

Ministry of Finance
BRIEFING DOCUMENT

To: Honourable Carole James
Minister of Finance and
Deputy Premier

Initiated by: Aurora Beraldin
Senior Manager,
Business Organizations

Date Prepared: March 9, 2020

Ministry Contact: Aurora Beraldin
Senior Manager,
Business Organizations
Financial and Corporate Sector
Policy Branch

Phone Number: 778 698-5266
Email: Aurora.Beraldin@gov.bc.ca

Cliff #: 388195

TITLE: s.13

PURPOSE:

(X) DECISION REQUIRED

COMMENT:

s.13

Executive Director approval: _____

ADM approval: _____

DM approval: _____

DATE PREPARED: March 9, 2020

ISSUE:

s.13

BACKGROUND:

- The *Cooperative Association Act* (the Act) provides rules for the incorporation and corporate governance of cooperative associations. It is administered by the Registrar of Companies at the BC Registry Services in the Ministry of Citizens' Services (the Corporate Registry).
- Like companies and societies, a cooperative association is a type of legally incorporated corporation. A cooperative association is owned by an association of persons seeking to satisfy common needs such as access to products or services.
- Cooperative associations can improve access and affordability to goods and services for British Columbians. Community and regionally-based cooperative associations also create jobs and investment in local businesses in our province.
- Key features of cooperative associations include the following:
 - they are businesses that are jointly owned by their members;
 - they are democratically controlled with the governing "one-member, one-vote" principle, thereby promoting membership regardless of income or social status; and
 - any surplus is owned by members, who decide how to distribute the profits.
- In addition to ordinary cooperative associations, the Act provides for special purpose associations such as:
 - Housing cooperative associations,
 - Certain producer associations, and
 - Community service cooperatives.

Specific rules apply to these special purpose associations given their unique nature.

- There are currently 617 cooperative associations registered in British Columbia – approximately 270 are housing cooperatives and 48 are community service cooperatives.
- Across Canada, every jurisdiction, including the federal government, has its own legislation that governs cooperative associations. Cooperative associations that have been incorporated federally or in other provinces can register under the Act to operate in BC as extraprovincial associations.

- s.13

- Over the last few months, the Corporate Registry and FCSP have engaged with cooperative associations to introduce some new electronic filing requirements. Through townhalls and other communications with cooperative associations and the legal community, FCSP has received numerous requests for a review and rewrite of the Act.

DISCUSSION:

- s.13

- The new *Societies Act* came into force in 2016 after multiple consultations and a full review and rewrite. The cooperative association sector has made several requests to FCSP for a similar review and rewrite of the Act, with the view of adopting similar user-friendly and streamlined features as in the *Societies Act*, while also ensuring accountability and transparency of cooperative association boards. These requests have come from members of cooperative associations, umbrella organizations for cooperative associations, and the legal community.

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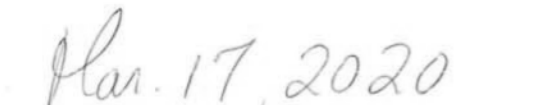
RECOMMENDATION:

s.13

Attachment – Consultation Letter

APPROVED / NOT APPROVED


Carole James
Minister of Finance and Deputy Premier


Date

Ministry of Finance
BRIEFING DOCUMENT

To: Honourable Carole James
Minister of Finance
and Deputy Premier

Date Requested: March 18, 2020
Date Required: March 20, 2020

Initiated by: Lori Wanamaker,
Deputy Minister

Date Prepared: March 23, 2020

Ministry Contact: Genevieve Tremblay-McCaig
A/Policy and Legislative Analyst
Financial Real Estate and
Data Analytics

Phone Number: 236 478-0634
Email: genevieve.tremblay-mccaig@gov.bc.ca

Cliff #: 389959

TITLE: Delaying the Coming-into-Force Date of the *Business Corporations Act's*
Transparency Register Requirements due to COVID-19

PURPOSE:

(X) DECISION REQUIRED

COMMENTS: The Ministry of Finance is receiving requests to delay the coming-into-force date of the transparency register requirements due to the office closures and other restrictions caused by the COVID-19 outbreak. The OIC bringing the transparency provisions into force can be reissued with a new coming-into-force date if you decide to bring the requirements into force at a later date.

DATE PREPARED: March 23, 2020

TITLE: Delaying the Coming-into-Force Date of the *Business Corporations Act's* Transparency Register Requirements due to COVID-19

ISSUE: Moving the coming-into-force date of the *Business Corporations Amendment Act, 2019* from May 1, 2020 to October 1, 2020.

BACKGROUND:

In Spring 2019, the BC government passed the *Business Corporations Amendment Act, 2019* which creates: (1) the requirement to exchange outstanding bearer shares in BC companies, and (2) the requirement for private companies to create and maintain a transparency register of beneficial ownership.

The bearer share provisions took effect on Royal Assent on May 16, 2019. BC Reg 209/2019, enacted on October 24, 2019, is set to bring the transparency register provisions into force on May 1, 2020.

The transparency register is kept in the records office of the company and does not have to be filed with the corporate Registry. It is accessible by the current directors of the company, as well as law enforcement, tax authorities and specified regulators upon request. It is not accessible by the public.

The Ministry of Finance has already taken steps to inform companies of the new transparency register requirements and help them meet their obligations by the deadline. Among other things, the Ministry:

- 1) Launched the website on Bearer Share Certificate Elimination & Transparency Register in July 2019;
- 2) Updated the website in October 2020 to provide additional information and examples;
- 3) Gave presentations to the Canadian Bar Association in October 2019 and March 2020;
- 4) Offered webinars in February and March 2020 for the public; and
- 5) Have been answering questions from the public on an on-going basis

In the last two weeks, the Ministry of Finance has been receiving an increased number of requests to delay the coming into force of the transparency register requirements due to the fast-developing situation with the COVID-19 outbreak. This note seeks direction on whether to delay the coming-into-force date of the transparency register provisions of the *Business Corporations Amendment Act, 2019*.

DISCUSSION:

People have contacted the Ministry of Finance pointing out that it is becoming difficult to contact all their corporate clients to get the required information for the transparency register because of the office closures and other measures undertaken to combat the spread of the COVID-19 virus.^{s.13}

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s.13 Other bodies, such as the Canadian Tax Agency, have also announced they are postponing filing deadlines.

A quick path forward for delaying the coming-into-force date of the transparency register requirements would be to use the OIC amending the *Business Corporations Regulation* that is scheduled for an April 1, 2020 Cabinet meeting. If the Minister decides to go ahead with the delay, Ministry's staff have arranged with legislative counsel and cabinet operations to replace that OIC with an amended OIC to move the coming-into-force date of the transparency provisions from May 1, 2020 to October 1, 2020.

If the October 1, 2020 coming-into-force date is approved quickly, Ministry staff are confident that all necessary changes could be done for March 25, 2020, so as to maintain the OIC's place in the queue.

OPTIONS:

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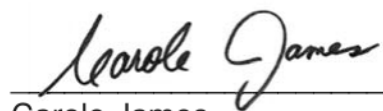
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RECOMMENDATION:

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APPROVED / NOT APPROVED



Carole James
Minister and Deputy Premier

March 25, 2020
Date

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Ministry of Finance
BRIEFING DOCUMENT

To: Honourable Carole James
Minister of Finance
And Deputy Premier

Date Requested: March 25, 2020
Date Required: March 30, 2020

Initiated by: Keith Preston
A/Director, Consumption Tax

Date Prepared: March 25, 2020

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

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

Cliff #: 390066

TITLE: April 1, 2020 Tax Rate for Heated Tobacco Products

PURPOSE:
(X) DECISION REQUIRED

COMMENTS: s.13

s.13

DATE PREPARED: March 25, 2020

TITLE: April 1, 2020 Tax Rate for Heated Tobacco Products

ISSUE: Rothmans, Benson & Hedges indicates it will not collect the *Budget 2020* tax rate for heated tobacco products until the Budget bill receives Royal assent.

BACKGROUND:

Budget 2020 includes measures that establish a specific rate of tobacco tax for “heated tobacco products” (HTPs). HTPs are similar to vapes but, unlike vapes, contain actual tobacco. Currently, the only known brand of HTPs available in B.C. is produced by Rothmans, Benson & Hedges (RBH).

The budget measure establishes a per-unit rate of tax for HTPs that equals the 29.5 cent rate that applies to cigarettes. Prior to this budget measure, RBH has taken the position that HTPs should be taxed according to the weight of tobacco in each unit, which yields as little as 7.9 cents per unit. Because RBH’s long-term strategy rests on transitioning current smokers and attracting non-smokers to HTPs, it has a keen interest in maintaining a low price for these products.

The provisions of the budget bill that establish this tax rate are scheduled to take effect April 1, 2020. Royal assent after April 1 would not ordinarily interfere with this effective date. Historically, tobacco tax increases have routinely occurred prior to royal assent, but have not proved controversial because royal assent typically comes without significant delay.

In this case, RBH has taken note of the fact that the legislature is likely to be in recess for many months during the COVID-19 pandemic.

DISCUSSION:

Ministry websites currently advise all tobacco dealers in B.C. that:

- 1) a new tax rate (of 29.5 cents per unit, unless a different rate is prescribed) for HTPs is in effect April 1, 2020; and
- 2) all dealers must file a return and pay additional security on HTPs they hold in inventory as of the end of day March 31, 2020.

The tobacco tax operates under a security scheme. This means that government receives its revenue from the top of the supply chain in the form of security (an amount equal to the tax paid by an end consumer). At each wholesale transaction in the supply chain, security is collected, and the seller retains that security as compensation for having previously paid security. At the retail level, tax is collected from the final purchaser of the product and the retail dealer retains the tax as compensation for its own security payment it previously made to its wholesaler.

When tobacco tax increases occur, all dealers are supposed to pay additional security to government for tobacco held in inventory but for which security had been paid based on the previous, lower tax rate. This payment for product in inventory ensures that the tax increase is recognized consistently throughout the supply chain. Then each seller of tobacco through the supply chain charges its purchaser based on the new tax rate and keeps that tax amount to recover the total cost of security it paid on that tobacco.

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OPTIONS:

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EVALUATION:

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RECOMMENDATION:

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APPROVED / NOT APPROVED



Carole James
Minister of Finance and Deputy Premier

March 30, 2020
Date

Appendix 1: February 21 note

Ministry of Finance

BRIEFING DOCUMENT

To: Honourable Carole James
Minister of Finance
and Deputy Premier

Date Requested:
Date Required:

Initiated by: Steve Hawkshaw
A/Senior Director, Tax Policy

Date Prepared: Feb 21, 2020

Ministry
Contact: Keith Preston
A/Director, Consumption Tax
Tax Policy Branch

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

Cliff #:

TITLE: Industry comments on the *Budget 2020* tax rate for heated tobacco

PURPOSE:

(X) FOR INFORMATION

DATE PREPARED: Feb 21, 2020

TITLE: Industry comments on the *Budget 2020* tax rate for heated tobacco

ISSUE: Rothmans, Benson & Hedges is expected to contact the Minister to request a lower tax rate for its heated tobacco products

BACKGROUND:

“Heated tobacco” products—treated tobacco heated to a point at which nicotine and other chemicals are released in an aerosol rather than in smoke—are marketed by tobacco companies as a reduced-harm alternative to cigarettes. The presence of tobacco in these products sets them apart from “vapes,” which may contain nicotine but not actual tobacco.

These products are relatively new, having first entered the B.C. marketplace within approximately the last three years. In B.C., only one brand—IQOS, marketed by Rothmans, Benson & Hedges (RBH)—is known to be commercially available,^{s.21}

Budget 2020 amends the *Tobacco Tax Act* (TTA) to establish a specific tax rate for heated tobacco products. By default, this rate is equivalent to the 29.5 cents per-unit that applies to cigarettes. The amendments allow for product-specific rates to be set by regulation. The new rate takes effect April 1, 2020.

Prior to the announcement of a specific rate, the application of tax to heated tobacco products was ambiguous. They were subject to a weight-based tax under the TTA, but there was disagreement between Ministry of Finance administrators and industry as to the method for determining the level of tax. RBH maintained that only the weight of the tobacco content in its IQOS product should be taxed (thereby paying as little as 7.9 cents per unit), whereas administrators advised RBH to pay tax on the total weight of the IQOS product (approximately 30.4 cents per unit). The *Budget 2020* amendments bring this dispute to a close with clear rules.

Immediately after the budget announcement, RBH contacted Tax Policy Branch through the Business Council of British Columbia. Staff discussed the measure with RBH on February 21.

DISCUSSION:

In the call, RBH indicated that it believes heated tobacco products should receive preferential tax treatment relative to cigarettes. It points to recent approval for the IQOS product by the United States Food and Drug Administration and to a lower level of federal excise tax for IQOS (relative to cigarettes) in Canada. Finance staff responded

that while RBH may hold this view, B.C.'s TTA does not differentiate between tobacco products according to their perceived risk profiles.

RBH was also interested in the information and sales authorization requirements for heated tobacco products added to the TTA by *Budget 2020*.^{s.13}

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s.13 RBH was interested in knowing whether similar information and authorization requirements were on the horizon for other tobacco products and staff indicated that the requirements apply to heated tobacco products only.

The tobacco industry is at a crossroads. Following an adverse outcome in a Quebec class action suit, all three major tobacco companies in Canada (including RBH) were granted creditor protection in 2019. Faced with mounting litigation and a declining population of smokers, companies have been seeking ways to retain customers. The industry is openly acknowledging the harms associated with cigarettes and is rapidly introducing products with an aura of reduced harm. Last year, RBH launched a public relations initiative branded "*Unsmoke Canada*," using the tagline "If you don't smoke, don't start. If you smoke, quit. If you don't quit, change." [emphasis added.]

While this messaging is intended to evoke a sense of altruism, the strategy—introducing addictive substitutes for cigarettes under the aegis of reduced harm—puts the industry's interests in preserving and growing its customer base first. A 2019 article from the journal *Tobacco Control* found that (in the Italian market) around half the people interested in IQOS had never smoked before. The same article notes that most research on the safety of heated tobacco products originates from within the industry itself. A 2019 article in the *European Respiratory Journal* suggests that heated tobacco products "may not be a safer option than cigarette smoking."

Imperial Tobacco, which recently suspended sales of its own heated tobacco products in Canada, delivered a presentation on vapour products to Ministry of Finance staff in 2019. In this presentation, it positioned heated tobacco products as existing somewhere between cigarettes (at the high end) and vapour products (at the low end) on a spectrum of risk. (With its decision to exit the heated tobacco market, Imperial Tobacco appears to be focusing on vapour products as a long-term revenue source.)

As with vaping, B.C. is the first province to establish a specific tax rate for heated tobacco products.

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RBH is aware that tax decisions are the purview of the Minister of Finance. The company intends to engage the Minister to request a lower, "reduced-harm" tax rate.

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Ministry of Finance**BRIEFING DOCUMENT**

To: Honourable Carole James
Minister of Finance
and Deputy Premier

Date Requested: March 26, 2020
Date Required: March 27, 2020

Initiated by: Grant Holly
A/Senior Director,
Tax Policy and Intergovernmental
Fiscal Relations Branch

Date Prepared: March 26, 2020

**Ministry
Contact:**

Mark Gunther
A/Director, Income Tax
Tax Policy and Intergovernmental
Fiscal Relations Branch

Phone Number: 778-698-9676
Email: mark.gunther@gov.bc.ca

Cliff #: 390094

TITLE: Parameters for the B.C. Emergency Benefit for Workers

PURPOSE:
(X) DECISION REQUIRED

DATE PREPARED: March 26, 2020

TITLE: Parameters for the B.C. Emergency Benefit for Workers

ISSUE: Decisions are required for specific rules to support the development of the B.C. Emergency Benefit for Workers.

BACKGROUND:

On March 23, 2020, Government announced a one-time B.C. Emergency Benefit for Workers (EBW) of \$1,000 payable to B.C. residents who are eligible for Employment Insurance (EI) or the Emergency Care Benefit or the Emergency Support Benefit (now the Canada Emergency Response Benefit (CERB)). Many of the rules of the CERB will be adopted by the EBW.

For simplicity, references in this note to receiving the CERB includes receipt of EI.

Revenue Division is developing systems to implement the EBW. Revenue Division has indicated that to meet the program implementation timeline decisions must be communicated to their contractor by April 3, 2020. It is anticipated additional questions will be provided in an additional briefing note next week and may arise from decisions made in this briefing note.

DISCUSSION:

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Options:

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Recommendation:

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2. Work requirement

The federal benefit requires that people have received \$5,000 in earned income, or certain income replacement benefits, in the twelve months before they are eligible for the CERB. s.13

Options:

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~~Recommendation:~~

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3. BC address requirement

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Options:

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~~Recommendation:~~

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4. Minimum duration of Canada Emergency Response Benefit receipt

The EBW is a one-time payment, while the CERB is paid over a maximum of 16 weeks.

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Options:

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Recommendation:

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5. Use of Social Insurance Number

BC programs require the use of a key identifier. For most taxation programs this is the Social Insurance Number (SIN). Typically, SIN is used where there needs to be authentication of taxpayer information such as income. The EBW will require authentication that the taxpayer is resident in BC, received certain amounts of income and/or the CERB. s.13

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All applicants will be required to consent to the use of taxpayer information as part of the verification process. s.13

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The federal CERB program will use the SIN as its identifier and has been specifically authorized in the authorizing legislation to collect and use the SIN.

Options:

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Recommendation:

s.13

6. Program termination

As general eligibility for the EBW is dependent on the eligibility for the CERB, the eligibility for benefits are limited to 14-day periods ending on or before October 4, 2020. However, the federal program allows individuals impacted by COVID-19 to continue filing claims until December 2, 2020. A final application date is also required for the EBW.

Options:

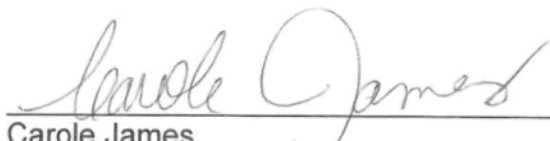
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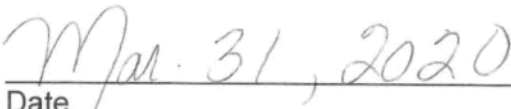
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Recommendation:

s.13



Carole James
Minister of Finance and Deputy Premier



Date

Ministry of Finance
BRIEFING DOCUMENT

To: Honourable Carole James
Minister of Finance
and Deputy Premier

Initiated by: Lori Wanamaker
Deputy Minister

Date Prepared: March 27, 2020

Ministry Contact: Alex Nagelbach
Strategic Advisor
Tax Policy Branch

Phone Number: 778-698-9623
Email: Alexander.Nagelbach@gov.bc.ca

Keith Preston
A/Director, Consumption Tax
Tax Policy Branch

Phone Number: 778-698-5864
Email: Keith.D.Preston@gov.bc.ca

Cliff#: 390103

TITLE: Amendment to the Motor Fuel Tax Regulation – Carbon Tax Rate Freeze

PURPOSE:

(X) DECISION REQUIRED

DATE PREPARED: March 27, 2020

TITLE: Amendment to the Motor Fuel Tax Regulation – Carbon Tax Rate Freeze

ISSUE: This Order in Council (OIC) is required to freeze the refund rates on gasoline and diesel for International Fuel Tax Agreement (IFTA) licensees, consequential to the carbon tax rate change announced by the Minister of Finance on March 23, 2020.

BACKGROUND:

B.C. is a member of IFTA, an agreement among US states and Canadian provinces providing for the payment of fuel taxes by commercial carriers operating in multiple jurisdictions. Licensed carriers pay tax on fuel used in a jurisdiction and may be entitled to a refund, depending on the taxes paid and fuel used in each jurisdiction. IFTA licensees are entitled to a refund of the B.C. motor fuel and carbon taxes paid if they purchase more fuel in B.C. than they use in B.C.

On March 23, 2020, the Minister of Finance announced that the carbon tax rate increase that was scheduled to come into effect on April 1, 2020 would be delayed. However, the Motor Fuel Tax Regulation already has the increased carbon tax rate built into the refund provision for IFTA licensees; therefore as of April 1, 2020, IFTA licensees will receive a windfall amount if the rate schedule is not adjusted. As such, the IFTA refund rates need to be adjusted to reflect the carbon tax rate freeze.

This OIC amends the Motor Fuel Tax Regulation to freeze the refund rates on gasoline and diesel for IFTA licensees to their current, pre-April 1, 2020 levels. While this regulation is made under the *Motor Fuel Tax Act*, the Motor Fuel Tax Regulation provides for a combined refund of motor fuel tax and carbon tax for IFTA licensees. The amendments in this OIC affect only the carbon tax portion of the refund and ensure that the correct amount of tax is refunded in light of the temporary rate freeze.

DISCUSSION:

To reflect the adjusted carbon tax rate freeze, IFTA licensee refund rates need to be frozen to ensure licensees a refund of the correct amount of taxes they paid for fuel used in B.C. The refund rates effective April 1, 2019 will continue to be in effect as below:

<u>Effective Date</u>	<u>Gasoline (cents per litre)</u>	<u>Diesel (cents per litre)</u>
April 1, 2019	23.39	25.23

REGULATORY CRITERIA EXEMPTION:

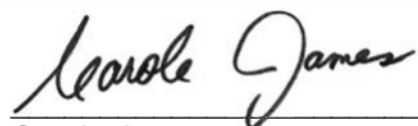
The OIC has no impact on regulatory requirements.

OPTIONS:

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RECOMMENDATION:

s.13



Carole James
Minister and Deputy Premier

March 30, 2020

Date