"specified area" means any of the following:

- (a) a municipality within the Capital Regional District;
- (b) a municipality, other than the Village of Lions Bay, within the Metro Vancouver Regional District;
- (c) the City of Abbotsford;
- (d) the City of Chilliwack;
- (e) the City of Kelowna;
- (f) the City of Nanaimo;
- (g) the City of West Kelowna;
- (h) the District of Lantzville;
- (i) the District of Mission;
- (j) that part of Electoral Area A within the Metro Vancouver Regional District that comprises the University of British Columbia and University Endowment Land as defined in section 1 of the *University Endowment Land Act*;
- (k) a prescribed area,

but does not include any of the following:

- (l) an island, if any, within an area referred to in paragraphs (a) to (j), if the island is usually accessible only by air or water throughout a calendar year;
- (m) a prescribed area that is all or part of an area referred to in paragraphs (a) to (j);
- (n) subject to the regulations, any of the following:
 - (i) a reserve as defined in section 2 (1) of the *Indian Act* (Canada);
 - (ii) Nisga'a Lands;
 - (iii) Nisga'a Fee Simple Lands as defined in the Definitions Chapter of the Nisga'a Final Agreement;
 - (iv) Sechelt lands as defined in section 2 (1) of the *Sechelt Indian Band Self-Government Act* (Canada);
 - (v) treaty lands of a treaty first nation;
 - (vi) Other Maa-nulth First Nation Lands as defined in the Definitions Chapter of the Maa-nulth First Nations Final Agreement;

- Other Tla'amin Lands as defined in the Definitions
- (vii) Chapter of the Tla'amin Final Agreement;
- (viii) Other Tsawwassen Lands as defined in the Definitions
- Chapter of the Tsawwassen First Nation Final Agreement;

"specified Canadian citizen", in relation to a calendar year, means an individual who is a Canadian citizen other than a Canadian citizen who is, for the calendar year, an untaxed worldwide earner;

"specified permanent resident of Canada", in relation to a calendar year, means an individual who is a permanent resident of Canada other than a permanent resident of Canada who is, for the calendar year, an untaxed worldwide earner;

"spouse", except in section 50 [*exemption on breakdown of marriage or common-law partnership*], has the same meaning as "cohabiting spouse or common-law partner" in section 122.6 of the federal Act;

"tax" means tax imposed under this Act;

"trust" includes an estate;

"trustee" includes a personal representative;

"untaxed worldwide earner", in relation to a calendar year, means an individual who is, for the calendar year, an untaxed worldwide earner within the meaning of section 5 [*meaning of "untaxed worldwide earner"*].

Meaning of "beneficial owner"

- 2 Subject to the exclusions, if any, in the regulations, an individual is a beneficial owner in respect of an interest in a residential property registered in the name of a trustee of a trust if any of the following apply:
 - (a) the individual has a beneficial interest in respect of the interest in the residential property;
 - (b) the individual has the power to revoke the trust and receive the interest in the residential property;
 - (c) the individual is a corporate interest holder in a corporation that has

- a beneficial interest in respect of the interest in the residential property, or
- (i)
- (ii) the power to revoke the trust and receive the interest in the residential property;
- (d) the individual has a prescribed interest in respect of the interest in the residential property.

Meaning of "corporate interest holder"

- 3 (1) Subject to the exclusions, if any, in the regulations, an individual is a corporate interest holder in respect of a corporation if any of the following apply:
- (a) the individual has legal or beneficial ownership or control, directly or indirectly, of
 - (i) shares of the corporation representing 25% or more of the value of the equity of that corporation, or
 - (ii) 25% or more of the voting rights in respect of the corporation;
 - (b) the individual has the right, directly or indirectly, to appoint or remove from office the majority of the board of directors of the corporation;
 - (c) the individual has the right to exercise or does exercise, under a unanimous shareholders' agreement or otherwise, significant influence or control over the corporation;
 - (d) the individual has a prescribed right or interest in relation to the corporation.
- (2) For the purposes of subsection (1) (a) or (b), a direct or indirect interest, power or right includes an interest, power or right that an individual has
- (a) alone,
 - (b) together with one or more persons with common interests, or
 - (c) through
 - (i) a corporation,
 - (ii) a trustee of a trust,
 - (iii) a personal or legal representative,
 - (iv) an agent, or
 - (v) any other intermediary.

Meaning of "partnership interest holder"

- 4 Subject to the exclusions, if any, in the regulations, an individual is a partnership interest holder in relation to an interest in a residential property registered in the name of a partner in a partnership if the interest in the residential property is partnership property and either of the following applies:
- (a) the individual has an interest, as a partner in the partnership, in the interest in the residential property;
 - (b) the individual is a corporate interest holder in respect of a corporation
 - (i) that is a partner in the partnership, and
 - (ii) that has an interest, as a partner in the partnership, in the interest in the residential property.

Meaning of "untaxed worldwide earner"

- 5 (1) In this section:

"assessment" has the same meaning as in section 248 (1) of the federal Act;

"reported total income", in relation to an individual for a calendar year, means the total of the following amounts each of which is applicable to the individual for an income taxation year of the individual that ends in the immediately preceding calendar year:

- (a) if the individual has been assessed under Part I of the federal Act for the income taxation year, the amount described on the assessment as the individual's total income for the purposes of line 150 of a return for that income taxation year;
- (b) if the individual has filed a return for the income taxation year but an assessment has not been issued to the individual under Part I of the federal Act, the amount the individual reported as the individual's total income for the purposes of line 150 of a return for that income taxation year;
- (c) if the individual is, at any time in the income taxation year, resident in Canada for the purposes of the federal Act, is not required to file a return and has not filed a return, the amount the individual would be required to report as the individual's total income for the purposes of line 150 of a

return for the income taxation year if the individual were to file a return for that income taxation year;

- (d) if the individual is not, at any time in the income taxation year, resident in Canada for the purposes of the federal Act, is not required to file a return and has not filed a return, nil;
- (e) if the individual is required to file a return under the federal Act for the income taxation year but has not filed a return for that income taxation year, nil;

"return" means a return of income for the purposes of Part I of the federal Act;

"unreported income", in relation to an individual for a calendar year, means the total of all amounts the individual earns or realizes in any manner inside or outside Canada, including amounts earned or realized from the disposition of property, if the amounts

- (a) are earned or realized in the immediately preceding calendar year, and
- (b) have not been reported in respect of the individual for the purposes of the federal Act,

but does not include an amount expended to earn or realize those amounts.

(2) For the purposes of the definition of "unreported income", a reference to an amount is a reference to money, rights or things expressed in terms of the amount of money or the value in terms of money of the right or thing, unless the money, right or thing is prescribed.

(3) The following rules apply for the purposes of this section:

- (a) an individual who is not subject to taxation under Part I of the federal Act must determine the individual's income taxation year as if the individual were subject to taxation under Part I of the federal Act;
- (b) the calculation of an individual's reported total income and unreported income is not affected by section 7 [*owner treated as separate person in certain circumstances*].

(4) An individual is an untaxed worldwide earner for a calendar year if

- (a) the total of the individual's unreported income for the calendar year and the unreported income for the calendar year of any spouse of the individual

is greater than

- (b) the total of the individual's reported total income for the calendar year and the reported total income for the calendar year of any spouse of the individual.

Division 2 — Interpretation and Special Rules

References in Act and regulations

- 6 (1) Except in this Part, a reference in this Act and the regulations to a residential property is a reference to a residential property located wholly or partly within a specified area.
- (2) Unless a contrary intention appears, a reference in this Act and the regulations to an owner of a residential property in relation to a calendar year is a reference to a person who is an owner of the residential property at the end of the last day of the calendar year.
- (3) Unless a contrary intention appears, a reference in this Act and the regulations to a person who is the spouse of an individual in relation to a calendar year is a reference to a person who is the spouse of that individual at the end of the last day of the calendar year.
- (4) A reference in this Act and the regulations to an assessment roll in relation to a calendar year is a reference to an assessment roll that, under the *Assessment Act*, is completed for the immediately following calendar year.

Owner treated as separate person in certain circumstances

- 7 (1) If an owner holds an interest in a residential property for a calendar year as a partner in a partnership, this Act and the regulations apply to the owner for the calendar year as if
 - (a) the owner were a separate person in respect of any interest in a residential property held by the person other than as a partner in a partnership, and
 - (b) the owner were a separate person in respect of each partnership in which the owner is a partner.
- (2) If an owner holds an interest in a residential property for a calendar year as a trustee of a trust, this Act and the regulations apply to the owner for the calendar year as if
 - (a) the owner were a separate person in respect of any interest in a residential property held by the person other than as a trustee of a trust, and

- (b) the owner were a separate person in respect of each trust for which the owner is a trustee.

Determining owner's interest in residential property

- 8** (1) If only one owner holds an interest in a residential property at the end of the last day of a calendar year, the owner's interest in the residential property for the calendar year is the entire interest.
- (2) If 2 or more owners each hold an interest in a residential property at the end of the last day of a calendar year, each owner's interest in the residential property for the calendar year is determined as follows:
- (a) owners who are joint tenants are considered to have equal interests in the residential property;
 - (b) owners who are tenants in common are considered to have one of the following, as applicable:
 - (i) the interest specified on the title to the residential property, in the registered agreement for sale or in the registered lease;
 - (ii) if no interest is specified in an instrument referred to in subparagraph (i), equal interests.

Rules relating to residential property

- 9** (1) For the purposes of this Act, the administrator may treat 2 or more residential properties as a single residential property for a calendar year if all of the following apply:
- (a) each of the residential properties is within a specified area;
 - (b) the residential properties are contiguous;
 - (c) the residential properties are owned by the same person or persons;
 - (d) on the first day of the calendar year, one of the residential properties includes a residence;
 - (e) the residential properties are used for the residence or for purposes ancillary to or in conjunction with the residence.
- (2) For the purposes of determining whether a residential property located wholly or partly within a specified area is subject to tax for a calendar year, the administrator may, in the circumstances set out in subsection (3), consider whether a residential property located wholly

outside a specified area would be subject to tax for the calendar year if the residential property were located within a specified area.

(3) Subsection (2) applies in the following circumstances:

- (a) the residential property located wholly or partly within a specified area is contiguous to the residential property located wholly outside the specified area;
- (b) the residential property located wholly or partly within the specified area is owned by the same person or persons as the residential property located wholly outside the specified area;
- (c) on the first day of the calendar year, either the residential property located wholly or partly within the specified area or the residential property located wholly outside the specified area includes a residence.

(4) For the purposes of this section, a residential property is considered to include a residence on the first day of a calendar year and to be used for a residence, or for purposes ancillary to or in conjunction with the residence, if

- (a) a residence that is part of the residential property is, in the immediately preceding calendar year, substantially damaged or destroyed as contemplated by section 24 [*exemption for hazardous or damaged residential property*], and
- (b) because of the substantial damage or destruction, the residential property does not include a residence on the first day of the calendar year.

(5) For the purposes of this section, a residential property is considered to include a residence on the first day of a calendar year and to be used for a residence, or for purposes ancillary to or in conjunction with the residence, if

- (a) building activity, as defined in section 40 [*definitions*], has started or is continuing in relation to a residence being constructed or placed on the residential property, and
- (b) because of the stage of the building activity, the residential property does not include a residence on the first day of the calendar year.

Rules relating to principal residence of spouses

10 (1) Subject to this section, if an individual and a person who is, for a calendar year, the individual's spouse each have a separate principal residence for the calendar year, for the purposes of this Act, the spouses are considered to have only one principal residence between them for the calendar year, determined as follows:

(a) the principal residence of the spouses for the calendar year is the residence

(i) that would, but for this section, be the principal residence of one of the spouses for the calendar year, and

(ii) that is designated for the calendar year by each spouse in the form and manner required by the administrator;

(b) if no residence is designated for the calendar year by the spouses or each spouse designates a different residence for the calendar year, the principal residence of the spouses for the calendar year is the residence designated by the administrator.

(2) An individual and a person who is, for a calendar year, the individual's spouse may each be considered to have a separate principal residence for the calendar year if

(a) the spouses live separate and apart to enable one of them to carry on business or work in a particular location, and

(b) either of the following applies:

(i) the principal residence of one spouse is located on Vancouver Island and the principal residence of the other spouse is not;

(ii) the distance between the principal residence of the spouse carrying on business or working in the particular location referred to in paragraph (a) and that particular location is at least 100 km less than the distance between the principal residence of the other spouse and that particular location.

(3) An individual and a person who is, for a calendar year, the individual's spouse may each be considered to have a separate principal residence for the calendar year

(a) if, in the opinion of a medical practitioner, one of the spouses has a health condition the ongoing management of

which requires that spouse to reside in a different residence from the other spouse, and

- (b) if an owner of the residential property that includes the principal residence of the spouse with the health condition files, with a declaration, a document that is completed by the medical practitioner.

(4) The document completed by the medical practitioner must be

- (a) filed in the manner required by the administrator, and
- (b) in the form and contain the information required by the administrator.

Provincial nominees

11 (1) For the purposes of this Act, an individual who becomes a provincial nominee in a calendar year and the individual's spouse, if any, are deemed to be residents of British Columbia at the end of the last day of the calendar year if, at that time, the individual is

- (a) a provincial nominee,
- (b) a Canadian citizen, or
- (c) a permanent resident of Canada.

(2) The individual and the individual's spouse, if any, are deemed to be residents of British Columbia at the end of the last day of the calendar year immediately following the calendar year referred to in subsection (1) if, at that time, the individual is

- (a) a provincial nominee,
- (b) a Canadian citizen, or
- (c) a permanent resident of Canada.

Arm's length dealings

12 (1) Sections 251 and 252 of the federal Act apply for the purposes of this Act.

(2) In applying section 251 of the federal Act for the purposes of this Act, subsection (1) of that section is to be read as if paragraph (b) were excluded.

Division 3 — Application of Act

Application of Act

13 This Act applies to calendar years beginning on or after January 1, 2018.

Part 2 — Imposition of Tax

Tax on value of residential property

14 An owner of a residential property must, for a calendar year, pay tax to the government in the amount determined by the following formula:

$$\text{tax payable} = \text{tax rate} \times (\text{owner's interest} \times \text{assessed value})$$

where

tax rate	=	the tax rate applicable under section 15, 16, 17, 18 or 19 to the owner for the calendar year;
owner's interest	=	the owner's interest in the residential property, expressed as a percentage;
assessed value	=	the assessed value of the residential property determined on July 1 of the calendar year.

Highest tax rate — other owners

- 15 (1) For the purposes of section 14, a tax rate of 2% is applicable for a calendar year to an owner of a residential property unless section 16 (1) or 17 (1) applies to the owner for the calendar year.
- (2) Without limiting subsection (1), a tax rate of 2% is applicable to an owner of a residential property if the owner is a corporation in respect of which there are no corporate interest holders.

Lowest tax rate — specified Canadian citizens and specified permanent residents of Canada

- 16 (1) For the purposes of section 14, a tax rate of 0.5% is applicable for a calendar year to an owner of a residential property to whom this subsection applies unless section 17 (1) applies to the owner for the calendar year.
- (2) Subsection (1) applies to an owner, other than an owner whose interest in the residential property is held as a partner in a partnership or as a trustee of a trust, if the owner
- (a) is an individual who is, at the end of the last day of the calendar year, a specified Canadian citizen or a specified permanent resident of Canada, or
 - (b) is a corporation in respect of which all of the corporate interest holders are, at the end of the last day of the

calendar year, specified Canadian citizens or specified permanent residents of Canada.

(3) Subsection (1) applies to an owner whose interest in the residential property is held as a partner in a partnership if, at the end of the last day of the calendar year,

(a) all of the partnership interest holders in respect of the interest in the residential property are specified Canadian citizens or specified permanent residents of Canada, and

(b) none of the partners in the partnership is

(i) a corporation in respect of which there are no corporate interest holders, or

(ii) a partnership.

(4) Subsection (1) applies to an owner whose interest in the residential property is held as a trustee of a trust if all of the beneficial owners in respect of the interest in the residential property are, at the end of the last day of the calendar year, specified Canadian citizens or specified permanent residents of Canada.

Lowest tax rate — residents of British Columbia

17 (1) For the purposes of section 14, a tax rate of 0.5% is applicable for a calendar year to an owner of a residential property to whom this subsection applies.

(2) Subsection (1) applies to an owner, other than an owner whose interest in the residential property is held as a partner in a partnership or as a trustee of a trust, if the owner

(a) is an individual who is a resident of British Columbia at the end of the last day of the calendar year, or

(b) is a corporation in respect of which all of the corporate interest holders are residents of British Columbia at the end of the last day of the calendar year.

(3) Subsection (1) applies to an owner whose interest in the residential property is held as a partner in a partnership if, at the end of the last day of the calendar year,

(a) all of the partnership interest holders in respect of the interest in the residential property are residents of British Columbia, and

(b) none of the partners in the partnership is

- a corporation in respect of which there are no
- (i) corporate interest holders, or
- (ii) a partnership.

(4) Subsection (1) applies to an owner whose interest in the residential property is held as a trustee of a trust if, at the end of the last day of the calendar year, all of the beneficial owners in respect of the interest in the residential property are residents of British Columbia.

Tax rate applicable if no declaration filed

18 Despite sections 15, 16 and 17, for the purposes of section 14, a tax rate of 2% is applicable for a calendar year to every owner of a residential property who fails to file a declaration for the calendar year.

Tax rate applicable for 2018 calendar year

19 Despite sections 15, 16, 17 and 18, for the purposes of section 14, a tax rate of 0.5% is applicable to every owner of a residential property for the 2018 calendar year.

Part 3 — Exemptions from Tax

Division 1 — Exemptions for Certain Owners

Exemption for specified owners

20 An owner of a residential property is, for a calendar year, exempt from tax in respect of the owner's interest in the residential property if the owner is one of the following at the end of the last day of the calendar year:

- (a) a registered charity as defined in section 248 (1) of the federal Act;
- (b) an association as defined in section 1 (1) of the *Cooperative Association Act*;
- (c) a municipality;
- (d) the government;
- (e) an agent of the government;
- (f) an Indigenous nation;
- (g) an organization included in the government reporting entity as defined in section 1 (1) of the *Budget Transparency and Accountability Act*;

- (h) a government body as defined in section 1 of the *Financial Administration Act*;
- (i) a local public body as defined in Schedule 1 [Definitions] of the *Freedom of Information and Protection of Privacy Act*;
- (j) a body referred to in Schedule 2 [Public Bodies] of the *Freedom of Information and Protection of Privacy Act*;
- (k) a corporation owned by a municipality;
- (l) a corporation owned by a regional district;
- (m) a corporation owned by an Indigenous nation;
- (n) a corporation incorporated or continued by an enactment;
- (o) a prescribed person or entity or a person or entity in a prescribed class of persons or entities.

Exemption for not-for-profit corporations

21 An owner of a residential property is, for a calendar year, exempt from tax in respect of the owner's interest in the residential property if both of the following apply:

- (a) the owner is, at the end of the last day of the calendar year, a not-for-profit corporation whose interest in the residential property is held other than as a partner in a partnership or as a trustee of a trust;
- (b) during the calendar year, the residential property is primarily used for a prescribed purpose.

Exemption for bankrupts

- 22** (1) An owner of a residential property is, for a calendar year, exempt from tax in respect of the owner's interest in the residential property if the owner is, at the end of the last day of the calendar year, a person whose interest in the residential property is held as a trustee in bankruptcy.
- (2) An owner of a residential property is, for a calendar year, exempt from tax in respect of the owner's interest in the residential property if the owner's interest in the residential property is vested in a trustee in bankruptcy
- (a) for a period of at least 60 consecutive days in the calendar year, or
 - (b) at the end of the last day of that calendar year.

Exemption for Indigenous nations

- 23** An owner of a residential property is, for a calendar year, exempt from tax in respect of the owner's interest in the residential property if the owner is, at the end of the last day of the calendar year, a person whose interest in the residential property is held as a trustee of a trust for the benefit of an Indigenous nation.

Division 2 — Exemptions for Certain Residential Property**Exemption for hazardous or damaged residential property**

- 24** (1) In this section:

"hazardous condition", in relation to a residence that is part of a residential property, means

- (a) a structural component of the residence, including, without limitation, the roof, the foundation, external walls, interior supporting walls, floors and staircases, is defective or damaged,
- (b) oil, gas or another poisonous or dangerous substance is present in the residence, or
- (c) any other condition relating to the residence that is hazardous to the health or safety of its occupants;

"disaster" means

- (a) an earthquake,
- (b) a fire,
- (c) a flood,
- (d) a landslide,
- (e) a spill or leakage of oil, gas or another poisonous or dangerous substance, or
- (f) any other natural disaster or dangerous event.

- (2) A residential property is exempt from tax for a calendar year if all of the following apply:

- (a) in the calendar year, a residence that is part of the residential property
 - (i) becomes uninhabitable because it is substantially damaged or destroyed by a disaster, or

- becomes uninhabitable because the residence is in a hazardous condition;
- (b) ⁽ⁱⁱ⁾ the disaster or hazardous condition was caused by circumstances beyond the reasonable control of an owner of the residential property;
- (c) the residence remains uninhabitable for a period of at least 60 consecutive days in the calendar year.
- (3) The residential property is exempt from tax for the calendar year immediately following the calendar year referred to in subsection (2) if the residence that is part of the residential property is not repaired or replaced, as the case may be, to the extent that the residence can be inhabited before March 1 in the calendar year immediately following the calendar year referred to in subsection (2).

Exemption for daycares

25 (1) In this section:

"care" has the same meaning as in section 1 of the *Community Care and Assisted Living Act*;

"child" has the same meaning as in section 1 of the *Community Care and Assisted Living Act*;

"community care facility" has the same meaning as in section 1 of the *Community Care and Assisted Living Act*.

- (2) A residential property is exempt from tax for a calendar year if the residential property is, on October 31 of the calendar year, used as a child daycare other than a daycare that
- (a) is operated out of a residence that is part of the residential property, and
- (b) is not a community care facility licensed under the *Community Care and Assisted Living Act* to provide care to a child.

Exemption for residential property without a residence — 2018 calendar year

- 26** A residential property is exempt from tax for the 2018 calendar year if, on the date this Act receives First Reading in the Legislative Assembly, the residential property does not include a residence or any part of an improvement that is intended to be a residence.

Exemption for strata accommodation properties — 2018 and 2019 calendar years

- 27** (1) In this section, "**strata accommodation property**" has the same meaning as in section 19 (1) of the *Assessment Act*.
- (2) A residential property is exempt from tax for the 2018 and 2019 calendar years if the residential property is a strata accommodation property on an assessment roll for the applicable calendar year.

Division 3 — Exemptions Relating to Principal Residence**Definitions**

28 In this Division:

"eligible individual", in relation to an owner of a residential property for a calendar year, means any of the following:

- (a) an individual who is a corporate interest holder in respect of a corporation that is an owner of the residential property if
 - (i) the corporation holds the interest in the residential property other than as a partner in a partnership or as a trustee of a trust, and
 - (ii) all of the corporate interest holders in respect of the corporation are residents of British Columbia at the end of the last day of the calendar year;
- (b) an individual who is a partnership interest holder in respect of an interest in the residential property if
 - (i) the owner of the residential property who holds the interest in the residential property holds the interest as a partner in a partnership,
 - (ii) all of the partnership interest holders in respect of the interest in the residential property are residents of British Columbia at the end of the last day of the calendar year, and
 - (iii) none of the partners in the partnership is a corporation in respect of which there are no corporate interest holders or a partnership;
- (c) an individual who is a beneficial owner in respect of an interest in the residential property if
 - (i) the owner of the residential property who holds the interest in the residential property holds the interest as a trustee of a trust, and

- (ii) all of the beneficial owners in respect of the interest in the residential property are residents of British Columbia at the end of the last day of the calendar year;

"eligible owner", in relation to a residential property for a calendar year, means an owner of the residential property if the owner is an individual

- (a) whose interest in the residential property is held other than as a partner in a partnership or as a trustee of a trust,
- (b) who is a resident of British Columbia at the end of the last day of the calendar year, and
- (c) who is not, on the last day of the calendar year, a minor living with the minor's parent or guardian in a residence that is part of the residential property.

Principal residence exemption — general

29 An owner of a residential property is, for a calendar year, exempt from tax in respect of the owner's interest in the residential property if a residence that is part of the residential property is, for the calendar year, the principal residence of one of the following:

- (a) the owner, if the owner is an individual who is an eligible owner;
- (b) an individual who is, for the calendar year, an eligible individual in relation to the owner.

Principal residence exemption — person with disabilities

30 (1) A residential property is exempt from tax for a calendar year if a residence that is part of the residential property is, for the calendar year, the principal residence of a person who is a person with disabilities at any time in that calendar year.

(2) A designation made under section 10 (1) *[rules relating to principal residence of spouses]* does not apply for the purposes of this section.

Principal residence exemption — other

31 (1) Subject to subsection (2), an owner of a residential property is, for a calendar year, exempt from tax in respect of the owner's interest in the residential property if all of the following apply:

a residence that is part of the residential property is, for the calendar year, the principal residence of one of the

(a) following:

(i) the owner, if the owner is an individual who would have been an eligible owner had the individual been a resident of British Columbia at the end of the last day of the calendar year;

(ii) an individual who would have been an eligible individual in relation to the owner for the calendar year if

(A) the individual had been a resident of British Columbia at the end of the last day of the calendar year, and

(B) the owner is an owner who would have been an owner referred to in paragraph (a), (b) or (c) of the definition of "eligible individual" and in respect of whom all of the applicable requirements would have been met had an individual referred to in clause (A) not ceased residing in British Columbia before the end of the last day of the calendar year;

(b) the individual referred to in paragraph (a) (i) or (ii), as applicable, ceases to reside in British Columbia before the end of the last day of the calendar year;

(c) the individual referred to in paragraph (a) (i) or (ii), as applicable, would have been a resident of British Columbia at a time in the calendar year before the individual ceased residing in British Columbia if residency were, for the purposes of the federal Act, determined at that time.

(2) Subsection (1) does not apply for a calendar year to an owner of a residential property in respect of the owner's interest in the residential property if

(a) the owner was exempt under this section in respect of the residential property for a calendar year immediately preceding the calendar year, and

(b) the owner was not exempt under section 29 [*principal residence exemption — general*] in respect of the residential property for any calendar year since the last calendar year for which the owner was exempt under this section.

Residence exempt despite residing in residential care facility

32 (1) In this section, "**residential care facility**" means a facility in which an individual resides primarily because of age, disability, addiction, illness, frailty or other prescribed circumstances if, in the facility, services are available to the residents, including, without limitation, any of the following:

- (a) daily meals;
- (b) housekeeping;
- (c) nursing care.

(2) Subject to this section, an owner of a residential property is, for a calendar year, exempt from tax in respect of the owner's interest in the residential property if both of the following apply:

(a) the owner was previously exempt under section 29 [*principal residence exemption — general*] in respect of the residential property for a calendar year specified in subsection (4) because a residence that is part of the residential property was, for the specified calendar year, the principal residence of one of the following:

- (i) the owner, if the owner is an individual who was an eligible owner for that specified calendar year;
- (ii) an individual who was an eligible individual in relation to the owner for that specified calendar year;

(b) the owner does not qualify for an exemption under section 29 in respect of the residential property for the calendar year because the same individual in respect of whom the owner was previously exempt under section 29 for the specified calendar year resides in a residential care facility for a longer period in the calendar year than any other place.

(3) Subject to this section, an owner of a residential property is, for a calendar year, exempt from tax in respect of the owner's interest in the residential property if all of the following apply:

(a) the owner is, for the calendar year, one of the following:

- (i) an individual who is an eligible owner;
- (ii) an owner referred to in paragraph (a), (b) or (c) of the definition of "eligible individual" and in respect of whom all of the requirements set out in the applicable paragraph are met;

(b) a residence that is part of the residential property was, for a calendar year specified in subsection (4), the principal residence of one of the following:

(i) the owner, if the owner is an individual who would have been an eligible owner for the specified calendar year had the individual been a resident of British Columbia at the end of the last day of that specified calendar year;

(ii) an individual who would have been an eligible individual in relation to the owner for the specified calendar year had the individual been a resident of British Columbia at the end of the last day of that specified calendar year;

(c) the owner was not previously exempt under section 29 in respect of the residential property for the specified calendar year because the individual referred to in paragraph (b) (i) or (ii), as applicable, was not a resident of British Columbia at the end of the last day of that specified calendar year;

(d) the owner does not qualify for an exemption under section 29 in respect of the residential property for the calendar year because the same individual referred to in paragraph (b) (i) or (ii), as applicable, resides in a residential care facility for a longer period in the calendar year than any other place.

(4) For the purposes of this section, the following calendar years are specified:

(a) the calendar year immediately preceding the calendar year referred to in subsection (2) or (3), as applicable;

(b) if the owner was exempt in respect of the residential property under one of the following provisions for the period comprising the calendar year immediately preceding the calendar year referred to in subsection (2) or (3), or for the period comprising 2 or more consecutive calendar years immediately preceding that calendar year, the calendar year immediately preceding the applicable period:

(i) this section;

(ii) section 24 [*exemption for hazardous or damaged residential property*];

- section 33 [*residence exempt despite extended medical absence*];
 - (iii)
 - (iv) section 34 [*residence exempt despite extended absence*];
 - (v) section 41 [*exemption for vacant residential property — construction or renovation*];
 - (vi) section 42 [*exemption for vacant heritage property — conservation*].
- (5) Subsections (2) and (3) do not apply for a calendar year to an owner of a residential property in respect of the owner's interest in the residential property if
 - (a) the owner was exempt under this section in respect of the residential property for the 2 calendar years immediately preceding the calendar year,
 - (b) the owner was exempt under this section in respect of the residential property for a total of 2 calendar years preceding the calendar year and was not exempt under section 29 in respect of the residential property for any calendar year since the last calendar year for which the owner was exempt under this section, or
 - (c) in respect of the individual who resides in a residential care facility for a longer period in the calendar year than any other place, the owner is, for the calendar year, exempt under this section in respect of the owner's interest in a different residential property.
- (6) For the purpose of determining whether this section applies in relation to a calendar year before the 2018 calendar year, the following rules apply:
 - (a) subsection (2) (a) and (b) is to be read as if the references to "was previously exempt" were references to "could have been previously exempt";
 - (b) subsection (3) (c) is to be read as if the reference to "was not previously exempt" were a reference to "could not previously have been exempt";
 - (c) subsection (4) (b) is to be read as if the reference to "was exempt" were a reference to "could have been exempt".

Residence exempt despite extended medical absence

- 33 (1) In this section, "**medical reason**", in relation to an individual for a calendar year, means participation in a course of treatment
- (a) that, in the opinion of a medical practitioner, is required for the health of the individual, and
 - (b) that is impractical for the individual to obtain in reasonably close proximity to the residence that would, but for the absence contemplated by this section, be the principal residence of the individual for the calendar year.
- (2) Subject to this section, an owner of a residential property is, for a calendar year, exempt from tax in respect of the owner's interest in the residential property if both of the following apply:
- (a) the owner was previously exempt under section 29 [*principal residence exemption — general*] in respect of the residential property for a calendar year specified in subsection (4) because a residence that is part of the residential property was, for the specified calendar year, the principal residence of one of the following:
 - (i) the owner, if the owner is an individual who was an eligible owner for that specified calendar year;
 - (ii) an individual who was an eligible individual in relation to the owner for that specified calendar year;
 - (b) the owner does not qualify for an exemption under section 29 in respect of the residential property for the calendar year because the same individual in respect of whom the owner was previously exempt under section 29 for the specified calendar year resides, for a medical reason related to
 - (i) that individual,
 - (ii) a person who is, for the calendar year, the spouse of that individual, or
 - (iii) a person who is the child of that individual and, at any time in the calendar year, a minor,in a location other than the residence referred to in paragraph (a) of this subsection for a longer period in the calendar year than any other place.
- (3) Subject to this section, an owner of a residential property is, for a calendar year, exempt from tax in respect of the owner's interest in the residential property if all of the following apply:

- (a) the owner is, for the calendar year, one of the following:
 - (i) an individual who is an eligible owner;
 - (ii) an owner referred to in paragraph (a), (b) or (c) of the definition of "eligible individual" and in respect of whom all of the requirements set out in the applicable paragraph are met;
 - (b) a residence that is part of the residential property was, for a calendar year specified in subsection (4), the principal residence of one of the following:
 - (i) the owner, if the owner is an individual who would have been an eligible owner for the specified calendar year had the individual been a resident of British Columbia at the end of the last day of that specified calendar year;
 - (ii) an individual who would have been an eligible individual in relation to the owner for the specified calendar year had the individual been a resident of British Columbia at the end of the last day of that specified calendar year;
 - (c) the owner was not previously exempt under section 29 in respect of the residential property for the specified calendar year because the individual referred to in paragraph (b) (i) or (ii), as applicable, was not a resident of British Columbia at the end of the last day of that specified calendar year;
 - (d) the owner does not qualify for an exemption under section 29 in respect of the residential property for the calendar year because that same individual referred to in paragraph (b) (i) or (ii), as applicable, resides, for a medical reason related to
 - (i) that individual,
 - (ii) a person who is, for the calendar year, the spouse of that individual, or
 - (iii) a person who is the child of that individual and, at any time in the calendar year, a minor,in a location other than the residence referred to in paragraph (b) of this subsection for a longer period in the calendar year than any other place.
- (4) For the purposes of this section, the following calendar years are specified:

- (a) the calendar year immediately preceding the calendar year referred to in subsection (2) or (3), as applicable;
 - (b) if the owner was exempt in respect of the residential property under one of the following provisions for the period comprising the calendar year immediately preceding the calendar year referred to in subsection (2) or (3), or for the period comprising 2 or more consecutive calendar years immediately preceding that calendar year, the calendar year immediately preceding the applicable period:
 - (i) this section;
 - (ii) section 24 *[exemption for hazardous or damaged residential property]*;
 - (iii) section 34 *[residence exempt despite extended absence]*;
 - (iv) section 41 *[exemption for vacant residential property — construction or renovation]*;
 - (v) section 42 *[exemption for vacant heritage property — conservation]*.
- (5) Subsections (2) and (3) do not apply for a calendar year to an owner of a residential property in respect of the owner's interest in the residential property if
- (a) the owner was exempt under this section in respect of the residential property and in respect of the same medical reason for the 2 calendar years immediately preceding the calendar year,
 - (b) both of the following apply:
 - (i) the owner was exempt under this section in respect of the residential property and in respect of the same medical reason for a total of 2 calendar years preceding the calendar year;
 - (ii) the owner was not exempt under section 29 in respect of the residential property for any calendar year since the last calendar year for which the owner was exempt under this section in respect of the residential property for the medical reason referred to in subparagraph (i), or
 - (c) in respect of the individual who resides in a location other than the residence referred to in subsection (2) (a) or (3) (b), as applicable, for a longer period in the calendar year

than any other place, the owner is, for the calendar year, exempt under this section in respect of a different residential property.

- (6) For the purposes of determining whether this section applies in relation to a calendar year before the 2018 calendar year, the following rules apply:
- (a) subsection (2) (a) and (b) is to be read as if the references to "was previously exempt" were references to "could have been previously exempt";
 - (b) subsection (3) (c) is to be read as if the reference to "was not previously exempt" were a reference to "could not previously have been exempt";
 - (c) subsection (4) (b) is to be read as if the reference to "was exempt" were a reference to "could have been exempt".
- (7) In order to claim an exemption under this section, the owner referred to in subsection (2) or (3), as applicable, must file, with a declaration, a document that is completed by a medical practitioner.
- (8) The document that is completed by the medical practitioner must be
- (a) filed in the manner required by the administrator, and
 - (b) in the form and contain the information required by the administrator.

Residence exempt despite extended absence

- 34** (1) Subject to this section, an owner of a residential property is, for a calendar year, exempt from tax in respect of the owner's interest in the residential property if both of the following apply:
- (a) the owner was previously exempt under section 29 [*principal residence exemption — general*] in respect of the residential property for a calendar year specified in subsection (3) because a residence that is part of the residential property was, for the specified calendar year, the principal residence of one of the following:
 - (i) the owner, if the owner is an individual who was an eligible owner for that specified calendar year;
 - (ii) an individual who was an eligible individual in relation to the owner for that specified calendar year;
 - (b) the owner does not qualify for an exemption under section 29 in respect of the residential property for the calendar

year because the same individual in respect of whom the owner was previously exempt under section 29 for the specified calendar year resides in a location other than the residence referred to in paragraph (a) of this subsection for a longer period in the calendar year than any other place.

- (2) Subject to this section, an owner of a residential property is, for a calendar year, exempt from tax in respect of the owner's interest in the residential property if all of the following apply:
- (a) the owner is, for the calendar year, one of the following:
 - (i) an individual who is an eligible owner;
 - (ii) an owner referred to in paragraph (a), (b) or (c) of the definition of "eligible individual" and in respect of whom all of the requirements set out in the applicable paragraph are met;
 - (b) a residence that is part of the residential property was, for a calendar year specified in subsection (3), the principal residence of one of the following:
 - (i) the owner, if the owner is an individual who would have been an eligible owner for the specified calendar year had the individual been a resident of British Columbia at the end of the last day of that specified calendar year;
 - (ii) an individual who would have been an eligible individual in relation to the owner for the specified calendar year had the individual been a resident of British Columbia at the end of the last day of that specified calendar year;
 - (c) the owner was not previously exempt under section 29 in respect of the residential property for the specified calendar year because the individual referred to in paragraph (b) (i) or (ii), as applicable, was not a resident of British Columbia at the end of the last day of that specified calendar year;
 - (d) the owner does not qualify for an exemption under section 29 in respect of the residential property for the calendar year because the same individual referred to in paragraph (b) (i) or (ii), as applicable, resides in a location other than the residence referred to in paragraph (b) of this subsection for a longer period in the calendar year than any other place.

- (3) For the purposes of this section, the following calendar years are specified:
- (a) the calendar year immediately preceding the calendar year referred to in subsection (1) or (2), as applicable;
 - (b) if the owner was exempt in respect of the residential property under one of the following provisions for the period comprising the calendar year immediately preceding the calendar year referred to in subsection (1) or (2), or for the period comprising 2 or more consecutive calendar years immediately preceding that calendar year, the calendar year immediately preceding the applicable period:
 - (i) this section;
 - (ii) section 24 *[exemption for hazardous or damaged residential property]*;
 - (iii) section 32 *[residence exempt despite residing in residential care facility]*;
 - (iv) section 33 *[residence exempt despite extended medical absence]*;
 - (v) section 41 *[exemption for vacant residential property — construction or renovation]*;
 - (vi) section 42 *[exemption for vacant heritage property — conservation]*.
- (4) Subsections (1) and (2) do not apply for a calendar year to an owner of a residential property in respect of the owner's interest in the residential property if
- (a) the individual referred to in subsection (1) (a) (i) or (ii) or (2) (b) (i) or (ii), as applicable, is absent from the residential property for an extended period in the calendar year because the individual is incarcerated,
 - (b) the owner was exempt under this section in respect of the residential property for one out of the 10 calendar years immediately preceding the calendar year, or
 - (c) in respect of the individual who resides in a location other than the residence referred to in subsection (1) (a) or (2) (b), as applicable, the owner is, for the calendar year, exempt under this section in respect of a different residential property.

For the purposes of determining whether this section applies in relation to a calendar year before the 2018 calendar year, the following rules apply:

- (a) subsection (1) (a) and (b) is to be read as if the references to "was previously exempt" were references to "could have been previously exempt";
- (b) subsection (2) (c) is to be read as if the reference to "was not previously exempt" were a reference to "could not previously have been exempt";
- (c) subsection (3) (b) is to be read as if the reference to "was exempt" were a reference to "could have been exempt".

Additional residential property exempt — certain spouses

35 (1) An owner of a residential property is, for a calendar year, exempt from tax in respect of the owner's interest in the residential property if all of the following apply:

- (a) the owner is, for the calendar year, one of the following:
 - (i) an individual who is an eligible owner;
 - (ii) an owner referred to in paragraph (a), (b) or (c) of the definition of "eligible individual" and in respect of whom all of the requirements set out in the applicable paragraph are met;
- (b) one of the following applies:
 - (i) in the case of an owner referred to in paragraph (a) (i), the owner is the spouse of another person for the calendar year;
 - (ii) in the case of an owner referred to in paragraph (a) (ii), an individual who is an eligible individual in relation to the owner for the calendar year is the spouse of another person for the calendar year;
- (c) because of the application of section 10 (2) or (3) *[rules relating to principal residence of spouses]*, the spouses referred to in paragraph (b) (i) or (ii) of this subsection, as applicable, are each considered to have a separate principal residence for the calendar year;
- (d) a residence that is part of the residential property is, for the calendar year, the principal residence of only one of the spouses referred to in paragraph (b) (i) or (ii), as applicable.

- (2) An owner of a residential property is, for a calendar year, exempt from tax in respect of the owner's interest in the residential property if all of the following apply:
- (a) the owner is, for the calendar year, one of the following:
 - (i) an individual who is an eligible owner;
 - (ii) an owner described in paragraph (a), (b) or (c) of the definition of "eligible individual" and in respect of whom all of the requirements set out in the applicable paragraph are met;
 - (b) one of the following applies:
 - (i) in the case of an owner referred to in paragraph (a) (i), the owner is the spouse of another person for the calendar year;
 - (ii) in the case of an owner referred to in paragraph (a) (ii), an individual who is an eligible individual in relation to the owner for the calendar year is the spouse of another person for the calendar year;
 - (c) but for a designation under section 10 (1) [*rules relating to principal residence of spouses*], the spouses referred to in paragraph (b) (i) or (ii), as applicable, would each have a separate principal residence for the calendar year;
 - (d) a residence that is part of the residential property
 - (i) has not been designated for the calendar year as the principal residence of the spouses referred to in paragraph (b) (i) or (ii), as applicable,
 - (ii) is, despite the designation of a different residence, the principal residence for the calendar year of one of the spouses referred to in paragraph (b) (i) or (ii), as applicable, and
 - (iii) is not, for the calendar year, the principal residence of the other spouse only because that spouse is, for the calendar year, an individual who is
 - (A) absent for a reason contemplated in section 32 [*residence exempt despite residing in residential care facility*], 33 [*residence exempt despite extended medical absence*] or 34 [*residence exempt despite extended absence*], and
 - (B) exempt in respect of the residential property under a provision referred to in clause (A) or

who would be exempt if the individual were an owner of that residential property.

Division 4 — Exemptions for Tenanted Residential Property

Definitions and interpretation

36 (1) In this Division:

"arm's length tenant", in relation to an owner of a residential property, means, subject to subsection (4), an individual

- (a) who occupies, under a tenancy agreement, a residence that is part of the residential property, and
- (b) who, on the date the tenancy agreement comes into effect, deals at arm's length with the following:
 - (i) if the owner of the residential property is an individual whose interest in the residential property is held other than as a partner in a partnership or as a trustee of a trust, the owner;
 - (ii) if the owner of the residential property is a corporation whose interest in the residential property is held other than as a partner in a partnership or as a trustee of a trust, all of the corporate interest holders in respect of the corporation;
 - (iii) if the owner of the residential property is a person whose interest in the residential property is held as a partner in a partnership, all of the partnership interest holders in respect of the interest in the residential property;
 - (iv) if the owner of the residential property is a person whose interest in the residential property is held as a trustee of a trust, all of the beneficial owners in respect of the interest in the residential property,

but does not include an individual described in paragraph (a) if the owner of the residential property is a person whose interest in the residential property is held as a partner in a partnership in which any of the partners is a partnership;

"non-arm's length tenant", in relation to an owner of a residential property, means, subject to subsection (5), an individual

- who occupies, for a period of at least one month, a residence that is part of the residential property, and
- (a) who, at any time during a period of occupation, does not deal at arm's length with any of the following:
- (i) if the owner of the residential property is an individual whose interest in the residential property is held other than as a partner in a partnership or as a trustee of a trust,
 - (A) the owner, or
 - (B) the spouse, if any, of the owner referred to in clause (A);
 - (ii) if the owner of the residential property is a corporation whose interest is held other than as a partner in a partnership or as a trustee of a trust,
 - (A) a corporate interest holder in respect of the corporation, or
 - (B) the spouse, if any, of a corporate interest holder referred to in clause (A);
 - (iii) if the owner of the residential property is a person whose interest in the residential property is held as a partner in a partnership,
 - (A) a partnership interest holder in respect of the interest in the residential property, or
 - (B) the spouse, if any, of a partnership interest holder referred to in clause (A);
 - (iv) if the owner of the residential property is a person whose interest in the residential property is held as a trustee of a trust,
 - (A) a beneficial owner in respect of the interest in the residential property, or
 - (B) the spouse, if any, of a beneficial owner referred to in clause (A),

but does not include an individual described in paragraph (a) who occupies a residence that is part of the residential property under a tenancy agreement if, on the date the tenancy agreement comes into effect, the individual is an arm's length tenant in relation to the owner;

"tenancy agreement" means an agreement, in writing, that

- (a) is a tenancy agreement as defined in section 1 of the *Residential Tenancy Act*, and

(b) provides for a tenancy on a monthly or longer basis;

"tenant" means an arm's length tenant or a non-arm's length tenant.

- (2) For the purposes of this Division, other than section 37 [*tenancy exemption for widely held owners*], a residence that is part of a residential property is occupied by an arm's length tenant for each month in a calendar year that
- (a) the tenant is entitled, under a tenancy agreement, to occupy the residence, and
 - (b) the residence is a place the tenant makes the tenant's home.
- (3) For the purposes of this Division, other than section 37, a residence that is part of a residential property is occupied by a non-arm's length tenant for each month in a calendar year that
- (a) the tenant has permission from one of the owners of the residential property to occupy the residence, and
 - (b) the residence is the place in which the tenant resides for a longer period in the month than any other place.
- (4) An individual who is an arm's length tenant in relation to an owner of a residential property on the date a tenancy agreement applicable to the individual comes into effect may not be considered an arm's length tenant in relation to the owner for a calendar year for which the individual is the spouse of any of the following:
- (a) if the owner of the residential property is an individual whose interest in the residential property is held other than as a partner in a partnership or as a trustee of a trust, the owner;
 - (b) if the owner of the residential property is a corporation whose interest in the residential property is held other than as a partner in a partnership or as a trustee of a trust, a corporate interest holder in respect of the corporation;
 - (c) if the owner is a person whose interest in the residential property is held as a partner in a partnership, a partnership interest holder in respect of the interest in the residential property;

if the owner is a person whose interest in the residential property is held as a trustee of a trust, a beneficial owner in respect of the interest in the residential property.

(d)
(5) The following persons may not, for a calendar year, be considered a non-arm's length tenant in relation to an owner of a residential property:

- (a) if the owner of the residential property is an individual whose interest in the residential property is held other than as a partner in a partnership or as a trustee of a trust,
 - (i) the owner,
 - (ii) a person who is, for the calendar year, the spouse of the owner, or
 - (iii) a person who is a child of the owner if the child is a minor on the last day of the calendar year and living with the child's parent or guardian in a residence that is part of the residential property;
- (b) if the owner of the residential property is a corporation whose interest in the residential property is held other than as a partner in a partnership or as a trustee of a trust,
 - (i) a corporate interest holder in respect of the corporation,
 - (ii) a person who is, for the calendar year, the spouse of the corporate interest holder referred to in subparagraph (i), or
 - (iii) a person who is a child of the corporate interest holder referred to in subparagraph (i) if the child is a minor on the last day of the calendar year and living with the child's parent or guardian in a residence that is part of the residential property;
- (c) if the owner is a person whose interest in the residential property is held as a partner in a partnership,
 - (i) a partnership interest holder in respect of the interest in the residential property,
 - (ii) a person who is, for the calendar year, the spouse of the partnership interest holder referred to in subparagraph (i), or
 - (iii) a person who is a child of the partnership interest holder referred to in subparagraph (i) if the child is a minor on the last day of the calendar year and living

with the child's parent or guardian in a residence that is part of the residential property;

- (d) if the owner is a person whose interest in the residential property is held as a trustee of a trust,
 - (i) a beneficial owner respect of the interest in the residential property,
 - (ii) a person who is, for the calendar year, the spouse of the beneficial owner referred to in subparagraph (i), or
 - (iii) a person who is a child of the beneficial owner referred to in subparagraph (i) if the child is a minor on the last day of the calendar year and living with the child's parent or guardian in a residence that is part of the residential property.

Tenancy exemption for widely held owners

- 37** (1) In this section, "**designated stock exchange**" has the same meaning as in section 248 (1) of the federal Act.
- (2) An owner of a residential property is, for a calendar year, exempt from tax in respect of the owner's interest in the residential property if
- (a) a residence that is part of the residential property is occupied by an individual under a tenancy agreement for one or more periods each of which is at least one month in duration and that total at least 6 months in the calendar year, and
 - (b) the owner is one of the following at the end of the last day of the calendar year:
 - (i) a corporation, if the shares of the corporation are listed or traded on a designated stock exchange;
 - (ii) a person whose interest in the residential property is held as a trustee of a trust if the trust is any of the following:
 - (A) a mutual fund trust within the meaning of section 132 (6) of the federal Act;
 - (B) a real estate investment trust as defined in section 122.1 (1) of the federal Act;
 - (C) a SIFT trust as defined in section 122.1 (1) of the federal Act;

- a trust, if the investments in the trust are listed
 - (D) or traded on a designated stock exchange;
 - (iii) an owner in a prescribed class of owners.
- (3) Despite subsection (2), an owner of a residential property is, for the 2018 calendar year, exempt from tax in respect of the owner's interest in the residential property if
 - (a) a residence that is part of the residential property is occupied by an individual under a tenancy agreement for one or more periods each of which is at least one month in duration and that total at least 3 months in the calendar year, and
 - (b) the owner is one of the following at the end of the last day of the calendar year:
 - (i) a corporation, if the shares of the corporation are listed or traded on a designated stock exchange;
 - (ii) a person whose interest in the residential property is held as a trustee of a trust if the trust is any of the following:
 - (A) a mutual fund trust within the meaning of section 132 (6) of the federal Act;
 - (B) a real estate investment trust as defined in section 122.1 (1) of the federal Act;
 - (C) a SIFT trust as defined in section 122.1 (1) of the federal Act;
 - (D) a trust, if the investments in the trust are listed or traded on a designated stock exchange;
 - (iii) an owner in a prescribed class of owners.

Tenancy exemption for specified owners

- 38** (1) An owner of a residential property is, for the 2019 or a subsequent calendar year, exempt from tax in respect of the owner's interest in the residential property if
- (a) a residence that is part of the residential property is, for one or more periods that total at least 6 months in the calendar year, occupied by an individual who is, in relation to the owner of the residential property,
 - (i) an arm's length tenant occupying the residence in accordance with section 36 (2) [*definitions and interpretation*], or

- (ii) a non-arm's length tenant occupying the residence in accordance with section 36 (3), and
 - (b) the owner is, for the calendar year, an owner who is subject to a rate of tax under section 16 [*lowest tax rate — specified Canadian citizens and specified permanent residents of Canada*] or 17 [*lowest tax rate — residents of British Columbia*].
- (2) An owner of a residential property is, for the 2018 calendar year, exempt from tax in respect of the owner's interest in the residential property if
 - (a) a residence that is part of the residential property is, for one or more periods that total at least 3 months in the 2018 calendar year, occupied by an individual who is, in relation to the owner of the residential property,
 - (i) an arm's length tenant occupying the residence in accordance with section 36 (2), or
 - (ii) a non-arm's length tenant occupying the residence in accordance with section 36 (3), and
 - (b) the owner is, for the calendar year, an owner who, but for section 19 [*tax rate applicable for 2018 calendar year*], would be subject to a rate of tax under section 16 or 17.

Tenancy exemption for other owners

- 39** (1) In this section, "**BC income**", in relation to an individual for a calendar year, is the individual's BC income for the calendar year as determined under section 60 (3).
- (2) An owner of a residential property is, for the 2019 or a subsequent calendar year, exempt from tax in respect of the owner's interest in the residential property if all of the following apply:
- (a) a residence that is part of the residential property is, for one or more periods that total at least 6 months in the calendar year, occupied by an individual who is, in relation to the owner of the residential property,
 - (i) an arm's length tenant occupying the residence in accordance with section 36 (2) [*definitions and interpretation*], or
 - (ii) a non-arm's length tenant occupying the residence in accordance with section 36 (3);

- for the calendar year, the owner
- (b)
 - (i) is an owner who is subject to a rate of tax under section 15 (1) *[highest tax rate — other owners]*, and
 - (ii) is not an owner described in section 37 *[tenancy exemption for widely held owners]*;
 - (c) each non-arm's length tenant, if any, referred to in paragraph (a) (ii) is an individual
 - (i) who is a resident of British Columbia at the end of the last day of the calendar year, and
 - (ii) whose BC income for the calendar year is equal to or greater than 3 times the annual fair market rent for the entire residential property, determined in accordance with the regulations.
- (3) An owner of a residential property is, for the 2018 calendar year, exempt from tax in respect of the owner's interest in the residential property if all of the following apply:
- (a) a residence that is part of the residential property is, for one or more periods that total at least 3 months in the calendar year, occupied by an individual who is, in relation to the owner of the residential property,
 - (i) an arm's length tenant occupying the residence in accordance with section 36 (2), or
 - (ii) a non-arm's length tenant occupying the residence in accordance with section 36 (3);
 - (b) for the calendar year, the owner
 - (i) is an owner who, but for section 19 *[tax rate applicable for 2018 calendar year]*, would be subject to a rate of tax under section 15 (1) *[highest tax rate — other owners]*, and
 - (ii) is not an owner described in section 37 *[tenancy exemption for widely held owners]*;
 - (c) each non-arm's length tenant, if any, referred to in paragraph (a) (ii) is an individual
 - (i) who is a resident of British Columbia at the end of the last day of the calendar year, and
 - (ii) whose BC income for the calendar year is equal to or greater than 3 times the annual fair market rent for

the entire residential property, determined in accordance with the regulations.

Division 5 — Exemptions for Residential Property Under Construction or Renovation

Definitions

40 In this Division:

"building activity" means any of the following activities relating to the construction, placement or substantial renovation, as the case may be, of a residence that is part of a residential property:

- (a) applying for financing;
- (b) applying for a permit or other necessary approval;
- (c) entering into contracts for designing, building or engineering;
- (d) demolishing or removing existing improvements;
- (e) clearing or excavating the site;
- (f) constructing or placing the residence on the residential property or substantially renovating the residence;
- (g) any other activity necessary for the construction, placement or substantial renovation of the residence;

"substantial renovation" means a renovation of an existing residence that is part of a residential property to such an extent that the residence must be vacant.

Exemption for vacant residential property — construction or renovation

41 A residential property is, for a calendar year, exempt from tax if all of the following apply:

- (a) in the calendar year, building activity is started or continued
 - (i) in relation to the construction or placement of a residence on the residential property, or
 - (ii) in relation to the substantial renovation of an existing residence on the residential property;
- (b) in the calendar year, an owner of the residential property takes reasonable steps to ensure that building activity in relation to the residence progresses without undue delay;

- (c) if there is any undue delay in the progression of building activity in relation to the residence, the delay is caused by circumstances beyond the reasonable control of an owner of the residential property;
- (d) because of the stage of building activity, either
 - (i) the residential property does not yet include a residence, or
 - (ii) there is a period of at least 90 days in the calendar year during which a residence that is part of the residential property cannot be occupied.

Exemption for vacant heritage property — conservation

42 (1) In this section:

"conservation" has the same meaning as in section 1 of the *Heritage Conservation Act*;

"heritage property" means property that is

- (a) designated under section 9 of the *Heritage Conservation Act*,
 - (b) protected heritage property within the meaning of section 1 of the Schedule to the *Local Government Act*, or
 - (c) protected heritage property within the meaning of section 2 [interpretation] of the *Vancouver Charter*.
- (2) A residential property that includes heritage property is, for a calendar year, exempt from tax if, because of an owner's conservation of the heritage property, there is a period of at least 90 days in the calendar year during which a residence that is part of the residential property cannot be occupied.

Exemption for phased developments of residential property

43 (1) In this section, **"phased residential development"** means a development of 5 or more residences on 2 or more residential properties if

- (a) the development will be carried out in phases, and
 - (b) every owner of the residential properties is the same person or is a related person within the meaning of section 251 (2) of the federal Act.
- (2) Subject to this section, a residential property is, for a calendar year, exempt from tax if all of the following apply:

- (a) the residential property is part of a phased residential development;
 - (b) in the calendar year, building activity is started or continued in relation to the construction or placement of a residence on one or more of the residential properties that are part of the phased residential development;
 - (c) in the calendar year, an owner of a residential property that is part of the phased residential development takes reasonable steps to ensure that building activity referred to in paragraph (b) progresses without undue delay;
 - (d) if there is any undue delay in the progression of building activity, the delay is caused by circumstances beyond the reasonable control of an owner of a residential property that is part of the phased residential development.
- (3) Subsection (2) does not apply to a residential property that is part of a phased residential development if a residence that is part of the residential property can be occupied for a period of at least 180 days in the calendar year.

Exemption for vacant new inventory

- 44** (1) In this section, "**residential development**" means a development of 5 or more residences on one or more residential properties.
- (2) An owner of a residential property is, for a calendar year, exempt from tax in respect of the owner's interest in the residential property if all of the following apply:
- (a) the residential property is part of a residential development;
 - (b) a residence has been newly constructed or placed on the residential property;
 - (c) the residence is not occupied as a residence at the end of the last day of the calendar year and has not been occupied as a residence since it was constructed or placed on the land;
 - (d) in the calendar year, the residence is offered to the public for sale;
 - (e) the owner of the residential property was a developer of the residential property.

Division 6 — Exemptions for Certain Circumstances

Additional residential property exempt — medical reason

45 (1) In this section:

"medical reason", in relation to an individual for a calendar year, means participation in a course of treatment

- (a) that, in the opinion of a medical practitioner, is required for the health of the individual, and
- (b) that can be obtained in a facility that is in reasonably close proximity to a residence in which the individual periodically resides;

"qualifying individual", in relation to an owner, means any of the following:

- (a) if the owner of the residential property is an individual whose interest in the residential property is held other than as a partner in a partnership or as a trustee of a trust, the owner;
- (b) if the owner of the residential property is a corporation whose interest in the residential property is held other than as a partner in a partnership or as a trustee of a trust, a corporate interest holder in respect of the corporation;
- (c) if the owner of the residential property is a person whose interest in the residential property is held as a partner in a partnership, a partnership interest holder in respect of the interest in the residential property;
- (d) if the owner of the residential property is a person whose interest in the residential property is held as a trustee of a trust, a beneficial owner in respect of the interest in the residential property.

(2) An owner of a residential property is, for a calendar year, exempt from tax in respect of the owner's interest in the residential property if, in the calendar year, an individual who is a qualifying individual in relation to the owner for the calendar year or who is the spouse or child, if any, of a qualifying individual, periodically resides in a residence that is part of the residential property for a medical reason related to the individual.

(3) In order to claim an exemption under this section, the owner referred to in subsection (2), must file, with a declaration, a document that is completed by a medical practitioner.

- The document that is completed by the medical practitioner must be
- (4)
- (a) filed in the manner required by the administrator, and
 - (b) in the form and contain the information required by the administrator.

Exemption on death

- 46** (1) Subject to subsection (2), on the death of an individual who is an owner of a residential property, any owner of the residential property is, for the calendar year in which the death occurs and the immediately following calendar year, exempt from tax in respect of that owner's interest in the residential property.
- (2) Subsection (1) only applies to an owner of the residential property other than the individual who died if
- (a) the owner was an owner of the residential property on the date the death occurred, or
 - (b) the owner is the personal representative of the deceased.

Exemption on testamentary trust

- 47** (1) An owner of a residential property is, for a calendar year, exempt from tax in respect of the owner's interest in the residential property if both of the following apply:
- (a) the owner is a person whose interest is held as a trustee of a testamentary trust for the benefit of a person who is a minor at any time in the calendar year;
 - (b) the testamentary trust was created by a parent or guardian of the minor.
- (2) The owner referred to in subsection (1) is, for a calendar year, exempt from tax in respect of the owner's interest in the residential property if, in that calendar year, the minor referred to in subsection (1) (a) dies.

Exemption in year of acquisition — as a consequence of death

- 48** (1) Subject to subsection (2), an owner of a residential property is exempt from tax in respect of the owner's interest in the residential property for the calendar year in which the owner acquires that interest if the owner acquires that interest as a consequence of the distribution of a person's estate as defined in section 1 (1) of the *Wills, Estates and Succession Act*.

- (2) Subsection (1) does not apply for a calendar year to an owner of a residential property if the owner or any other owner of the residential property was exempt under this section in respect of the residential property in a preceding calendar year as a consequence of a distribution from the same estate.

Exemption in year of acquisition — other

- 49** (1) An owner who is a registered owner of the estate in fee simple of a residential property is exempt from tax in respect of the owner's interest in the residential property for the calendar year in which the owner acquires that interest if, in respect of the transaction in which the owner acquires that interest,
- (a) the owner paid tax under the *Property Transfer Tax Act*, or
 - (b) the owner did not pay tax under the *Property Transfer Tax Act* only because the owner qualified for an exemption under any of the following provisions of that Act:
 - (i) section 5 [*first time home buyers' exemption*];
 - (ii) section 12.02 [*new housing exemption*];
 - (iii) section 14 (3) (k) [*reversion, escheat or forfeit of land*];
 - (iv) section 14 (3) (o) [*transfer of land by trustee in bankruptcy*];
 - (v) section 14 (3) (p) [*transfer of principal residence by trustee in bankruptcy*];
 - (vi) section 14 (4) (p.3) [*transfer of land by Public Guardian and Trustee*];
 - (vii) section 14 (4) (r) [*transfer to a veteran or veteran's spouse*].
- (2) An owner who is a registered holder of the last registered agreement for sale of a residential property is exempt from tax in respect of the owner's interest in the residential property for the calendar year in which the owner acquires that interest if, in respect of the transaction in which the owner acquires that interest,
- (a) the owner paid tax under the *Property Transfer Tax Act*, or
 - (b) the owner did not pay tax under the *Property Transfer Tax Act* only because the owner qualified for an exemption under any of the following provisions of that Act:
 - (i) section 5 [*first time home buyers' exemption*];

- section 12.02 *[new housing exemption]*;
 - (ii) section 14 (3) (k) *[reversion, escheat or forfeit of land]*;
 - (iv) section 14 (3) (l) *[transfer of land in respect of which tax has been paid]*;
 - (v) section 14 (3) (o) *[transfer of land by trustee in bankruptcy]*;
 - (vi) section 14 (3) (p) *[transfer of principal residence by trustee in bankruptcy]*;
 - (vii) section 14 (4) (p.3) *[transfer of land by Public Guardian and Trustee]*;
 - (viii) section 14 (4) (r) *[transfer to a veteran or veteran's spouse]*.
- (3) An owner who is a registered occupier of a residential property is exempt from tax in respect of the owner's interest in the residential property for the calendar year in which the owner acquires that interest if the owner was not, in the immediately preceding calendar year, a registered occupier in relation to that residential property.

Exemption on breakdown of marriage or common-law partnership

50 (1) In this section:

- "common-law partner"**, in relation to a person, means an individual who has lived with the person in a marriage-like relationship for a continuous period of at least 2 years;
- "common-law partnership"** means the relationship between 2 persons who are the common-law partners of one another;
- "eligible individual"**, in relation to an owner of a residential property, means any of the following:
- (a) an individual who is a corporate interest holder in respect of a corporation, if the corporation is an owner of the residential property that holds an interest in the residential property other than as a partner in a partnership or as a trustee of a trust;
 - (b) an individual who is a partnership interest holder in respect of an interest in the residential property, if
 - (i) the owner of the residential property who holds the interest in the residential property holds the interest as a partner in a partnership, and

- (ii) none of the partners in the partnership is a corporation in respect of which there are no corporate interest holders or a partnership;
- (c) an individual who is a beneficial owner in respect of an interest in the residential property, if the owner of the residential property who holds the interest holds the interest as a trustee of a trust;

"spouse" includes a common-law partner.

- (2) An owner of a residential property is, for a calendar year, exempt from tax in respect of the owner's interest in the residential property if all of the following apply:
- (a) the owner is, for the calendar year,
 - (i) an individual who holds the interest in the residential property other than as a partner in a partnership or as a trustee of a trust, or
 - (ii) an owner referred to in paragraph (a), (b) or (c) of the definition of "eligible individual" and in respect of whom all of the requirements set out in the applicable paragraph are met;
 - (b) because of a breakdown of the marriage or common-law partnership of an individual referred to in paragraph (a) (i) or an individual who is an eligible individual in relation to the owner for the calendar year,
 - (i) the individual and the person who was the individual's spouse at the time of the breakdown begin living separate and apart in the calendar year and live separate and apart for at least 90 days in the calendar year, or
 - (ii) all of the following apply in respect of the individual and the person who was the individual's spouse at the time of the breakdown:
 - (A) the spouses began living separate and apart in the immediately preceding calendar year;
 - (B) a final agreement or final court order respecting property division was not made in that immediately preceding calendar year;
 - (C) the spouses continue to live separate and apart throughout the calendar year;

in the case of an eligible individual referred to in paragraph (c) (b), the eligible individual or the person who was the eligible individual's spouse at the time of the breakdown is, or both of them are,

- (i) if the owner is an owner referred to in paragraph (a) of the definition of "eligible individual", the only corporate interest holder or holders, as applicable, in respect of the corporation that is the owner,
 - (ii) if the owner is an owner referred to in paragraph (b) of the definition of "eligible individual", the only partnership interest holder or holders, as applicable, in respect of the interest in the residential property held by the owner, or
 - (iii) if the owner is an owner referred to in paragraph (c) of the definition of "eligible individual", the only beneficial owner or owners, as applicable, in respect of the interest in the residential property held by the owner;
- (d) at the end of the last day of the calendar year, the spouses referred to in paragraph (b) (i) or (ii), as applicable, have not reconciled;
- (e) the residential property is family property, within the meaning of Part 5 [*Property Division*] of the *Family Law Act*, of the spouses referred to in paragraph (b) (i) or (ii), as applicable, or a right or interest held by the spouses referred to in paragraph (b) (i) or (ii), as applicable, in the residential property is family property of those spouses within the meaning of Part 5 of the *Family Law Act*.
- (3) The owner of a residential property referred to in subsection (2) is, for the calendar year immediately following the calendar year referred to in that subsection, exempt from tax in respect of the owner's interest in the residential property if all of the following apply:
- (a) the spouses referred to in subsection (2) (b) (i) or (ii), as applicable, continue to live separate and apart throughout the calendar year;
 - (b) in the case of spouses referred to in subsection (2) (b) (ii), the spouses began living separate and apart fewer than 90 days before the end of the calendar year immediately preceding the calendar year referred to in subsection (2);

- (c) at the end of the last day of the calendar year, the spouses referred to in subsection (2) (b) (i) or (ii), as applicable, have not reconciled;
- (d) a final agreement or final court order respecting property division was not made in the calendar year referred to in subsection (2).

Exemption for restricted rentals — 2018 and 2019 calendar years

51 An owner of a residential property is, for the 2018 and 2019 calendar years, exempt from tax in respect of the owner's interest in the residential property if, on or before the date this Act receives First Reading in the Legislative Assembly,

- (a) the owner acquired the interest in the residential property, and
- (b) a covenant under section 219 of the *Land Title Act* or a bylaw of a strata corporation prohibited the occupation of a residence that is part of the residential property by an arm's length tenant, as defined in section 36 (1) [definitions and interpretation] of this Act, in a manner that would entitle the owner to an exemption in respect of the residential property under any of the following:
 - (i) section 37 [tenancy exemption for widely held owners];
 - (ii) section 38 [tenancy exemption for specified owners];
 - (iii) section 39 [tenancy exemption for other owners].

Part 4 — Tax Credits

Definitions and interpretation

52 (1) In this Part:

"amalgamation" means an amalgamation within the meaning of section 53;

"BC income" means an individual's or a corporation's BC income for a calendar year as determined under section 60;

"eligible taxpayer" means,

- (a) for the 2019 or a subsequent calendar year, an owner of a residential property who is subject to a rate of tax under

section 15 *[highest tax rate — other owners]* or 16 *[lowest tax rate — specified Canadian citizens and specified permanent residents of Canada]* for the calendar year, or

- (b) for the 2018 calendar year, an owner of a residential property who, but for section 19 *[tax rate applicable for 2018 calendar year]*, would be subject to a rate of tax under section 15 or 16 for the 2018 calendar year,

but does not include an owner who holds an interest in the residential property as a partner in a partnership;

"new corporation" means the corporation that results from the amalgamation of 2 or more corporations;

"predecessor corporation" means a corporation that amalgamates with one or more corporations.

(2) For the purposes of this Part and without limiting section 7,

- (a) a person who is a trustee of a trust is
- (i) a separate person from the person in the capacity as a trustee, and
 - (ii) a separate person in respect of each trust for which the person is a trustee,
- (b) an individual in the individual's capacity as a partner in a partnership or as a trustee of a trust may not
- (i) transfer an amount to the individual's spouse under section 58 *[transfer of BC income balance to spouse]*, or
 - (ii) receive a transfer of an amount under section 58,
- (c) the calculation of a person's BC income in the capacity as a trustee of a trust does not affect the calculation of the person's own BC income, and
- (d) if a trust has more than one trustee, only one trustee of the trust may determine under section 60 (5) the trustee's BC income for a calendar year as a trustee of the trust.

Amalgamations

53 For the purposes of this Part, an amalgamation of 2 or more corporations occurs if all of the following requirements are met:

- (a) the amalgamation was effected under

- Division 3 of Part 9 of the *Business Corporations Act* or
- (i) similar provisions of another enactment of British Columbia,
 - (ii) sections 181 to 186 of the *Canada Business Corporations Act* or similar provisions of another enactment of Canada, or
 - (iii) similar provisions of an enactment of another jurisdiction;
- (b) all of the predecessor corporations are continued in the new corporation as a result of the amalgamation;
 - (c) the property, rights and interests of each predecessor corporation continue to be the property, rights and interests of the new corporation;
 - (d) the new corporation continues to be liable for the obligations of each predecessor corporation.

Tax credit for resident of British Columbia

- 54** (1) Subject to subsection (2), this section applies to an owner in respect of a residential property for a calendar year if
- (a) the owner is an individual who is a resident of British Columbia at the end of the last day of the calendar year,
 - (b) the owner must pay tax for the calendar year in respect of the owner's interest in the residential property,
 - (c) the owner,
 - (i) for the 2019 or a subsequent calendar year, is subject to a rate of tax under section 17 [*lowest tax rate — residents of British Columbia*] for the calendar year, or
 - (ii) for the 2018 calendar year, would be subject to a rate of tax under section 17 but for section 19 [*tax rate applicable for 2018 calendar year*], and
 - (d) the owner is not a minor on the last day of the calendar year.
- (2) This section does not apply to an owner in respect of the owner's interest in the residential property held as a partner in a partnership or as a trustee of a trust.
- (3) Subject to subsections (4) and (5), the tax otherwise payable for a calendar year in respect of a residential property by an owner to

whom this section applies is reduced by the amount not exceeding the lesser of

- (a) \$2 000, and
 - (b) the amount determined by multiplying \$2 000 by the owner's interest in the residential property for the calendar year, expressed as a percentage.
- (4) The total of all reductions made under subsection (3) to an owner's tax payable for a calendar year in respect of all residential properties in which the owner holds an interest may not exceed \$2 000.
- (5) If an owner must pay tax for a calendar year in respect of the owner's interest in more than one residential property, the administrator must determine for which of those residential properties the owner's tax payable is reduced under subsection (3) and the amount of that reduction.
- (6) If the tax otherwise payable for a calendar year is reduced under this section after the date the tax was payable under section 78 [*payment of tax*], the reduction is deemed to have occurred on that date.

Tax credit for eligible taxpayer

55 (1) If an eligible taxpayer must pay tax for a calendar year in respect of an eligible taxpayer's interest in a residential property, the eligible taxpayer may deduct from the eligible taxpayer's tax otherwise payable for the calendar year in respect of the residential property an amount not exceeding the lesser of

- (a) the amount equal to the eligible taxpayer's tax credit balance for the calendar year determined under section 56, less any amount of that balance claimed for the calendar year by the eligible taxpayer in respect of another residential property, and
 - (b) the eligible taxpayer's maximum tax credit for the calendar year in respect of the residential property, determined under subsection (2) of this section.
- (2) An eligible taxpayer's maximum tax credit for a calendar year in respect of a residential property is
- (a) the amount referred to in subsection (1) that is the eligible taxpayer's tax otherwise payable for the calendar year in respect of the residential property if

- the eligible taxpayer is an individual whose interest in the residential property is held other than as a trustee
- (i) of a trust and who would have been exempt under Part 3 from tax for the calendar year in respect of the residential property had the eligible taxpayer been an owner referred to in section 17 (2) (a),
 - (ii) the eligible taxpayer is a corporation whose interest in the residential property is held other than as a trustee of a trust and that eligible taxpayer would have been exempt under Part 3 from tax for the calendar year in respect of the residential property had the eligible taxpayer been an owner referred to in section 17 (2) (b), or
 - (iii) the eligible taxpayer is a person whose interest in the residential property is held as a trustee of a trust and who would have been exempt under Part 3 from tax for the calendar year in respect of the residential property had the eligible taxpayer been an owner referred to in section 17 (4), or
- (b) the amount determined by the following formula, in any other case:

$$\text{amount} = \text{tax payable} \times \left[\frac{(\text{applicable tax rate} - \text{lowest tax rate})}{\text{applicable rate}} \right]$$

where

- tax payable = the eligible taxpayer's tax otherwise payable for the calendar year in respect of the residential property;
- applicable tax rate = the tax rate applicable under section 15 or 16 to the eligible taxpayer for the calendar year;
- lowest tax rate = the tax rate under section 17 for the calendar year.

- (3) If an eligible taxpayer is, for a calendar year, an owner of a residential property who is subject to a rate of tax under section 16 [*lowest tax rate — specified Canadian citizens and specified permanent residents of Canada*],

- (a) subsection (2) (b) of this section does not apply for the purposes of determining the eligible taxpayer's maximum tax credit in respect of the residential property, and

- the eligible taxpayer's maximum tax credit in respect of the residential property is nil if subsection (2) (a) does not apply to the eligible taxpayer.

(4) For the 2018 calendar year,

- (a) subsection (2) (b) does not apply for the purposes of determining an eligible taxpayer's maximum tax credit in respect of a residential property, and
- (b) an eligible taxpayer's maximum tax credit in respect of a residential property is nil if subsection (2) (a) does not apply to the eligible taxpayer.

Tax credit balance

56 For the purposes of section 55, an eligible taxpayer's tax credit balance for a calendar year is the amount determined in accordance with the following formula:

$$\text{tax credit balance} = (\text{BC income balance} - \text{spousal transfer}) \times \text{applicable rate} \times 10$$

where

- BC income balance = the eligible taxpayer's BC income balance for the calendar year determined under section 57;
- spousal transfer = any amount of the eligible taxpayer's BC income balance for the calendar year transferred under section 58 [*transfer of BC income balance to spouse*] for the calendar year by the eligible taxpayer;
- applicable rate = the tax rate applicable under section 15, 16 or 19 to the eligible taxpayer for the calendar year.

BC income balance

57 (1) For the purposes of section 56 and subject to this section, an individual's or a corporation's BC income balance for a calendar year is an amount equal to the total of the following:

- (a) in the case of an individual, an amount transferred for the calendar year to the individual under section 58 [*transfer of BC income balance to spouse*];
- (b) the individual's or corporation's BC income for the second preceding calendar year, less any of the following amounts:
- (i) in the case of an individual, any deductible amount determined under section 58 (6) for the second preceding calendar year and the preceding calendar year;

- any deductible amount determined under section 59
 - (ii) (3) for the second preceding calendar year and the preceding calendar year;
 - (c) the individual's or corporation's BC income for the preceding calendar year, less any of the following amounts:
 - (i) in the case of an individual, the deductible amount determined under section 58 (6) for the preceding calendar year;
 - (ii) the deductible amount determined under section 59 (3) for the preceding calendar year;
 - (d) the individual's or corporation's BC income for the calendar year.
- (2) A deductible amount determined under section 58 (6) or 59 (3) and to be deducted under subsection (1) (b) or (c) of this section is to be deducted in accordance with the following rules:
- (a) in the case of an individual, a deduction under subsection (1) (b) (i) or (c) (i) is to be made before a deduction under subsection (1) (b) (ii) or (c) (ii) is made;
 - (b) a deduction is to be made in relation to the earliest calendar year for which a deduction may be made, with any remaining part of the deductible amount to be deducted in relation to the following calendar year if applicable;
 - (c) the amount of a deduction made under subsection (1) (b) or (c) may not exceed the amount otherwise determined under that subsection before the deduction is made.
- (3) If a corporation is at any time subject to a loss restriction event, within the meaning of section 251.2 (2) of the federal Act,
- (a) the corporation's BC income balance for a calendar year ending before that time may not include income earned after that time, and
 - (b) the corporation's BC income balance for a calendar year ending after that time may not include income earned before that time.
- (4) If a trust is at any time subject to a loss restriction event, within the meaning of section 251.2 (2) of the federal Act,

the BC income balance for a calendar year ending before that time of a person who is a trustee of the trust may not include income earned after that time, and

(b) the BC income balance for a calendar year ending after that time of a person who is a trustee of the trust may not include income earned before that time.

- (5) Subject to subsection (3), if 2 or more corporations amalgamate, the new corporation's BC income balance for a calendar year is determined under subsection (1) by including all amounts each of which is a predecessor corporation's BC income for an applicable calendar year, to the extent the predecessor corporation's BC income is not otherwise included in the new corporation's BC income for a calendar year, less any amounts under subsection (1) (b) (ii) and (c) (ii) to be deducted from the predecessor corporation's BC income for the applicable calendar year.
- (6) Subject to subsection (4), if a new trustee of a trust is appointed to hold an interest in a residential property, the new trustee's BC income balance for a calendar year is determined under subsection (1) as if all amounts relevant to the calculation of the BC income balance of a former or another trustee of the trust were amounts determined for the new trustee.
- (7) An individual's or a corporation's BC income for a calendar year before 2017 may not be included in determining the individual's or corporation's BC income balance for a calendar year.

Transfer of BC income balance to spouse

- 58** (1) Subject to this section, an individual who has a spouse at the end of the last day of a calendar year may transfer an amount from the individual's BC income balance for the calendar year to the individual's spouse if that spouse is an eligible taxpayer for the calendar year in respect of a residential property.
- (2) The amount that an individual may transfer under this section for a calendar year may not exceed the individual's BC income balance for the calendar year determined under section 57.
- (3) If an individual has transferred under this section an amount for a calendar year to a spouse and, but for this subsection, the amount determined for the individual's spouse in accordance with the formula in section 59 (1) is a negative amount, despite this section and the transfer document filed under subsection (7), the individual is

deemed to have transferred under this section an amount equal to the amount necessary to have the amount determined for the individual's spouse in accordance with the formula in section 59 (1) equal zero.

- (4) An individual may not transfer an amount under this section for a calendar year for which the individual receives an amount transferred under this section.
- (5) For the purposes of subsection (6), an individual's deductible amount for a calendar year is the positive amount, if any, equal to the amount transferred under subsection (1) for the calendar year by the individual less the amount, if any, determined for that individual under section 57 (1) (b) for the second preceding calendar year when determining that individual's BC income balance for that calendar year.
- (6) If an individual has a deductible amount under this section for a calendar year, for the purposes of determining the individual's BC income balance for the following 2 calendar years, that individual's deductible amount is to be deducted under section 57 (1) (b) (i) and (c) (i), as applicable.
- (7) In order to give effect to a transfer of an amount for the purposes of this section, the individual receiving the transfer must file, with the individual's tax credit application filed under section 61,
 - (a) a transfer document in the manner required by the administrator, and
 - (b) any other information and records required by the administrator to be filed with the transfer document.
- (8) A transfer document must be
 - (a) completed by the eligible taxpayer's spouse, and
 - (b) in the form and contain the information required by the administrator.

Deductions from BC income balance

- 59** (1) If an individual or a corporation claims under section 55 [*tax credit for eligible taxpayer*] a tax credit in respect of tax otherwise payable for a particular calendar year, for the purposes of determining the individual's or corporation's BC income balance for the following 2 calendar years, the amount, subject to subsection (2), to be

deducted in accordance with subsection (3) is the amount determined in accordance with the following formula:

$$\text{deduction} = \left[\frac{\text{tax credit claimed}}{(\text{applicable rate} \times 10)} \right] - \text{transfer}$$

where

- tax credit claimed = the amount of the tax credit claimed under section 55 by the individual or corporation for that particular calendar year;
- applicable rate = the tax rate applicable under section 15, 16 or 19 to the individual or corporation for that particular calendar year;
- transfer = the following applicable amount:
 (a) in the case of an individual, the amount transferred for the particular calendar year under section 58 to the individual from the individual's spouse;
 (b) in any other case, nil.

- (2) For the purposes of subsection (3), an individual's or a corporation's deductible amount for a particular calendar year is equal to the positive amount, if any, determined by the following formula:

$$\text{deductible amount} = \text{deduction} - \text{adjustment}$$

where

- deduction = the amount determined under subsection (1) as the deduction for the individual or corporation for the particular calendar year;
- adjustment = the positive amount, if any, equal to the amount, if any, determined for the individual or corporation under section 57 (1) (b) for the second preceding calendar year when determining that individual's or corporation's BC income balance for the particular calendar year less, in the case of an individual, the lesser of
 (a) the amount of the individual's BC income balance for that particular calendar year transferred under section 58 for that particular calendar year, and
 (b) the amount deducted under section 58 (5) when determining the individual's deductible amount under section 58 (5) for that particular calendar year.

- (3) If an individual or a corporation has a deductible amount under this section for a calendar year, for the purposes of determining the individual's or corporation's BC income balance for the following 2 calendar years, that individual's or corporation's deductible amount is to be deducted under section 57 (1) (b) (ii) and (c) (ii), as applicable.
- (4) If a corporation is a new corporation formed as a result of an amalgamation, each amount that would otherwise be deducted in

accordance with subsection (3) for the following 2 calendar years for the new corporation and each predecessor corporation of that new corporation is to be deducted from the new corporation's BC income for a calendar year.

BC income

60 (1) In this section:

"income earned in the taxation year in British Columbia" has the same meaning as in section 4 (1) of the *Income Tax Act*;

"notional income", in relation to a corporation for an income taxation year, means,

- (a) subject to paragraph (b), the corporation's income for the income taxation year determined under Division B of Part I of the federal Act and attributable to British Columbia as determined in accordance with regulations made under section 124 (4) of the federal Act if in those regulations the references to "taxable income" are read as references to "income", or
 - (b) in the case of a corporation that was not resident in Canada, within the meaning of the federal Act, at any time in the income taxation year, the corporation's taxable income earned in Canada for the income taxation year determined under section 115 (1) (a) (ii) to (vii), (b) and (c) and (2.2) of the federal Act and attributable to British Columbia as determined in accordance with regulations made under section 124 (4) of the federal Act.
- (2) Subsections (3) and (4) do not apply to an individual or a corporation in the individual's or corporation's capacity as a trustee of a trust.
- (3) For the purposes of this Part, an individual's BC income for a calendar year is the total of all amounts each of which is the individual's income earned in the taxation year in British Columbia for an income taxation year ending in the calendar year.
- (4) For the purposes of this Part, a corporation's BC income for a calendar year is as follows:
- (a) in the case of a corporation whose income taxation year coincides with the calendar year, the corporation's notional income for that income taxation year;

- (b) in the case of a corporation that has all or part of more than one income taxation year in the calendar year, the total of all applicable amounts for each income taxation year in that calendar year, each of which applicable amount is the amount determined by dividing the number of days in the income taxation year that are in that calendar year by the total number of days in that income taxation year and multiplying the quotient by the corporation's notional income for that income taxation year;
 - (c) in the case of a corporation that is a new corporation formed in the calendar year as a result of an amalgamation, the total of all applicable amounts that would otherwise be determined under paragraph (b) for that calendar year for that new corporation and each predecessor corporation of the new corporation.
- (5) For the purposes of this Part, if an individual or a corporation is a trustee of a trust, the individual's or corporation's BC income for a calendar year as a trustee of the trust is equal to the trust's BC income determined as follows:
 - (a) subject to paragraph (b), the total of all amounts each of which is the trust's income earned in the taxation year in British Columbia for the income taxation year ending in the calendar year;
 - (b) if the trust is a graduated rate estate, as defined in section 248 (1) of the federal Act, at any time in an income taxation year all or a part of which is in the calendar year, the total of all applicable amounts for each income taxation year all or a part of which is in that calendar year, each of which applicable amount is the amount determined by dividing the number of days in the income taxation year that are in that calendar year by the total number of days in that income taxation year and multiplying the quotient by the trust's income earned in that income taxation year in British Columbia as determined under paragraph (a) of this subsection.
- (6) The calculation of an individual's or a corporation's BC income is not affected by section 7 (1) [*owner treated as separate person in certain circumstances*].

Filing requirements — tax credit for eligible taxpayer

- 61** (1) In order to claim a tax credit under section 55 [*tax credit for eligible taxpayer*] in respect of a residential property for a calendar year, an eligible taxpayer must file with the administrator, on or before the date applicable under subsection (3) of this section,
- (a) a tax credit application in the manner required by the administrator, and
 - (b) any other information and records required by the administrator to be filed with the application.
- (2) A tax credit application must be in the form and contain the information required by the administrator.
- (3) An eligible taxpayer must file the application, information and records under subsection (1) in respect of a residential property for a calendar year on or before the later of
- (a) December 31 in the third year after the end of the calendar year, and
 - (b) the time referred to in any of the following, as applicable:
 - (i) section 68 (4) (b) [*consequential assessments — income taxes*];
 - (ii) section 69 (4) (b) [*consequential assessments — person with disabilities*];
 - (iii) section 70 (4) (b) [*consequential assessments — changes under the Assessment Act*].

Part 5 — Administration and Enforcement

Division 1 — Declarations

Annual declaration

- 62** (1) Subject to subsection (2), for each calendar year, a person must file with the administrator a separate declaration
- (a) for each residential property in respect of which the person is an owner for the calendar year, and
 - (b) for each interest in a residential property in respect of which the owner is, for the calendar year, a separate person for the purposes of this Act.
- (2) Subsection (1) does not apply to an owner of a residential property for a calendar year in respect of which

- (a) the owner is a person or entity referred to in section 20 *[exemption for specified owners]*, or
 - (b) the owner is in a prescribed class of owners.
- (3) The owner must, without notice or demand, file the declaration under subsection (1) for a calendar year on or before the declaration due date.

Declaration required on demand

- 63** (1) On written demand given to an owner by the administrator, the owner must file with the administrator, on or before the date specified in the demand, a declaration for a calendar year in respect of an interest in a residential property.
- (2) Subsection (1) applies whether or not a declaration has been or is required to be filed under section 62.

Form and contents of declaration

- 64** (1) A declaration must be in the form and contain the information required by the administrator.
- (2) A person required to file a declaration must
- (a) file the declaration in the manner required by the administrator, and
 - (b) file, with the declaration, any other information or records required by the administrator.

Division 2 — Assessments

Definitions

- 65** In this Division:

"assessable amount", in relation to a person, means

- (a) any tax payable by the person,
- (b) any penalties payable under this Act by the person,
- (c) an amount payable under section 79 *[excess refund]* by the person, and
- (d) any interest payable under this Act by the person;

"normal reassessment period" means the period referred to in section 67 (1) (b) *[assessments — general rules]* for an owner of a residential property for a calendar year.

Examination of declaration and resulting assessment

- 66** (1) After the administrator receives a declaration for a calendar year filed by an owner of a residential property in respect of the owner's interest in the residential property and any other information or records to be filed with the declaration, the administrator must
- (a) examine the declaration, and
 - (b) assess the owner for any assessable amounts for the calendar year in respect of the owner's interest in the residential property.
- (2) Subsection (1) does not apply in respect of a declaration for a calendar year that is filed under section 62 [*annual declaration*] after the later of
- (a) December 31 in the third year after the end of the calendar year, and
 - (b) the time referred to in any of the following, as applicable:
 - (i) section 68 (4) (b) [*consequential assessments — income taxes*];
 - (ii) section 69 (4) (b) [*consequential assessments — person with disabilities*];
 - (iii) section 70 (4) (b) [*consequential assessments — changes under the Assessment Act*].

Assessments — general rules

- 67** (1) The administrator may assess an owner of a residential property for an assessable amount for a calendar year in respect of the owner's interest in the residential property
- (a) at any time, if
 - (i) the owner has failed to file a declaration for the calendar year in respect of the interest,
 - (ii) the owner or a person filing the owner's declaration for the calendar year in respect of the interest has made any misrepresentation or committed any fraud
 - (A) in filing the declaration, or
 - (B) in supplying, at any time, other information or records required under the Act for the calendar year, or

a waiver filed under subsection (2) by the owner for the calendar year in respect of the interest is in effect at that time, or

(iii)

(b) in any other case, on the earlier of the following:

(i) the date that is 6 years after the date of the original notice of assessment for the calendar year;

(ii) the date that is 6 years after the date on which tax is required under this Act to be paid for the calendar year.

(2) An owner of a residential property may, before the expiration of the normal reassessment period for a calendar year, file with the administrator a waiver for the calendar year in respect of the owner's interest in the residential property.

(3) A waiver filed under subsection (2) continues in effect until 6 months after the owner files with the administrator a notice revoking the waiver.

(4) A waiver filed under subsection (2) and a notice filed under subsection (3) must be filed in the form and manner, and containing the information, required by the administrator.

(5) Despite subsection (1), an assessment to which subsection (1) (a) (ii) or (iii) applies in respect of an owner for a calendar year may be made after the owner's normal reassessment period for the calendar year, but only to the extent that the assessment can reasonably be considered as relating to,

(a) if subsection (1) (a) (ii) applies to the assessment, any misrepresentation made by the owner or another person who filed the owner's declaration for the calendar year or any fraud committed by the owner or that other person in filing the declaration or in supplying any other information or records under this Act, or

(b) if subsection (1) (a) (iii) applies to the assessment, a matter specified in the waiver filed with the administrator for the calendar year.

(6) The authority of the administrator to assess an owner for an assessable amount under sections 68 to 74 [*consequential assessments, other assessments and assessments of other amounts*]

(a) is in addition to the authority to make an assessment under section 66 or this section,

- (b) is not limited by the authority to make an assessment under section 66 or this section, and
- (c) does not limit the authority to make an assessment under section 66 or this section.

Consequential assessments — income taxes

68 (1) Subsection (3) applies in relation to an owner of a residential property for a calendar year in respect of the owner's interest in the residential property if

- (a) any of the following is issued a notice of assessment, reassessment or additional assessment under the *Income Tax Act* or the federal Act:
 - (i) if the owner is an individual whose interest is held other than as a partner in a partnership or as a trustee of a trust, the owner;
 - (ii) if the owner is a corporation whose interest is held other than as a partner in a partnership or as a trustee of a trust,
 - (A) the corporation, or
 - (B) an individual who is a corporate interest holder in respect of the corporation;
 - (iii) if the owner is a person whose interest is held as a partner in a partnership, an individual who is a partnership interest holder in respect of the interest in the residential property;
- (iv) if the owner is a person whose interest is held as a trustee of a trust,
 - (A) a trust, as defined in section 248 (1) of the federal Act, in respect of which the owner is a trustee, or
 - (B) an individual who is a beneficial owner in respect of the interest in the residential property;
- (v) a person who is, for the calendar year, the spouse of any of the following:
 - (A) an owner referred to in subparagraph (i);
 - (B) a corporate interest holder referred to in subparagraph (ii) (B);
 - (C) a partnership interest holder referred to in subparagraph (iii);

a beneficial owner referred to in subparagraph
(D) (iv) (B);

(vi) a person who is, for the calendar year, a non-arm's length tenant in relation to the owner and in respect of whom the owner was exempt in relation to the residential property for the calendar year under section 39 [*tenancy exemption for other owners*], and

(b) an amount relevant in calculating an assessable amount under this Act for the owner for the calendar year would be changed if an assessment were made under this Act.

(2) If a notice referred to in subsection (1) (a) is issued to

- (a) an owner of the residential property, or
- (b) a trust in respect of which the trustee is an owner whose interest is held in the owner's capacity as a trustee of the trust,

the owner must notify the administrator, on or before the later of the date that is 90 days after receiving the notice and the declaration due date for the calendar year, by filing with the administrator

- (c) a notice, in the form and manner, and containing the information, required by the administrator, and
- (d) with the notice, any other information or records required by the administrator.

(3) If this subsection applies in relation to an owner of a residential property for a calendar year in respect of the owner's interest in the residential property, the administrator may, subject to subsection (4), assess the owner for an assessable amount for the calendar year in respect of the interest in the residential property, but only to the extent that the assessment can reasonably be considered as relating to the assessment, reassessment or additional assessment under the *Income Tax Act* or the federal Act.

(4) The administrator may make an assessment under subsection (3) only before the later of

- (a) the last day of the normal reassessment period for the calendar year, and
- (b) the end of the day that is one year after the day that is the earlier of

the day that the administrator is notified under subsection (2), and

- (ii) the day that the administrator is otherwise notified of the assessment, reassessment or additional assessment under the *Income Tax Act* or the federal Act.

Consequential assessments — person with disabilities

69 (1) Subsection (3) applies in relation to an owner of a residential property for a calendar year in respect of the owner's interest in the residential property if

- (a) an owner of the residential property has, in a declaration filed for the calendar year, claimed an exemption under section 30 [*principal residence — person with disabilities*] in respect of the residential property,
- (b) any of the following occurs in relation to the person with disabilities:
 - (i) a decision is made under the *Employment and Assistance for Persons with Disabilities Act* to rescind the designation of the person as a person with disabilities, effective for the calendar year;
 - (ii) a determination is made that the person was not, for the calendar year, entitled to be considered disabled under section 42 (2) of the *Canada Pension Plan*;
 - (iii) a person is issued, in relation to an income taxation year ending in the calendar year, a notice of determination under section 152 (1.01) of the federal Act, and
- (c) an amount relevant in calculating an assessable amount under this Act for the owner for the calendar year would be changed if an assessment were made under this Act.

(2) If an owner of the residential property

- (a) is notified of a decision or determination referred to in subsection (1) (b) (i) or (ii), as applicable, or
- (b) is issued a notice referred to in subsection (1) (b) (iii),

the owner must notify the administrator, on or before the later of the date that is 90 days after receiving the notice and the declaration due date for the calendar year, by filing with the administrator

- (c) a notice, in the form and manner, and containing the information, required by the administrator, and
 - (d) with the notice, any other information or records required by the administrator.
- (3) If this subsection applies in relation to an owner of a residential property for a calendar year in respect of the owner's interest in the residential property, the administrator may, subject to subsection (4), assess the owner for an assessable amount for the calendar year in respect of the interest in the residential property, but only to the extent that the assessment can reasonably be considered as relating to an applicable decision or determination referred to in subsection (1) (b) (i), (ii) or (iii).
- (4) The administrator may make an assessment under subsection (3) only before the later of
 - (a) the last day of the normal reassessment period for the calendar year, and
 - (b) the end of the day that is one year after the day that is the earlier of
 - (i) the day that the administrator is notified under subsection (2), and
 - (ii) the day that the administrator is otherwise notified of the applicable decision or determination referred to in subsection (1) (b) (i), (ii) or (iii).

Consequential assessments — changes under the *Assessment Act*

- 70** (1) Subsection (3) applies in relation to an owner of a residential property for a calendar year in respect of the owner's interest in the residential property if
- (a) all or part of the residential property is included on a revised assessment roll or a supplementary assessment roll for the calendar year, and
 - (b) an amount relevant in calculating an assessable amount under this Act for the owner for the calendar year would be changed if an assessment were made under this Act.
- (2) Subsection (3) applies in relation to a person for a calendar year in respect of an interest the person holds in a parcel of land or improvements, or both, if, as a consequence of the property being

included on a revised assessment roll or a supplementary assessment roll for the calendar year,

- (a) the person is an owner of a residential property for the calendar year, and
 - (b) an amount relevant in calculating an assessable amount under this Act for the person for the calendar year would be changed if an assessment were made under this Act.
- (3) If this subsection applies in relation to a person for a calendar year in respect of an interest the person holds in a property, the administrator may, subject to subsection (4), assess the person for an assessable amount for the calendar year, but only to the extent that the assessment can reasonably be considered as relating to the inclusion of the property on a revised assessment roll or supplementary assessment roll under the *Assessment Act*.
- (4) The administrator may make an assessment under subsection (3) only before the later of
- (a) the last day of the normal reassessment period for the calendar year, and
 - (b) the end of the day that is one year after the day that the administrator is notified that the property was included on a revised assessment roll or supplementary assessment roll under the *Assessment Act*.

Consequential reassessments after appeal

71 (1) This section applies in relation to a person if

- (a) a court has, on the disposition of an appeal by the person in respect of an assessment,
 - (i) allowed the appeal,
 - (ii) varied the decision from which the appeal was made, or
 - (iii) referred the decision back to the administrator for reconsideration, and
 - (b) any further appeal is disposed of or the time for filing any further appeal has expired.
- (2) If this section applies in relation to a person, the administrator must reassess the person for an assessable amount in accordance with the decision of the court.

Other assessments — disposition of appeal

- 72** For the purpose of disposing of an appeal made under this Act, the administrator may at any time, with the owner's written consent, assess an owner of a residential property in respect of the owner's interest in the residential property for an assessable amount for any calendar year as is necessary to give effect to the consent.

Assessments of other amounts payable

- 73** The administrator may at any time assess a person for any amount payable under section 79 [*excess refund*].

Assessments of penalties and interest

- 74** (1) The administrator may assess a person for a penalty to which the person is liable under this Act, and any interest payable in relation to the penalty, but the assessment may not be made after the latest of the applicable dates by which the administrator may assess, under any of the following provisions, an owner of a residential property in respect of whose liability the penalty is assessed:
- (a) section 67 [*assessments — general rules*];
 - (b) section 68 [*consequential assessments — income taxes*];
 - (c) section 69 [*consequential assessments — person with disabilities*];
 - (d) section 70 [*consequential assessments — changes under the Assessment Act*];
 - (e) section 71 [*consequential reassessments after appeal*];
 - (f) section 72 [*other assessments — disposition of appeal*].
- (2) The administrator may at any time reassess a person
- (a) as is necessary to give effect to a cancellation under section 85 [*waiver or cancellation of penalty*] of all or part of a penalty otherwise payable under this Act by the person, or
 - (b) as is necessary to give effect to a cancellation under section 91 [*waiver or cancellation of interest*] of all or part of any interest otherwise payable under this Act by the person.

Rules relating to assessments

- 75** (1) Despite a prior assessment, or if no assessment has been made, a person continues to be liable for an amount owing to the government under this Act.

- (2) In making an assessment, the administrator
 - (a) is not bound by a declaration filed under this Act or any other information or records supplied under this Act, and
 - (b) may assess an assessable amount despite the filing of a declaration or the supply of any other information or records under this Act or if no declaration has been filed.
- (3) Subject to being amended or varied on appeal or by a reassessment, an assessment is valid and binding despite any error, defect or omission in the assessment or in procedure.

Notice of assessment

- 76** (1) After making an assessment in respect of a person, the administrator must, subject to subsection (2), give the person a notice of assessment that includes a statement of the assessable amounts.
- (2) The administrator may decline to give a notice of assessment to a person for a calendar year in respect of an interest in a residential property if both of the following apply:
- (a) a notice of assessment has not previously been issued to the person for the calendar year in respect of the interest in the residential property;
 - (b) the tax payable for the calendar year is,
 - (i) if an amount is prescribed for the purposes of this subparagraph, less than the prescribed amount, or
 - (ii) if no amount is prescribed under subparagraph (i), nil.
- (3) If a notice of assessment has been given to a person as required by this Act, the assessment is deemed to have been made on the date of the notice.
- (4) Evidence that a notice of assessment has been given is proof, in the absence of evidence to the contrary, that the amounts assessed under this Act are due and owing, and the onus of proving otherwise is on the person liable to pay the amounts assessed.

Anti-avoidance rule

- 77** (1) In this section:

"avoidance transaction" means a transaction

- (a) that, but for this section, would result, directly or indirectly, in a tax benefit, or

- (b) that is part of a series of transactions, which series, but for this section, would result, directly or indirectly, in a tax benefit,

but does not include a transaction that may reasonably be considered to have been undertaken or arranged primarily for bona fide purposes other than for the purpose of obtaining a tax benefit;

"tax benefit" means

- (a) a reduction, avoidance or deferral of tax, or of another amount, payable under this Act, or
- (b) an increase in a refund of tax, or of another amount, under this Act;

"tax consequences", in relation to a person, means any amount of tax or another amount that is payable or refundable to the person under this Act or that is relevant for the purposes of calculating that amount;

"transaction" includes an arrangement or event.

- (2) For the purposes of this section, a series of transactions is deemed to include any related transactions completed in contemplation of the series.
- (3) If a transaction is an avoidance transaction, the administrator may, by assessment, determine the tax consequences to a person who is an owner of a residential property for a calendar year in a manner that is reasonable in the circumstances in order to deny a tax benefit that, but for this section, would result, directly or indirectly, from that transaction or from a series of transactions that includes that transaction.

Division 3 — Payment of Tax and Excess Refund

Payment of tax

- 78** (1) In this section, **"annual tax due date"**, in relation to a calendar year, means, as applicable,
- (a) July 2 in the year following the calendar year, or
 - (b) if the date referred to in paragraph (a) is extended by regulation, the later date.

An owner of a residential property must pay to the government the amount remaining unpaid of the owner's tax payable for a calendar year as follows:

- (2)
 - (a) if the owner filed a declaration under section 62 [*annual declaration*] for the calendar year on or before the declaration due date for that calendar year, on or before the later of
 - (i) the date that is 30 days after the date of the original notice of assessment for that calendar year, and
 - (ii) the annual tax due date for that calendar year;
 - (b) in any other case, the annual tax due date for the calendar year.
- (3) If, for a calendar year, an additional amount of tax is payable by an owner of a residential property because of an assessment of the owner under any of the following provisions, the owner must pay to the government the additional amount as stated in a notice of assessment on or before the date that is 30 days after the date of the notice of assessment:
 - (a) section 68 [*consequential assessments — income taxes*];
 - (b) section 69 [*consequential assessments — person with disabilities*];
 - (c) section 70 [*consequential assessments — changes under the Assessment Act*];
 - (d) section 71 [*consequential reassessments after appeal*];
 - (e) section 72 [*other assessments — disposition of appeal*].

Excess refund

79 (1) If it appears from an inspection, audit, examination or investigation or from other information available to the administrator that an amount has been refunded to a person in excess of the amount to which the person was entitled as a refund under this Act, the excess is deemed to be an amount that became payable to the government by the person on the day on which the amount was refunded.

(2) If an amount applied under section 92 (2) [*refund of overpayment*] to an amount owing by a person is in excess of the amount to which the person is entitled as a refund under this Act, this section applies in respect of the amount applied as if that amount had been refunded to the person on the day the amount was applied to the amount owing.

Division 4 — Administrative Penalties

Late payment penalty

- 80** If an owner of a residential property fails to pay all or part of the owner's tax payable for the 2020 or a subsequent calendar year by the date on which the tax is required under this Act to be paid, the administrator may impose a penalty equal to 10% of the unpaid tax.

Penalty for failure to provide required information

- 81** If a person who is required to file a declaration fails to include in the declaration any required information or fails to file with the declaration any other required information or records, the person is liable, in respect of each failure, to a penalty equal to the greater of

- (a) \$100, and
- (b) \$25 for each day during which the failure continues, to a maximum of \$2 500.

Penalties respecting information and records

- 82** (1) A person who fails to comply with a provision specified in subsection (2) is liable, in respect of each failure, to a penalty equal to the greater of

- (a) \$100, and
- (b) \$25 for each day during which the failure continues, to a maximum of \$2 500.

- (2) For the purposes of subsection (1), the following provisions are specified:

- (a) section 68 (2) [*consequential assessments — income taxes*];
- (b) section 69 (2) [*consequential assessments — person with disabilities*];
- (c) section 93 (3) [*production of records*];
- (d) section 93 (8) (a) or (b) [*interfering with inspection or audit*];
- (e) section 94 (1) [*requirement to provide records*];
- (f) section 94 (3) [*requirement to provide records in English*];
- (g) section 95 (2) [*demand for information*].

Gross negligence

- 83** (1) In this section, "**additional tax**" means the amount by which the tax payable by a person for the calendar year calculated on the basis of accurate and complete information exceeds the tax payable by the person for the calendar year calculated on the basis of the false statement or omission described in subsection (2).
- (2) If a person knowingly, or under circumstances amounting to gross negligence, makes, or participates in, assents to or acquiesces in the making of, a false statement or an omission in a declaration, notice, application or other record filed or supplied or in information supplied under this Act for a calendar year, the person is liable to a penalty equal to the greater of
- (a) \$100, and
 - (b) 100% of the additional tax.

Misrepresentation by third party

- 84** (1) Section 163.2 of the federal Act applies for the purposes of this Act with the changes the circumstances require for the purposes of this Act.
- (2) Without limiting subsection (1), in applying section 163.2 of the federal Act for the purposes of this Act, the following rules apply:
- (a) a reference in that section to the federal Act is to be read as a reference to this Act;
 - (b) a reference in that section to an assessment is to be read as a reference to an assessment under this Act;
 - (c) that section is to be read without reference to the definition of "excluded activity" in subsection (1) of that section and without reference to subsections (7) and (8) (b) (i) and (ii) of that section;
 - (d) subsection (5) of that section is to be read as if
 - (i) the reference to "subsection 163 (2)" were a reference to section 83 (2) of this Act, and
 - (ii) the reference to "return filed for the purposes of this Act" were a reference to "declaration, notice, application or other record filed or supplied or in information supplied under this Act";
 - (e) subsection (10) of that section is to be read as if the reference to "section 163 (3)" were a reference to subsection (3) of this section;

- (f) subsection (15) of that section is to be read as if the reference to "or an employee engaged in an excluded activity" were excluded.

(3) In an appeal to the Supreme Court under section 99 *[appeal to court]* of this Act, the onus is on the minister to establish the facts justifying the assessment of a penalty to which a person is liable under this section.

Waiver or cancellation of penalty

85 The administrator may at any time waive or cancel

- (a) all of a penalty otherwise payable under section 80 by a person, and
- (b) all or part of a penalty otherwise payable under any other provision of this Act by a person.

Division 5 — Interest

Interest on unpaid taxes

86 If an owner fails to pay tax as required under section 78 *[payment of tax]*, the owner must pay to the government interest on the amount unpaid from the date the tax was payable under that section until the date of payment.

Interest on excess refund

87 If an amount is deemed under section 79 (1) *[excess refund]* to be an amount payable by a person, the person is liable to pay interest on the amount from the date the amount became payable under that section until the date of payment.

Interest on penalties

88 A person must pay to the government interest on a penalty assessed under this Act as follows:

- (a) in the case of a penalty under section 80 *[late payment penalty]*, from the date on which tax was payable until the date of payment;
- (b) in the case of a penalty under section 81 *[penalty for failure to provide required information]*, from the date on which the declaration was filed until the date of payment;

- in the case of a penalty under section 82 [*penalties respecting information and records*] for a failure to comply
- (c) with section 68 (2) [*consequential assessments — income taxes*] or 69 (2) [*consequential assessments — person with disabilities*], from the date on which the notice was required to be filed until the date of payment;
 - (d) in the case of a penalty under section 83 (2) [*gross negligence*], from the date on which the declaration, notice, application or other record was filed or supplied, or the date on which the information was supplied, until the date of payment;
 - (e) in the case of any other penalty, from the date of the notice of assessment that specifies the amount of the penalty assessed until the date of payment.

Calculation of interest

- 89** Interest payable to the government under this Act must be calculated at the prescribed rate and in the prescribed manner.

No interest if full payment within 30 days

- 90** Despite any other provision of this Division, if
- (a) a notice of assessment or statement of account given to a person by the administrator specifies an amount owing to the government, and
 - (b) the person, within 30 days after the date of the notice of assessment or statement of account, pays the amount owing in full,

interest is not payable on the amount owing from the date of the notice of assessment or statement of account until the date of payment.

Waiver or cancellation of interest

- 91** The administrator may at any time waive or cancel all or part of any interest otherwise payable under this Act by a person.

Division 6 — Refunds

Refund of overpayment

- 92** (1) If the administrator believes, based on the results from an inspection, audit, examination or investigation or from other information available to the administrator, that an overpayment has been made

under this Act by a person, the minister, on the certificate of the administrator, must refund the amount overpaid to the person from the consolidated revenue fund.

- (2) Despite subsection (1), if there is an amount owing to the government under this Act by a person, the amount overpaid must first be applied in satisfaction of the amount owing, and notice must be given by the administrator to the person, accompanied by the refund of any amount overpaid and remaining unapplied.
- (3) Despite subsections (1) and (2), if the amount to be refunded under subsection (1) or (2) is less than \$10, the administrator may decline to refund the amount overpaid, and, in the case of subsection (2), remaining unapplied.

Division 7 — Inspections and Audits

Inspection and audit powers

93 (1) In this section:

"electronic" has the same meaning as in section 1 of the *Electronic Transactions Act*;

"specified location" means any place

- (a) used by a person as a residence or in relation to a business carried on by the person, or
 - (b) where the records of a person are kept.
- (2) Subject to subsection (4), the administrator may, at any reasonable time and for any purpose related to the administration and enforcement of this Act and the regulations,
- (a) enter a specified location,
 - (b) inspect a specified location if the specified location is a residential property,
 - (c) inspect, audit and examine records,
 - (d) make copies of records, and
 - (e) subject to subsection (7), remove records from the specified location for the purpose of making copies.
- (3) A person occupying a specified location must do all of the following, as applicable:

- produce or provide electronic access to all records as may be required by the administrator;
 - ~~(a)~~ ^(b) in the case of records in electronic form, produce or provide electronic access to the records in the form and manner required by the administrator;
 - (c) answer all questions of the administrator relating to the matters referred to in subsection (2).
- (4) The power to enter a specified location under subsection (2) must not be used to enter or inspect a specified location that is occupied as a residence without the consent of the occupier except under the authority of a warrant under subsection (5).
- (5) On being satisfied by evidence on oath that entry on or into any place is necessary for any purpose relevant to the administration and enforcement of this Act and the regulations, a justice may issue a warrant authorizing a person named in the warrant to enter on or into the place in accordance with the warrant in order to exercise the powers referred to in subsection (2) (a) to (e).
- (6) The administrator may make an application for a warrant under subsection (5) without notice to any other person.
- (7) If the administrator removes records from a specified location for the purpose of making copies, the administrator must return the records within a reasonable time.
- (8) A person must not
- (a) interfere with, hinder or molest a person doing anything that the person is authorized to do under this section, or
 - (b) prevent or attempt to prevent a person from doing anything that the person is authorized to do under this section.

Requirement to provide records

- 94** (1) When required by the administrator, a person must provide to the administrator all records that the administrator considers necessary to determine whether this Act and the regulations are being or have been complied with.
- (2) The administrator may, by giving written notice to the person, specify the form and manner in which the records referred to in subsection (1) are to be provided, including requiring the records to be in the English language or to be provided with an English translation of the records verified in a manner satisfactory to the administrator.

- (3) If the administrator gives a person a written notice under subsection (2), the person must provide the records referred to in subsection (1) in the form and manner required.

Demand for information

- 95** (1) For any purpose related to the administration or enforcement of this Act or the regulations, the administrator may, by giving a person a demand notice, require from the person
- (a) any information or additional information,
 - (b) the production of any records, or
 - (c) a written statement.
- (2) A person to whom a demand notice is given under this section must comply with the notice within the time specified in the notice.

Records required to be kept

- 96** (1) A person who is an owner of a residential property for a calendar year must keep adequate records for the purposes of this Act.
- (2) If the records kept by an owner are, in the opinion of the administrator, not adequate for the purposes of this Act, the administrator may specify one or more of the following in respect of the records to be kept by the owner:
- (a) the information to be contained in the records;
 - (b) the form or manner in which the records are to be kept.
- (3) A person who is required to keep records under this section must retain the records for a period of 6 years after the end of the calendar year to which the records relate.

Evidence — copies of records

- 97** A record certified by the administrator to be a copy of a record obtained by the administrator under this Act is evidence of the nature and content of the original.

Part 6 — Appeals

Appeal to minister

- 98** (1) Subject to this section, an appeal to the minister lies from

- an assessment made under Division 2 *[Assessments]* of Part 5 *[Administration and Enforcement]*,
 - (a) *[a determination made under section 114 (12) [lien — associated corporations], and*
 - (b) *[an assessment made under section 108 (1) [joint and several liability — assessment and discharge of liability].*
- (2) Subsection (3) applies to a person in relation to an assessment under Division 2 of Part 5 if at any time the administrator makes the assessment under any of the following provisions:
- (a) *[section 67 (1) (a) (ii) or (iii) [assessments — misrepresentation, fraud or waiver];*
 - (b) *[section 68 (3) [consequential assessments — income taxes];*
 - (c) *[section 69 (3) [consequential assessments — person with disabilities];*
 - (d) *[section 70 (3) [consequential assessments — changes under the Assessment Act];*
 - (e) *[section 74 (1) [assessments of penalties and interest];*
 - (f) *[section 77 (3) [anti-avoidance rule].*
- (3) If this subsection applies to a person in relation to an assessment under Division 2 of Part 5, the person may, under subsection (1) of this section, appeal from the decision of the administrator in relation to the assessment, but only to the extent that the reasons for the appeal can reasonably be considered as relating to any matter that gave rise to the assessment and that was not conclusively determined by a court.
- (4) Subsection (3) does not limit the right of a person to appeal, under subsection (1), a decision of the administrator made before the time referred to in subsection (2).
- (5) A person may, under subsection (1), appeal from a decision of the administrator in relation to an assessment under section 108 (1), but only to the extent that the reasons for the appeal can reasonably be considered as relating to a matter that is specified in any of the following provisions and that was not conclusively determined by a court:
- (a) *[section 104 [joint and several liability];*
 - (b) *[section 105 [joint and several liability — other owners];*

section 106 [*joint and several liability — parents or*
(c) *guardians of minor*];

(d) section 107 [*joint and several liability — property not*
transferred at arm's length].

(6) Written notice of the appeal must be given to the minister within 90 days after the date of the notice of assessment or the determination, as the case may be.

(7) The appellant must set out in the notice of appeal a statement of all material facts and the reasons in support of the appeal.

(8) On receiving the notice of appeal, the minister must

(a) consider the matter,

(b) affirm, amend or change the assessment or determination, as the case may be, and

(c) promptly give the appellant written notice of the result of the appeal.

(9) An appeal may not be made under this section

(a) in relation to an assessment made under any of the following provisions:

(i) section 67 (1) (a) (i) [*assessments — failure to file declaration*], except in relation to the administrator's determination that a person is an owner for the purposes of the Act;

(ii) section 71 [*consequential reassessments after appeal*];

(iii) section 72 [*other assessments — disposition of appeal*];

(iv) section 73 [*assessments of other amounts payable*];

(v) section 74 (2) [*cancellation of penalties and interest*],
and

(b) for greater certainty, in relation to an issue for which the right of appeal has been waived in writing by the person.

Appeal to court

99 (1) A decision of the minister under section 98 may be appealed to the Supreme Court by way of a petition proceeding.

(2) The Supreme Court Civil Rules relating to petition proceedings, other than Rule 18-3, apply to appeals under this section.

- (3) A petition must be filed in the court registry within 90 days after the date on the minister's notice of decision.
- (4) In the petition filed under subsection (3), the government must be designated "Her Majesty the Queen in right of the Province of British Columbia".
- (5) Within 14 days after the filing of the petition under subsection (3), the petition must be served on the government in accordance with section 8 of the *Crown Proceeding Act*.
- (6) An appeal under this section is a new hearing that is not limited to the evidence and issues that were before the minister.
- (7) The court may
 - (a) dismiss the appeal,
 - (b) allow the appeal,
 - (c) vary the decision from which the appeal is made, or
 - (d) refer the decision back to the administrator for reconsideration.
- (8) An appeal lies from a decision of the court to the Court of Appeal with leave of a justice of the Court of Appeal.

Irregularities

- 100** An assessment made by the administrator under this Act must not be varied or disallowed by a court because of an irregularity, informality, omission or error on the part of a person in the observation of any directory provision up to the date of the notice of assessment.

Tax collection not affected by pending appeal

- 101** Neither the giving of a notice of appeal by a person nor a delay in the hearing of an appeal
- (a) affects the date an amount, that is owing to the government under this Act and that is the subject matter of the appeal, is payable under this Act,
 - (b) affects the amount of interest payable on an amount that is owing to the government under this Act and that is the subject matter of the appeal, or
 - (c) delays the collection of an amount that is owing to the government under this Act and that is the subject matter of

the appeal, or any interest payable under this Act on that amount.

If decision set aside or amount reduced or increased on appeal

102 (1) If the administrator's or the minister's decision is set aside, or the amount of an assessment or an amount owing to the government under this Act is reduced on appeal, the minister must refund to the appellant from the consolidated revenue fund

- (a) the amount or excess amount paid, and
- (b) any interest paid on the amount or excess amount paid, as the case may be.

(2) If the amount of an assessment or an amount owing to the government under this Act is increased on appeal, the appellant must pay to the government

- (a) the additional amount owing to the government under this Act, and
- (b) any additional interest payable on the additional amount owing to the government under this Act.

Part 7 — Recovery of Amounts Owing

Division 1 — Joint and Several Liability

Definition of "defaulting owner"

103 In this Division, "**defaulting owner**" means a person

- (a) who is or was an owner of a residential property at the end of the last day of a calendar year, and
- (b) who fails to pay tax as required under this Act for the calendar year.

Joint and several liability

104 (1) Sections 105 [*joint and several liability — other owners*], 106 [*joint and several liability — parents or guardians of minor*] and 107 [*joint and several liability — property not transferred at arm's length*] apply in relation to a person for a calendar year if, in respect of a defaulting owner referred to in the applicable section, one of the following has occurred:

- a certificate has been filed under section 111 [summary proceedings] with respect to the amount the defaulting owner is liable to pay under this Act;
- (a) owner is liable to pay under this Act;
- (b) in the case of a defaulting owner that is a corporation,
- (i) the corporation has been dissolved or has commenced liquidation or dissolution proceedings in any jurisdiction, or
 - (ii) the corporation has obtained a court order granting a stay of proceedings under section 11.02 of the *Companies' Creditors Arrangement Act* (Canada);
- (c) in the case of a defaulting owner whose interest in the residential property is held as a partner in a partnership, the partnership has been dissolved or has commenced liquidation or dissolution proceedings in any jurisdiction;
- (d) in the case of a defaulting owner whose interest in the residential property is held as a trustee of a trust, the trust has been wound up or proceedings have been commenced, in any jurisdiction, to wind up the trust;
- (e) the defaulting owner has, under the *Bankruptcy and Insolvency Act* (Canada),
- (i) made an assignment in bankruptcy,
 - (ii) filed a notice of intention to make a proposal with the official receiver, or
 - (iii) made a proposal under Division 1 of Part III of that Act;
- (f) a bankruptcy order has been made against the defaulting owner under the *Bankruptcy and Insolvency Act* (Canada);
- (g) the defaulting owner has been or is subject in any jurisdiction to a proceeding of a similar nature to a proceeding referred to in paragraphs (b) (ii), (e) or (f).
- (2) For greater certainty, a person is not jointly and severally liable under section 105 (1), 106 or 107 (1) for an amount for which the defaulting owner is jointly and severally liable under any of those sections.

Joint and several liability — other owners

Subject to subsection (2), every person who is an owner of a residential property for a calendar year is jointly and severally liable for

105 (1)

- (a) an amount of tax assessed under Division 2 *[Assessments]* of Part 5 *[Administration and Enforcement]* for the calendar year against a defaulting owner in respect of the defaulting owner's interest in the residential property, and
- (b) any interest payable on an amount referred to in paragraph (a).

(2) Subsection (1) does not apply to an owner who is, for the calendar year, exempt in respect of the residential property under any of the following provisions:

- (a) section 20 *[exemption for specified owners]*;
- (b) section 21 *[exemption for not-for-profit corporations]*;
- (c) section 22 *[exemption for bankrupts]*;
- (d) section 23 *[exemption for Indigenous nations]*.

Joint and several liability — parents or guardians of minor

106 A parent or guardian of a defaulting owner who is a minor on the last day of a calendar year is jointly and severally liable for

- (a) an amount of tax assessed under Division 2 of Part 5 for the calendar year against the defaulting owner in respect of the defaulting owner's interest in the residential property, and
- (b) any interest payable on an amount referred to in paragraph (a).

Joint and several liability — property not transferred at arm's length

107 (1) If a defaulting owner transfers an interest in a residential property to another person with whom the defaulting owner does not deal at arm's length and, immediately following the transfer, the transferee is an owner in respect of the interest in the residential property, subject to this section, the transferee is jointly and severally liable for

- (a) an amount of tax assessed under Division 2 of Part 5 for a calendar year against the defaulting owner in respect of the defaulting owner's interest in the residential property, and
- (b) any interest payable on an amount referred to in paragraph (a).

- Subsection (1) does not apply if the transfer referred to in that
- (2) subsection is made under a final agreement or final court order respecting property division following the breakdown of the relationship between an individual and the individual's spouse.
- (3) Subsection (1) does not apply to a transferee who is, as an owner of the residential property, exempt for the calendar year under any of the following provisions:
- (a) section 20 *[exemption for specified owners]*;
 - (b) section 21 *[exemption for not-for-profit corporations]*;
 - (c) section 22 *[exemption for bankrupts]*;
 - (d) section 23 *[exemption for Indigenous nations]*.
- (4) For the purposes of subsection (1), a transferor deals at arm's length with a transferee in the following circumstances:
- (a) if the transferor is an individual whose interest in the residential property was held other than as a partner in a partnership or as a trustee of a trust, the transferor deals, at the time of the transfer, at arm's length with the individual or individuals specified in subsection (5) (a) to (d), as applicable;
 - (b) if the transferor is a corporation whose interest in the residential property was held other than as a partner in a partnership or as a trustee of a trust, all of the corporate interest holders in respect of the corporation deal, at the time of the transfer, at arm's length with the individual or individuals specified in subsection (5) (a) to (d), as applicable;
 - (c) if the transferor is a person whose interest in the residential property is held as a partner in a partnership, all of the partnership interest holders in respect of the interest in the residential property deal, at the time of the transfer, at arm's length with the individual or individuals specified in subsection (5) (a) to (d), as applicable;
 - (d) if the transferor is a person whose interest in the residential property is held as a trustee of a trust, all of the beneficial owners in respect of the interest in the residential property deal, at the time of the transfer, at arm's length with the individual or individuals specified in subsection (5) (a) to (d), as applicable.

- (5) For the purposes of subsection (4) (a) to (d), the following individuals are specified:
- (a) if the transferee is an individual whose interest in the residential property is held other than as a partner in a partnership or as a trustee of a trust, the individual;
 - (b) if the transferee is a corporation whose interest in the residential property is held other than as a partner in a partnership or as a trustee of a trust, all of the corporate interest holders in respect of the corporation;
 - (c) if the transferee is a person whose interest in the residential property is held as a partner in a partnership, all of the partnership interest holders in respect of the interest in the residential property;
 - (d) if the transferee is a person whose interest in the residential property is held as a trustee of a trust, all of the beneficial owners in respect of the interest in the residential property.

Joint and several liability — assessment and discharge of liability

- 108** (1) The administrator may assess a particular person in respect of an amount that has become payable under section 105 (1), 106 or 107 (1) by the particular person.
- (2) If the administrator makes an assessment under subsection (1),
- (a) the provisions of Division 2 *[Assessments]* of Part 5 *[Administration and Enforcement]* apply in respect of the assessment as if it were an assessment made under that Division and as if the particular person assessed were an owner in respect of the interest in the residential property for the calendar year to which the assessment relates, and
 - (b) the administrator must give a written notice of the assessment and the amount of the liability to the defaulting owner in respect of whose tax the particular person is liable.
- (3) Despite subsection (2), an amount assessed under subsection (1) against a particular person is not considered tax payable for the purposes of this Act.
- (4) If, because of section 105 (1), 106 or 107 (1), a particular person has become jointly and severally liable with another person in respect of all or part of the defaulting owner's liability under this Act,

- (a) a payment by the particular person on account of that defaulting owner's liability discharges the liability of both the particular person and the defaulting owner to the extent of the payment, and
- (b) a payment by the defaulting owner on account of that defaulting owner's own liability only discharges the liability of the particular person to the extent that the payment reduces the defaulting owner's liability to an amount that is less than the amount in respect of which the particular person is jointly and severally liable under section 105 (1), 106 or 107 (1), as applicable.

Joint and several liability — refunds

109 (1) Despite sections 92 [*refund of overpayment*] and 102 (1) [*amount reduced on appeal*], subsection (2) applies if the administrator is satisfied that the total of

- (a) the amount paid by one or more particular persons who are, under section 105 (1), 106 or 107 (1), jointly and severally liable with a defaulting owner, and
- (b) the amount paid by the defaulting owner,

exceeds the amount owed by the defaulting owner under this Act for the calendar year in respect of which the particular persons are jointly and severally liable with the defaulting owner.

(2) If this subsection applies, the minister, on the certificate of the administrator, must pay a refund from the consolidated revenue fund in accordance with the following:

- (a) if only one particular person paid all or part of the amount for which one or more particular persons and the defaulting owner were jointly and severally liable under section 105 (1), 106 or 107 (1), a refund must be paid to the particular person of the amount of the excess, up to the amount paid by the particular person;
- (b) if 2 or more particular persons paid all or part of the amount for which the particular persons and the defaulting owner were jointly and severally liable under section 105 (1), 106 or 107 (1), a refund must be paid to the particular persons of the amount of the excess divided equally among the particular persons, up to the amount paid by each particular person;

- (c) after making the payment under paragraph (a) or (b), as applicable, a refund must be paid to the defaulting owner of any remaining amount of the excess, up to the amount paid by the defaulting owner.

Division 2 — Other Methods of Recovery

Court proceeding to recover amount owing

- 110** The government may commence a proceeding in a court of competent jurisdiction to recover an amount owing to the government under this Act as a debt due to the government.

Summary proceedings

- 111** (1) If a person fails to pay an amount owing to the government under this Act, the administrator may issue a certificate specifying the amount owed and the name of the person who owes it.
- (2) The administrator may file with the Supreme Court a certificate issued under subsection (1).
- (3) A certificate filed under subsection (2) has the same force and effect, and all proceedings may be taken on the certificate, as if it were a judgment of the court in favour of the government for the recovery of a debt in the amount specified in the certificate against the person named in the certificate.
- (4) If the amount specified in a certificate is different from the actual amount owing to the government under this Act, the administrator may correct the amount by issuing a new certificate specifying the revised amount owed and the name of the person who owes it.
- (5) The administrator may file with the Supreme Court a certificate issued under subsection (4).
- (6) A certificate filed under subsection (5)
- (a) revises the certificate filed under subsection (2) that names the same person,
 - (b) is deemed to be filed at the same time as the certificate it revises, and
 - (c) has the same force and effect, and all proceedings may be taken on the certificate, as if it were a judgment of the court in favour of the government for the recovery of a debt in the amount specified in the certificate against the person named in the certificate.

Alternative remedies

- 112** (1) Remedies available to the government for the recovery of an amount owing to the government under this Act may be exercised separately, concurrently or cumulatively.
- (2) The liability of a person for the payment of an amount owing to the government under this Act is not affected by a fine or penalty imposed on or paid by the person for contravention of this Act.

Attachment of funds

- 113** (1) In this section, "**debtor**" means any person who is liable to pay to the government an amount under this Act.
- (2) If the administrator knows or suspects that a person is or is about to become indebted or liable to make a payment to a debtor, the administrator may demand that that person pay to the government on account of the debtor's liability under this Act all or part of the money otherwise payable to the debtor.
- (3) Without limiting subsection (2), if the administrator knows or suspects that a person is about to advance money to or make a payment on behalf of a debtor, or make a payment in respect of a negotiable instrument issued by a debtor, the administrator may demand that that person pay to the government on account of the debtor's liability under this Act the money that would otherwise be advanced or paid.
- (4) If under this section the administrator demands that a person pay to the government, on account of a debtor's liability under this Act, money otherwise payable by that person to the debtor as interest, rent, remuneration, a dividend, an annuity or other periodic payment, the demand
- (a) is applicable to all of those payments to be made by the person to the debtor until the liability under this Act is satisfied, and
 - (b) operates to require payments to the government out of each payment of the amount stipulated by the administrator in the demand.
- (5) Money or a beneficial interest in money in a savings institution
- (a) on deposit to the credit of a debtor at the time a demand is given, or
 - (b) deposited to the credit of a debtor after a demand is given

is money for which the savings institution is indebted to the debtor within the meaning of this section, but money on deposit or deposited to the credit of a debtor as described in paragraph (a) or (b) does not include money on deposit or deposited to the credit of a debtor in the debtor's capacity as a trustee.

(6) A demand under this section continues in effect until the earliest of the following:

- (a) subject to paragraphs (b) and (c), the demand is satisfied;
- (b) subject to paragraph (c), 90 days after the demand is given;
- (c) 3 years after the demand is given, if the demand is made in respect of an outstanding legal claim or insurance claim that, if resolved in the debtor's favour, will result in money becoming available to the debtor.

(7) Despite subsection (6), if a demand is made in respect of a periodic payment referred to in subsection (4), the demand continues in effect until it is satisfied unless no periodic payment is made or is liable to be made within 90 days after the demand is given, in which case the demand ceases to have effect at the end of that period.

(8) Money demanded from a person by the administrator under this section becomes payable

- (a) as soon as the person is given the demand, if that person is indebted or liable to make a payment to the debtor at the time the demand is given, or
- (b) as soon as the person becomes indebted or liable to make a payment to the debtor, in any other case.

(9) A person who fails to comply with a demand under subsection (2) or (4) is liable to pay to the government an amount equal to the amount that the person was required to pay under subsection (2) or (4).

(10) A person who fails to comply with a demand under subsection (3) is liable to pay to the government an amount equal to the lesser of

- (a) the total of the money advanced or paid, and
- (b) the amount that the person was required to pay under subsection (3).

(11) Money paid by any person to the government in compliance with a demand under this section

- (a) satisfies the original liability to the extent of the payment, and

(b) is deemed to have been paid by that person to the debtor.

Lien

114 (1) In this section:

"amount owing" means an amount remaining unpaid, any related penalty and any interest on that amount and the penalty;

"associated corporation" includes a corporation that is determined under subsection (12) to be associated with another corporation for the purposes of this section;

"collateral" has the same meaning as in the *Personal Property Security Act*;

"financing statement" has the same meaning as in the *Personal Property Security Act*;

"inventory" has the same meaning as in the *Personal Property Security Act*;

"personal property registry" means the registry under the *Personal Property Security Act*;

"proceeds" has the same meaning as in the *Personal Property Security Act*;

"property", when referring to the property of an associated corporation, means property that is used in, or in conjunction with, the business in respect of which the amount referred to in subsection (2) is required to be levied and remitted;

"purchase money security interest" has the same meaning as in the *Personal Property Security Act*;

"security interest" has the same meaning as in the *Personal Property Security Act*.

(2) If a person is required to pay an amount to the government under this Act and does not pay the amount, the administrator may register a lien

(a) against the real property of

(i) the person, or

(ii) an associated corporation of the person

by registering a certificate of lien in the prescribed form in the appropriate land title office in the same manner that a charge is registered under the *Land Title Act*, and

(b) against the personal property of

(i) the person, or

(ii) an associated corporation of the person

by registering a financing statement in the personal property registry.

(3) On registration of a certificate of lien against the real property of a person under subsection (2) (a), a lien is created on the real property against which the lien is registered for the amount owing.

(4) On registration of a lien against the personal property of a person under subsection (2) (b), a lien is created on the present and after acquired personal property in which the person has a legal or equitable interest for the amount owing.

(5) A lien registered under subsection (2) (b) against personal property does not have priority over

(a) a security interest that secures unpaid wages under section 87 (3) [*lien for unpaid wages*] of the *Employment Standards Act*, regardless of when that security interest arises, or

(b) a purchase money security interest in collateral other than collateral that at the time the purchase money security interest attaches is inventory or its proceeds.

(6) In relation to a certificate of lien registered under subsection (2) (a) against the real property of a person, the administrator may register a certificate of lien in the form prescribed for the purposes of subsection (2) (a) in the appropriate land title office in the same manner that a charge is registered under the *Land Title Act* if

(a) the certificate of lien registered under subsection (2) (a) against the real property of the person contains a statement of the amount owing, and

(b) the administrator is satisfied that the amount referred to in paragraph (a) of this subsection that is stated in that certificate of lien is incorrect.

(7) In relation to a financing statement registered under subsection (2)

(b) against the personal property of a person, the administrator may

register a financing change statement, as defined in the *Personal Property Security Act*, in the personal property registry if

- (a) the financing statement registered under subsection (2) (b) against the personal property of the person contains a statement of the amount owing, and
 - (b) the administrator is satisfied that the amount referred to in paragraph (a) of this subsection that is stated in that financing statement is incorrect.
- (8) A certificate of lien registered under subsection (6) and a financing change statement registered under subsection (7) must contain a revised statement of the amount owing.
- (9) On registration of a certificate of lien against the real property of a person under subsection (6), the certificate of lien registered under subsection (2) (a) against the real property of the person is, at the same time it was originally registered, deemed to be revised to set out the amount owing as stated in the certificate of lien registered under subsection (6).
- (10) On registration of a financing change statement against the personal property of a person under subsection (7), the financing statement registered under subsection (2) (b) against the personal property of the person is, at the same time it was originally registered, deemed to be revised to set out the amount owing as stated in the financing change statement registered under subsection (7).
- (11) If the administrator believes that one corporation is associated with another corporation within the meaning of section 256 of the federal Act, the administrator may request one or both of the corporations to provide to the administrator the records and information required by the administrator to confirm or rebut that belief.
- (12) The administrator may determine that corporations are associated corporations for the purposes of this section if
 - (a) a corporation that has been requested to provide records or information to the administrator under subsection (11) fails or refuses to comply with that request within a period of time considered by the administrator to be reasonable in the circumstances, or
 - (b) the records or information provided to the administrator under this section confirm the administrator's belief that the corporations are associated.

- (13) Immediately after a corporation is determined under this section to be associated with a person referred to in subsection (2) (a) (i) and (b) (i), the administrator
- (a) must notify the corporation of this in writing, and
 - (b) may register a lien under this section against the real and personal property of the corporation.
- (14) The administrator may seize personal property against which a lien is registered under subsection (13) at any time after the registration of the lien, but must not take any action to realize on those assets until the later of
- (a) the date that is 90 days after the date on which the notice required under subsection (13) (a) was sent to the corporation, and
 - (b) if a notice of appeal is served on the minister in respect of the determination within the time provided by section 98 (6) [*appeal to minister*], the date on which the minister upholds the determination under that appeal.
- (15) If, at any time, the administrator becomes convinced that the corporations were not associated within the meaning of section 256 of the federal Act at the time that the lien was registered under subsection (13) (b) of this section or if the minister or a court of competent jurisdiction upholds the corporation's appeal against the administrator's determination on the basis that the corporations were not associated at the time that the lien was registered, the administrator must,
- (a) if the administrator has not realized on any of the assets against which the lien was registered, promptly release the lien, and
 - (b) if the administrator has realized on some or all of the assets against which the lien was registered, promptly release the lien against the remaining assets and pay the proceeds realized from the sale of the realized assets minus any costs or expenses incurred in the sale
 - (i) to the corporation, or
 - (ii) if the administrator considers it appropriate to do so, into the Supreme Court under Rule 10-3 of the Supreme Court Civil Rules.

- (16) The release of the lien under subsection (15) (a) or the release of the lien and payment of the applicable net sale proceeds under subsection (15) (b) is deemed to be full satisfaction of all claims any person, including the corporation, might have arising out of or in any way connected with the determination made under subsection (12), the registration of the lien or the seizure or sale of any or all of the assets against which the lien was registered.

Notice of enforcement proceedings

- 115** (1) Before taking proceedings for the recovery of an amount owing to the government under this Act, the administrator must give to the person who owes the amount notice of the administrator's intention to enforce payment.
- (2) Failure to give notice under subsection (1) does not affect the validity of proceedings taken for the recovery of an amount owing to the government under this Act.

Limitation period

- 116** (1) In this section, "**collection proceeding**" means
- (a) a proceeding, under section 110, for the recovery of an amount owing to the government,
 - (b) the filing of a certificate under section 111 [*summary proceedings*],
 - (c) the making of a demand under section 113 [*attachment of funds*], and
 - (d) the registration or enforcement of a lien under section 114 [*lien*].
- (2) A collection proceeding may be commenced at any time within 7 years after the date of the notice of assessment for the amount claimed in the collection proceeding.
- (3) Despite subsection (2), a collection proceeding that relates to a contravention of this Act or the regulations and that involves wilful default or fraud may be commenced at any time.
- (4) If, before the expiry of the limitation period that applies under subsection (2) to an amount claimed, a person acknowledges liability in respect of the amount claimed, the date of the notice of assessment is deemed to be the day on which the acknowledgement is made.

- (5) Subsection (4) does not apply to an acknowledgement, other than an acknowledgement referred to in subsection (6), unless the acknowledgement is
- (a) in writing,
 - (b) signed, by hand or by electronic signature within the meaning of the *Electronic Transactions Act*,
 - (c) made by the person making the acknowledgement or the person's agent, and
 - (d) made to the government or an agent of the government.
- (6) In the case of an amount claimed to which the limitation period under subsection (2) applies, for the purposes of subsection (4), part payment of the amount by the person against whom the claim is or may be made or by the person's agent is an acknowledgement by the person against whom the claim is or may be made of liability in respect of the claim.
- (7) Section 24 (2), (4) and (10) [*limitation periods extended if liability acknowledged*] of the *Limitation Act* applies for the purposes of this section.
- (8) The liability of a person for the payment of an amount owing to the government under this Act is not affected by the expiry of the limitation period that applies under subsection (2) to the amount claimed.

Part 8 — General

Designation of administrator

- 117** The minister may designate a person who is appointed under the *Public Service Act* as administrator to administer this Act.

Delegation

- 118** (1) The administrator may, in writing, delegate any of the administrator's powers or duties under this Act.
- (2) A delegation under subsection (1) may be to a named person or to a class of persons.

Extension of time

The administrator may at any time extend the date, referred to in paragraph (a) of the definition of "declaration due date", for filing a
119 declaration under section 62 (1) [*annual declaration*].

Communication of information

120 (1) In this section:

"authorized person" means,

- (a) in subsection (5) (k), an authorized person as defined in section 13.1 of the *Assessment Act*,
- (b) in subsection (5) (m), a person who is engaged or employed, or who was formerly engaged or employed, by or on behalf of the Land Title and Survey Authority of British Columbia to assist in carrying out provisions of the *Land Title and Survey Authority Act*, and
- (c) in any other case, a person who is engaged or employed, or who was formerly engaged or employed, by or on behalf of the government of British Columbia to assist in carrying out the provisions of this Act;

"designated person" has the same meaning as in section 241 (10) of the federal Act;

"finance minister" means the member of the Executive Council charged with the administration of the *Financial Administration Act*;

"official" means any person

- (a) who is employed in the service of, who occupies a position of responsibility in the service of or who is engaged by or on behalf of the government of British Columbia, another province or Canada, or
- (b) who was formerly so employed or formerly occupied such a position or was formerly so engaged,

and, for the purposes of subsections (2) and (3), **"official"** includes a designated person;

"police officer" means a police officer as defined in section 462.48 (17) of the *Criminal Code*;

"taxpayer" has the same meaning as in section 248 (1) of the federal Act;

"taxpayer information" means information of any kind and in any form relating to one or more taxpayers

- (a) that is obtained for the purposes of this Act by or on behalf of the minister, or
- (b) that is prepared from information referred to in paragraph (a),

but does not include information that does not directly or indirectly reveal the identity of the taxpayer to whom the information relates.

(2) Except as authorized by this section, an official must not

- (a) knowingly provide, or knowingly allow to be provided, to any person any taxpayer information,
- (b) knowingly allow any person to have access to any taxpayer information, or
- (c) knowingly use any taxpayer information otherwise than in the course of the administration and enforcement of this Act or for a purpose for which it was provided under this section.

(3) Despite any other enactment or law, an official must not be required, in connection with any legal proceedings, to give or produce evidence relating to any taxpayer information.

(4) Subsections (2) and (3) do not apply in respect of legal proceedings

- (a) referred to in section 241 (3) of the federal Act, or
- (b) related to either of the following:
 - (i) the *Home Owner Grant Act*;
 - (ii) the *Land Tax Deferral Act*.

(5) Subject to subsections (6) and (9), an official may do one or more of the following:

- (a) provide to any person taxpayer information that can reasonably be considered necessary for the purposes of the administration or enforcement of this Act, solely for those purposes;
- (b) provide to any person taxpayer information that can reasonably be considered necessary for the purposes of determining
 - (i) any tax, interest, penalty or other amount that is or may become payable by the person under this Act,

- any refund, exemption or tax credit to which the
 - (ii) person is or may become entitled under this Act, or
 - (iii) any other amount that is relevant for the purposes of a determination under subparagraph (i) or (ii);
- (c) provide taxpayer information as follows:
- (i) to an official of the Department of Finance of the Government of Canada solely for the purposes of the formulation or evaluation of fiscal policy;
 - (ii) to an official solely for the purposes of the initial implementation of a fiscal policy or for the purposes of the administration or enforcement of an Act of the Parliament of Canada that provides for the imposition and collection of a tax or duty;
 - (iii) to an official solely for the purposes of the administration or enforcement of an enactment of British Columbia or another province that provides for the imposition or collection of a tax or duty;
 - (iv) to an official solely for the purposes of the administration or enforcement of the *Home Owner Grant Act* or the *Land Tax Deferment Act*;
 - (v) to an official of the ministry of the finance minister solely for the purposes of the formulation or evaluation of fiscal policy;
 - (vi) to an official solely for the purposes of setting off against any sum of money that may be due or payable by the government of British Columbia a debt due to that government or to the government of another province or of Canada;
- (d) provide taxpayer information, or allow the inspection of or access to those types of information, as the case may be, under, and solely for the purposes of,
- (i) sections 44 (1) [*powers of commissioner in conducting investigations, audits or inquiries*] and 61 (1) [*powers, duties and protections of adjudicator*] of the *Freedom of Information and Protection of Privacy Act*, or
 - (ii) sections 15 [*staff in government or government organizations*], 16 [*access to information, documents or things*] and 17 [*summons and requests*] of the *Auditor General Act*;

- (e) provide taxpayer information solely for the purposes of sections 17 to 19 [*write off of assets and uncollectable debts, extinguishment of debts and remissions*] of the *Financial Administration Act*;
- (f) use taxpayer information to compile information in a form that does not directly or indirectly reveal the identity of the taxpayer to whom the information relates;
- (g) use, or provide to any person, taxpayer information solely for a purpose relating to the supervision, evaluation or discipline of an authorized person by the government in respect of a period during which the authorized person was employed by, or engaged by or on behalf of, the government to assist in the administration or enforcement of this Act, to the extent that the information is relevant for the purpose;
- (h) use taxpayer information relating to a taxpayer to provide information to the taxpayer;
- (i) provide taxpayer information to a police officer solely for the purpose of investigating whether an offence has been committed under the Criminal Code, or the laying of an information or the preferring of an indictment, if
 - (i) the taxpayer information can reasonably be considered necessary for the purpose of ascertaining
 - (A) the circumstances in which an offence under the *Criminal Code* may have been committed, or
 - (B) the identity of the person who may have committed an offence,
 - with respect to an official, or with respect to any person related to that official,
 - (ii) the official was or is engaged in the administration or enforcement of this Act, and
 - (iii) the offence can reasonably be considered to be related to that administration or enforcement;
- (j) provide taxpayer information to, or allow inspection of or access to taxpayer information by, any person otherwise legally entitled to the information under an enactment of British Columbia solely for the purposes for which that person is entitled to the information;

- <http://www.bclaws.ca/civix/document/id/complete/statreg/18046>

An official must not use taxpayer information or provide taxpayer information to, or allow inspection of or access to taxpayer information by, any person if the taxpayer information is collected as a result of a disclosure under section 13.1 (2) or (3) *[access to and disclosure of records]* of the *Home Owner Grant Act* or section 13.1 *[access to and disclosure of records]* of the *Land Tax Deferment Act* except solely for the purposes of the administration and enforcement of any of the following:

- (a) this Act;
- (b) the *Home Owner Grant Act*;
- (c) the *Income Tax Act*;
- (d) the *Land Tax Deferment Act*;
- (e) the *Property Transfer Tax Act*;
- (f) the *Taxation (Rural Area) Act*.

(10) To the extent of any inconsistency or conflict with sections 32 *[use of personal information]*, 33 *[disclosure of personal information]*, 33.1 *[disclosure inside or outside Canada]* and 33.2 *[disclosure inside Canada only]* of the *Freedom of Information and Protection of Privacy Act*, this section applies despite that Act.

Information-sharing agreements

121 (1) In this section:

"information-sharing agreement" means an agreement or arrangement to exchange, by electronic data transmission, electronic data matching or any other means, information for a purpose described in section 120 (5);

"taxpayer information" has the same meaning as in section 120.

(2) The minister may enter into an information-sharing agreement with any of the following:

- (a) the government of Canada or an agency of that government;
- (b) the government of a province or other jurisdiction in Canada or an agency of that government;
- (c) a public body as defined in the *Freedom of Information and Protection of Privacy Act*.

Subject to subsection (4), taxpayer information obtained by the minister under an information-sharing agreement may only be used (3) or disclosed for the purpose for which it was obtained under the applicable agreement.

(4) Subsection (3) does not prevent

(a) any taxpayer information obtained by the minister under an information-sharing agreement with the government of Canada or an agency of that government from being used or disclosed for the purpose of administering or enforcing any of the following:

(i) an enactment administered by the minister that provides for the imposition and collection of a tax;

(ii) the *Home Owner Grant Act*;

(iii) the *Land Tax Deferment Act*, or

(b) any taxpayer information obtained by the minister under an information-sharing agreement from being used or disclosed for the purpose of administering or enforcing an Act of the Parliament of Canada that provides for the imposition and collection of a tax or duty.

(5) The Lieutenant Governor in Council may prescribe terms and conditions that are to be included in the information-sharing agreements entered into by the minister.

How and when documents are given by administrator

122 (1) If, under this Act, a document must or may be given by the administrator to a person, the document may be given in accordance with subsection (2).

(2) The administrator may give a document to a person as follows:

(a) if the person is an individual, by leaving the document with the individual;

(b) if the person is a corporation, by leaving the document with a board member or senior officer of the corporation;

(c) if the person is an extraprovincial corporation, by leaving the document with

(i) a person referred to in paragraph (b), or

(ii) an attorney for the extraprovincial corporation;

- by leaving the document with a person apparently employed at the place of business of the person;
- (d) by sending the document by ordinary mail or registered mail to the last known address of the person according to the records of the administrator;
- (e) by sending the document by electronic mail to the last known electronic mail address of the person according to the records of the administrator;
- (f) by sending the document by fax to the last known fax number of the person according to the records of the administrator;
- (g) by sending the document to the person by another communication method agreed to by the person and the administrator.
- (3) If a person carries on business under a name or style other than the person's own name or style, the document to be given in accordance with this Part may be addressed to the name or style under which the person carries on business.
- (4) A document sent by ordinary mail, registered mail, electronic mail, fax or a communication method referred to in subsection (2) (h) is conclusively deemed to have been given on the date the document was sent.
- (5) Despite subsection (4), if a notice of assessment is sent by registered mail, ordinary mail or electronic mail, the notice, for the purposes of this Act, is deemed to have been given on the date of that notice.
- (6) For the purposes of this Act, the date of a notice or statement given by the administrator is the date stated on the notice or statement.

Proof of receipt

- 123** (1) Proof of receipt by a person of a document to which section 122 applies may be established in any court by showing that the document was given in accordance with that section.
- (2) A person seeking to establish the fact that a document referred to in subsection (1) was not received by the person bears the burden of proving that fact.

How and when documents are given by minister

If, under this Act, a document must or may be given by the minister to a person,

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- (a) the document may be given in accordance with section 122 (2), and
- (b) if the document is given in accordance with that section, the document is conclusively deemed to have been given on the date of that document.

When payment is received

125 If, under this Act, an amount must or may be paid to the government, the amount is conclusively deemed to be paid on the day it is received by the government.

When documents are given to minister

126 If, under this Act, a document must or may be given to the minister by a person, the document is conclusively deemed to have been given if delivered to the office of the deputy minister.

Procedure and evidence

- 127** (1) The administrator may issue a document certifying one or more of the following:
- (a) that a person has not filed a declaration, notice or application required to be filed or given under this Act;
 - (b) that a record, other than a declaration, notice or application referred to in paragraph (a), was not filed or given under this Act;
 - (c) that a person filed a declaration, notice or application required to be filed or given under this Act on a particular day;
 - (d) that a record, other than a declaration, notice or application referred to in paragraph (c), was filed or given under this Act on a particular day;
 - (e) that a document that must or may be given by the administrator was given to a person in a particular manner on a particular day;
 - (f) that a notice of appeal to the minister was not filed within the time allowed.

A document issued under subsection (1) is proof, in the absence of evidence to the contrary, of the matter certified in the document.

- (2)
(3) In a prosecution or any proceeding in respect of any matter arising under this Act, the facts necessary to establish compliance on the part of the administrator with this Act or the regulations may be sufficiently proved in any court by the production of an affidavit of the administrator, or a person authorized by the administrator, setting out the facts.

Access to records

128 Despite any other enactment, for the purposes of administering and enforcing this Act and the regulations, the following persons and entities must provide to the administrator, free of charge, assistance and access to the records of the person or entity, as the case may be:

- (a) the British Columbia Assessment Authority, continued by section 3 (1) of the *Assessment Authority Act*;
- (b) the Land Title and Survey Authority, established by section 2 (1) of the *Land Title and Survey Authority Act*;
- (c) the British Columbia Hydro and Power Authority, continued by section 2 of the *Hydro and Power Authority Act*;
- (d) the Insurance Corporation of British Columbia, continued by section 2 (1) of the *Insurance Corporation Act*;
- (e) the ministry of the minister responsible for the administration of section 3 [registration, licence and insurance] or 25 [application for licence] of the *Motor Vehicle Act*, in respect of the registration and licensing of motor vehicles and licensing and certification of drivers of motor vehicles.

Administrator to keep information for each regional district

129 For the purposes of section 9.7 (4.1) [*Housing Priority Initiatives special account*] of the *Special Accounts Appropriation and Control Act*, the administrator must keep the information the administrator considers necessary to advise the minister of the total of the amounts received by the government under this Act, in each fiscal year of the government, in respect of each regional district that includes a specified area.

Part 9 — Offences

General offences

130 A person who does any of the following commits an offence:

- (a) makes, or participates in, assents to or acquiesces in the making of, a false or deceptive statement in a declaration, notice, application or other record required to be filed or given under this Act;
- (b) destroys, alters, mutilates, hides or otherwise disposes of a record to evade payment of an amount to be paid to the government under this Act;
- (c) makes, or participates in, assents to or acquiesces in the making of, a false or deceptive entry in a record related to an amount to be paid to the government under this Act;
- (d) omits, or participates in, assents to or acquiesces in the omission of, a material particular in a record required to be kept under this Act;
- (e) makes or uses, or participates in, assents to or acquiesces in the making or use of, a record in a false or deceptive manner in order to obtain a tax or other benefit;
- (f) wilfully, in any manner, fails to comply with this Act or the regulations;
- (g) wilfully, in any manner, evades or attempts to evade payment of tax or another amount payable under this Act;
- (h) conspires with any person to do anything described in paragraphs (a) to (g).

Offences for failure to provide records or information required by administrator or for interference

131 A person who contravenes section 93 (3) (a) or (8) (a) or (b) [*production of records and interfering with inspection or audit*] commits an offence.

Penalties

132 (1) An individual who commits an offence under section 130 or 131 is liable to

- (a) a fine equal to an amount
 - (i) that is not less than the amount of tax that was sought to be evaded, and
 - (ii) that is not more than the sum of the following:

the amount of tax that was sought to be evaded;

(A) evaded;
(B) \$100 000,

- (b) imprisonment for not more than 2 years, or
- (c) both the fine and imprisonment referred to in paragraphs (a) and (b).

(2) A corporation that commits an offence under section 130 or 131 is liable to a fine equal to an amount

- (a) that is not less than the amount of tax that was sought to be evaded, and
- (b) that is not more than the sum of the following:
 - (i) the amount of tax that was sought to be evaded;
 - (ii) \$200 000.

Offences in relation to confidential information

133 (1) A person commits an offence if

- (a) the person contravenes section 120 (5) [*communication of information*], or
- (b) the person knowingly contravenes an order made under section 241 (4.1) of the federal Act as that section applies for the purposes of this Act.

(2) A person

- (a) to whom taxpayer information has been provided for a particular purpose under section 120 (5) (b), (d), (g), (j), (k) (l) or (m), or
- (b) who is an official to whom taxpayer information has been provided for a particular purpose under section 120 (5) (a), (c) or (e),

and who for any other purpose knowingly uses, provides to any person, allows the provision to any person of or allows access to that information commits an offence.

(3) An individual who commits an offence under subsection (1) or (2) is liable to

- (a) a fine of not more than \$5 000,
- (b) imprisonment for not more than 12 months, or

both the fine and imprisonment referred to in paragraphs (a) and (b) of this subsection.

- (4) A corporation that commits an offence under subsection (1) or (2) is liable to a fine of not more than \$5 000.

Offence by corporation

- 134** (1) If a corporation commits an offence under this Act, an employee, officer, director or agent of the corporation who authorized, permitted or acquiesced in the offence also commits that offence, whether or not the corporation is prosecuted or convicted.
- (2) In a prosecution for an offence under this Act, it is sufficient proof of the offence to establish that it was committed by an employee, officer, director or agent of the defendant, whether or not the employee, officer, director or agent is identified, prosecuted or convicted for the offence.
- (3) Subsection (2) does not apply if the defendant establishes that the defendant exercised due diligence to prevent the commission of the offence.

Administrative penalties as alternative to offence proceedings

- 135** (1) If the administrator imposes an administrative penalty on a person, a prosecution for an offence under this Act for the same contravention may not be brought against the person.
- (2) A person who has been charged with an offence under this Act may not be subject to an administrative penalty in respect of the circumstances that gave rise to the charge.

Limitation period for prosecution

- 136** The time limit for laying an information for an offence under this Act is 6 years after the date when the act or omission that is alleged to constitute the offence occurred.

Section 5 of Offence Act

- 137** Section 5 [*general offence*] of the *Offence Act* does not apply to this Act or the regulations.

Part 10 — Regulations

General regulation-making authority

138 (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:

- (a) respecting any matter for which regulations are contemplated by this Act;
- (b) defining any word or expression used but not defined in this Act.

(3) The authority to make regulations under another provision of this Act does not limit subsection (1) or (2).

(4) In making a regulation under this Act, the Lieutenant Governor in Council may do one or more of the following:

- (a) delegate a matter to a person;
- (b) confer a discretion on a person;
- (c) make different regulations for
 - (i) different persons, trusts, partnerships, places, circumstances, transactions, interests in property or other things, or
 - (ii) different classes of persons, trusts, partnerships, places, circumstances, transactions, interests in property or other things;
- (d) establish or define classes of persons, trusts, partnerships, places, circumstances, transactions, interests in property or other things.

Other regulations

139 (1) The Lieutenant Governor in Council may make regulations as follows:

- (a) for the purposes of paragraph (f) of the definition of "residential property" in section 1 [definitions], prescribing land or improvements, or both, as land or improvements that are not residential property;
- (b) for the purposes of paragraph (k) of the definition of "specified area" in section 1, prescribing an area as a specified area for the purposes of the Act;
- (c) for the purposes of paragraph (m) of the definition of "specified area" in section 1, prescribing an area as excluded

- from being a specified area referred to in paragraphs (a) to (j) of that definition;
- (d) for the purposes of paragraph (n) of the definition of "specified area" in section 1, providing that all or part of an area referred to in paragraph (n) (i) to (viii) of that definition is a specified area for the purposes of this Act;
 - (e) for the purposes of section 5 (2) [*meaning of "untaxed worldwide earner"*], prescribing money, rights or things;
 - (f) for the purposes of paragraph (o) of section 20 [*exemption for specified owners*], prescribing persons or entities or classes of persons or entities;
 - (g) respecting exemptions from tax, including, without limitation, respecting limits or conditions on those exemptions;
 - (h) for the purposes of section 39 (2) (c) (ii) and (3) (c) (ii) [*tenancy exemption for other owners*], respecting the determination of annual fair market rent for residential properties by any method, including, without limitation, using data published by Statistics Canada, the Canada Mortgage and Housing Corporation or other organizations;
 - (i) for the purposes of paragraph (b) of the definition of "annual tax due date" in section 78 (1) [*payment of tax*], prescribing a later date by which tax remaining unpaid is due;
 - (j) prescribing interest rates and the manner of calculating interest for the purposes of this Act.
- (2) A regulation made under subsection (1) (a), (c), (e), (f) or (g), on or before December 31, 2019, may be made retroactive to a date that is not earlier than the date this section comes into force and, if made retroactive, is deemed to have come into force on the specified date.

Part 11 — Review of Act and Regulations

Review of Act and regulations

- 140** (1) On or before December 31, 2021, and at least once every 5 years after that, the government must initiate a review of this Act and the regulations and make public a report of the review.
- (2) A review under subsection (1)

- must take into account the effectiveness of the Act and the
- (a) regulations having regard to housing affordability, including vacancy rates, sale prices of residential property, rents for residential property and other relevant factors, and
 - (b) may include recommended amendments.

Annual consultation with mayors

- 141** (1) On or before December 31, 2019, and once every year after that, the minister must conduct a consultation with the mayors referred to in subsection (2) about the following:
- (a) the tax;
 - (b) the definition of "specified area" in section 1;
 - (c) the factors referred to in section 140 (2) (a).
- (2) The minister must invite, to participate in a consultation referred to in subsection (1), all of the mayors of municipalities that are, in whole or in part, specified areas.
- (3) The minister must, in respect of each consultation conducted under subsection (1), lay a report before the Legislative Assembly.
- (4) A review under section 140, including recommended amendments under that section, must take into account the results of a consultation conducted under subsection (1) of this section.

Part 12 — Transitional Provisions, Amendments to This Act and Consequential Amendments

Division 1 — Transitional Provisions

Transitional regulations

- 142** (1) Despite this or any other Act, the Lieutenant Governor in Council may make regulations as follows:
- (a) respecting any matter that the Lieutenant Governor in Council considers is not provided for, or is not sufficiently provided for, in this Act;
 - (b) making provisions that the Lieutenant Governor in Council considers appropriate for the purpose of more effectively bringing this Act into operation;

- making provisions that the Lieutenant Governor in Council considers appropriate for the purpose of preventing,
- (c) minimizing or otherwise addressing any transitional difficulties encountered in bringing this Act into effect, including, without limitation, provisions making an exception to or a modification of a provision in an enactment or providing for the application or continued application of a previous enactment;
 - (d) resolving any errors, inconsistencies or ambiguities arising in this Act.
- (2) A regulation under subsection (1) may be made retroactive to a specified date that is not earlier than the date this section comes into force and, if made retroactive, is deemed to have come into force on the specified date.
- (3) To the extent of any conflict between a regulation under subsection (1) and this Act or another enactment, the regulation prevails.
- (4) This section and any regulations made under this section are repealed on January 1, 2022.

Division 2 — Amendments to This Act

Amendments to This Act

[Note: See Table of Legislative Changes for the status of sections 143 to 151]

Section (s)	Affected Act
143-151	<i>Budget Measures Implementation (Speculation and Vacancy Tax) Act, 2018</i>

Division 3 — Consequential Amendments

Consequential Amendments

[Note: See Table of Legislative Changes for the status of sections 152 to 160]

Section(s)	Affected Act
152	<i>Assessment Act</i>
153	<i>Home Owner Grant Act</i>
154	<i>Hydro and Power Authority Act</i>
155	<i>Land Tax Deferment Act</i>
156-57	<i>Property Transfer Tax Act</i>
158	<i>Special Accounts Appropriation and Control Act</i>

159-160

*Taxation (Rural Area) Act***Commencement**

161 The provisions of this Act referred to in column 1 of the following table come into force as set out in column 2 of the table:

Item	Column 1 Provisions of Act	Column 2 Commencement
1	Anything not elsewhere covered by this table	The date of Royal Assent
2	Sections 144 to 151	By regulation of the Lieutenant Governor in Council

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