

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

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

**Date Requested:** December 9, 2019  
**Date Required:** December 16, 2019

**Initiated by:** Michelle Lee  
Executive Director  
Consumer Taxation Programs Branch

**Date Prepared:** December 9, 2019

**Ministry Contact:** Michelle Lee  
Executive Director  
Consumer Taxation Programs Branch

**Phone Number:** 778 698-5827  
**Email:** Evan.Kelly@gov.bc.ca  
**Cliff #:** 387420

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**TITLE:** Audit Cost Recovery Fee for Out of Province Travel

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

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**COMMENTS:** This briefing note discusses the regulation needed to bring into force legislative sections authorizing a fee to be charged for out of province travel by auditors introduced in the *Budget Measures Implementation Act, 2018*, and consequential amendments to improve consistency between the affected tax regulations.

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**DATE PREPARED:** October 22, 2019

**TITLE:** Audit Cost Recovery Fee for Out of Province Travel

**ISSUE:**

An Order in Council (OIC) is necessary to bring the sections of the *Budget Measures Implementation Act, 2018* (BMIA 2018) that authorize a fee for out of province audits conducted under the *Provincial Sales Tax Act*, the *Motor Fuel Tax Act*, and the *Carbon Tax Act* (collectively, the "Acts") into force.

**BACKGROUND:**

British Columbia currently does not recover costs incurred by government to travel to locations outside of B.C. for the purposes of conducting compliance audits. These costs to government have typically been in excess of \$500,000 annually.

The *Budget Measures Implementation Act, 2018* (BMIA 2018) introduced amendments to the Acts to introduce a fee to be charged to recover costs associated with out of province audits conducted under those acts. These amendments added authorities for the director under the Acts to impose fees to recover the costs incurred by government to conduct audits at locations outside of B.C. These amendments are not yet in force and will need to be brought into force by regulation. The required Treasury Board approval for the proposed fee has now been completed, and an OIC is required to bring the provisions in the above listed acts into force.

The *Motor Fuel Tax Regulation* (MFTR) and *Carbon Tax Regulation* (CTR) both require collectors and taxpayers to keep certain records regarding those taxes in B.C., although these requirements are outdated given the digitization of many records and have not been enforced by the ministry in recent years. There is no analogous requirement for the provincial sales tax.

**DISCUSSION:**

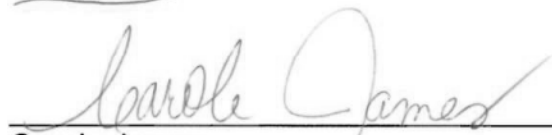
A target implementation date of April 1, 2020 has been proposed to commence imposing the audit cost recovery fee. This date will allow a reasonable amount of notice of the implementation date to the public.

In order to achieve consistency across the Acts, consequential amendments will be required to the *Motor Fuel Tax Regulation* (MFTR) and *Carbon Tax Regulation* (CTR) to remove the requirements for collectors and taxpayers to store records at locations in B.C. The requirement to keep records in B.C. is no longer relevant in the current digital age and would be inconsistent with the authority for the director to charge a fee to businesses for out of province audits. Removing these requirements gives businesses the freedom to either provide necessary records in B.C. if they wish to avoid incurring

the fee or the legislative authority to keep records at a place of their choosing and incur the fee.

s.13

APPROVED / NOT APPROVED



Carole James  
Minister of Finance and Deputy Premier

Jan. 15, 2020  
Date

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

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

**Date Requested: December 10, 2019**  
**Date Required: December 13, 2019**

**Initiated by:** Lori Wanamaker  
Deputy Minister of Finance

**Date Prepared: December 12, 2019**

**Ministry Contact:** Linda Irvine, Executive Director  
Risk Management Branch

**Phone Number: 778-698-5721**  
**Email:** Linda.Irvine@gov.bc.ca

**Ministry Contact:** Todd Orchard, Director,  
Client Services  
Core Government and Crowns  
Risk Management Branch

**Phone Number: 778-698-5754**  
**Email:** Todd.Orchard@gov.bc.ca

**Cliff #: 387388**

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**TITLE:** s.12

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**PURPOSE:**  
**DECISION REQUIRED**

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Page 02 of 11 to/à Page 03 of 11

Withheld pursuant to/removed as

s.12

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

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

**Date Prepared:** December 23, 2019

**Initiated by:** Jim Hopkins  
Assistant Deputy Minister

**Ministry Contact:** Sam Myers  
Executive Director  
Debt Management Branch

**Phone Number:** 778 698-5908  
**Email:** Sam.Myers@gov.bc.ca

**Cliff #:** 387475

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**TITLE:** Debt Management Related Budget Activities

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**PURPOSE:**

**FOR INFORMATION**

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

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

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

**DATE PREPARED:** December 23, 2019

**TITLE:** Debt Management Related Budget Activities

**BACKGROUND:**

Just prior to and after the release of the February 2020 Budget, there will be several activities with the financial community and credit rating agencies which require your participation. These activities follow past practice. The purpose of this note is to highlight the activities and flag those which we will book with your office.

**DISCUSSION:**

**Summary of Activities:**

**Rating Agency Briefing Calls**

On the day of release of the February 2020 Budget, the Deputy Minister along with ministry staff will provide a high-level and confidential briefing to credit rating agencies on the key points that will be delivered by you in the Budget. We'll be confirming the participation of Moody's, Standard & Poor's (S&P) and DBRS over the coming weeks. These calls do not require your participation.

**Budget Dinner**

Two days following Budget Day, the Minister of Finance and senior Ministry staff have traditionally participated in a dinner, which is hosted by the province's domestic and international syndicate managers. The dinner provides an opportunity for you to ensure the key Budget messages are appreciated by those who will be assisting the province with its financing program and representing the province to investors. For the February 2020 Budget Dinner, the syndicate managers have booked the Bengal Room at The Fairmont Empress Hotel for February 20.

Start times for the reception and dinner will be based on your schedule and have typically been around 5:45 pm for the reception and 6:15 pm for the dinner, respectively. The host for the dinner this year will be National Bank Financial. A more detailed note on the dinner meeting will be provided closer to the time.

**Post Budget Teleconference Call**

In the days after the Budget, one of the province's domestic dealers has hosted a conference call to review the Budget with the province's domestic and international underwriting syndicate members and investors. Historically, Ministers of Finance have participated in these calls dating back to the 1992 Budget. However, in recent years, participation by investors has waned, suggesting the call has limited value. We are also mindful of the many other activities you will have during Budget week. Therefore, we are recommending that for the second year in a row, no conference call be scheduled.

## Post Budget Rating Agency Updates

Three credit rating agencies (DBRS, S&P and Moody's) will likely be traveling to Victoria to participate in technical briefings with staff on the February 2020 Budget. These meetings are expected to take place the week of March 9 or 16. (DBRS on March 12, S&P on March 17 and Moody's on March 19). Fitch will participate in the technical briefing with staff via conference call around the dates of the other rating agency meetings.

Your participation in these technical briefings may consist of hosting a separate luncheon or coffee meeting with Moody's and DBRS along with one or two of your Cabinet colleagues. This meeting will provide an opportunity for you to convey key Budget themes and strategies and allow the rating agencies to put questions on policy which staff are not as well positioned to address. S&P has declined luncheon meetings in recent years but may opt for a short coffee meeting.

Closer to the time of these technical briefings and after the rating agencies have had an opportunity to review the Budget and indicate policy areas of interest, we will supply you with briefing material. Your advice will be sought respecting Cabinet colleagues who you wish to join you.

For reference, topics which staff expect to discuss during the technical briefings will include:

- Economic review
- Fiscal review (including capital plan)
- Debt management update
- Housing
- BC Hydro (including Site C)
- UN Declaration on the Rights of Indigenous Peoples
- Forestry
- ICBC
- Clean BC
- LNG update

## 2020 Investor Relations Tour

The prime purpose of the 2020 North American investor tour will be for you to continue fostering your relationship with domestic and US investors and ensure they hear the objectives of the fiscal plan from you and why government believes they can be met and its resolve to ensure delivery. In light of your responsibilities in the Legislature, timing of the tour is tentatively scheduled for Easter week (April 13 to 17). It is highly desirable for the Minister to lead the tour but should you be unable to participate in person, executives from Provincial Treasury and Treasury Board Staff would conduct the tour.



The investor tour will review the Province's economic and fiscal situation with senior members of the Province's domestic and international syndicates and institutional investors who hold, or are considering buying BC securities. The tour has typically followed the Budget and included meetings in Toronto, Montreal, Vancouver, New York and sometimes Boston, Washington DC, Chicago and Winnipeg.

The Vancouver portion of the tour consists of an investor luncheon and this has been scheduled for March 27. We will supply a detailed proposal for the rest of the tour in mid-February and coordinate with your staff.

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

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

**Initiated by:** Lori Wanamaker  
Deputy Minister of Finance  
Ministry of Finance

**Date Prepared:** December 16, 2019

**Ministry  
Contacts:** Jim Hopkins, ADM  
Provincial Treasury  
Ministry of Finance

**Phone Number:** 250 387-9295  
**Email:** jim.hopkins@gov.bc.ca

Kara Flanagan  
Senior Portfolio Manager  
Provincial Treasury  
Ministry of Finance

**Phone Number:** 250 216-1764  
**Email:** kara.flanagan@gov.bc.ca

**Cliff # 387407**

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**TITLE:** Updated Plan for the Inaugural Green Bond Issue

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**PURPOSE:** FOR INFORMATION

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

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

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

**DATE PREPARED:** December 16, 2019

**TITLE:** Updated Plan for the Inaugural Green Bond Issue

**ISSUE:** The development of the BC Green Bond Program is progressing and steps are being taken to ensure the successful development of the Program and subsequent launch.<sup>s.13; s.17</sup>

s.13; s.17

**BACKGROUND:**

Following your meeting with the Minister of Environment and Climate Change Strategy and the Minister of Transportation and Infrastructure on May 29, 2019, it was decided to proceed in Fall 2019 with the BC Green Bond Program with Broadway as the project for the inaugural bond issue. However, it was found that the forecasts for Broadway spend would be materially lower than expected and a Fall 2019 bond launch is no longer feasible. Program staff in Provincial Treasury and the Climate Action Secretariat, Ministry of Environment and Climate Change Strategy continue to build the BC Green Bond Program and incorporate new information to support a successful Program and Green Bond launch. It is very important for the first bond to be structured properly to assure the success of the Program .

**DISCUSSION:**

Sufficient actual and projected green project spend needs to be identified for the bond to be marketable in line with existing BC bonds (typically around \$400 to \$500 million).

s.13; s.17

s.13; s.17

The BC Green Bond Framework qualifies various types of government green projects including Energy Efficient Buildings; these include new public sector buildings and building energy efficiency improvements through upgrades or retrofits. s.17

s.17

Staff have been working with the Ministry of Health on tracking actual project spend and forecasts for the four hospitals listed above. If these projects were chosen to be included in the bond, then from a governance perspective, there would need to be a final review and recommendation to the Minister of Finance prior to time of Green Bond issuance. In the governance process, eligible projects need to be approved by a panel and then approved by a committee consisting of the Deputy Minister of Finance and Deputy Minister of Environment and Climate Change. The Minister of Finance has final approval on each Green Bond issue. Prior to including these hospital projects, support from the Ministry of Health should be confirmed.

Environmental, Social and Governance Compliance

s.17

We have followed up our research on ESG compliance with the World Bank officials who you will recall from meetings in Washington in 2017. The Bank is a leader in ESG finance and we are interested to understand the intersection between the Province's record of ESG compliance and opportunities for leveraging that into ESG finance.

It is interesting to note that the World Bank no longer issues green bonds but rather has self-declared as ESG compliant and any and all bonds which it issues are therefore ESG-compliant. Further the Bank does not earmark proceeds from its bonds to specific projects because again all proceeds, according to the Bank, are used to advance the ESG agenda. For reporting purposes, the Bank refers investors to their numerous corporate reports and indicates they plan to supply an annual impact report on how their corporate activities positively impact ESG. The Bank's ESG finance program is far simpler to manage than traditional green bond programs: there is no need to distinguish between the Bank's traditional bonds and ESG bonds which is easier for the issuer and investors; bond proceeds are not earmarked for specific ESG projects which mitigates against the risk of bond proceeds not matching projected spending within a set timeframe; annual impact reporting by reference to existing reports is simpler and less taxing on staff resources ; and , Bank ESG bonds benefit from the liquidity afforded to all World Bank bonds which, in turn, supports trading performance and is welcome by investors.

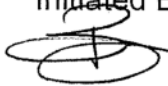
s.13; s.17

## Ministry of Finance Briefing Document

**TO:** Honourable Carole James  
Minister of Finance

**DATE REQUESTED:** November 14, 2019

**DATE REQUIRED:** December 16, 2019

 **Initiated By:** Brenda M. Leong  
Chair  
B.C. Securities Commission

**Phone #/E-MAIL:** (604) 899-6647  
bleong@bcsc.bc.ca

**Ministry Contact:** Peter Brady  
Executive Director  
B.C. Securities Commission

**Phone #/E-MAIL:** (604) 899-6570  
pbrady@bcsc.bc.ca

**REF #:** 386298

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**TITLE:** Approval in principle of proposed National Instrument 45-110 *Start-up Crowdfunding Registration and Prospectus Exemptions*

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### **(X) DECISION REQUIRED**

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#### **INTRODUCTION**

- We request your approval in principle of the proposed instrument under the *Rule Making Procedure Regulation*.
- This is a Canadian Securities Administrators' (CSA) initiative.
- After receiving your approval, we intend to publish the proposed instrument for public comment for 90 days.
- Following the public comment period, as required by the regulation, we will seek your consent to the proposed instrument.
- s.13

#### **BACKGROUND**

- Start-up and early-stage issuers are looking to raise small amounts of capital without needing to rely on investor-specific exemptions (e.g. accredited investor exemption) or incurring significant costs (e.g. preparing audited financial statements to rely on the offering memorandum exemption).
- Crowdfunding is an increasingly popular method for these start-up and early-stage issuers to raise funds from the general public at relatively low cost. A securities

crowdfunding offering is a form of crowdfunding where an issuer distributes its securities to the general public through a funding portal.

- A funding portal holds the money the business raises during a crowdfunding campaign, and also posts details of the crowdfunding campaign on its website that can be accessed by the general public. If the business does not raise the money it needs, the funding portal returns the money to investors. Funding portals are engaging in acts in furtherance of trades and need to be registered.
- Some provinces (BC, AB, SK, MN, QC, NB and NS) have adopted prospectus and registration exemptions that facilitate securities crowdfunding offerings, provide key investor protections including investment limits and limits on the amount an issuer can raise in a given period of time, and provide conduct requirements for funding portals.
- Some provinces (ON, AB, SK, MN, QC, NB and NS) have adopted a separate securities crowdfunding rule called Multilateral Instrument 45-108 *Crowdfunding*. This crowdfunding rule is significantly different from the crowdfunding exemptions in that it requires all funding portals be registered as dealers, and requires issuers to prepare audited financial statements. BC has not adopted this rule.
- To date, only the crowdfunding exemptions have been used to raise capital.<sup>s.13</sup>

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## NEED FOR AND EFFECT OF THE PROPOSED INSTRUMENT

- s.13

## CONTENTS OF THE PROPOSED INSTRUMENT

- The proposed instrument would provide prospectus and registration exemptions that:
  - allow issuers to raise up to \$1,000,000 in a 12-month period provided the offering is conducted through a funding portal
  - allow investors to invest up to \$2,500 in a given offering, or up to \$5,000 if the investor receives positive suitability advice from a registered dealer
  - require that investors, prior to investing, receive an offering document from the issuer and complete a risk acknowledgement form
  - require that a funding portal file information forms for itself and its principals at least 30 days before beginning operations and to certify, on a rolling basis, that

the portal has sufficient financial resources to continue operating for the next 12 months

- prohibit funding portals from relying on the proposed registration exemption if:
  - the portal has been notified by the regulator that its process for handling funds does not satisfy the requirements in the proposed instrument, or
  - the portal or its principals has been the subject of an order or judgment relating to fraud in the last 10 years

## CONSEQUENTIAL AMENDMENTS

- s.13

## POTENTIALLY CONTROVERSIAL ASPECTS OF THE PROPOSED INSTRUMENT

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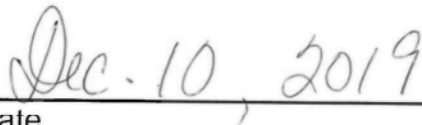
## RECOMMENDATION

- s.13

**APPROVED / NOT APPROVED**



Honourable Carole James  
Minister of Finance



Date



**Ministry of Finance**

**BRIEFING DOCUMENT**

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

**Initiated by:** Kari Toovey  
Director, Financial Institutions  
Financial and Corporate Sector  
Policy Branch

**Date Prepared:** February 7, 2019

**Ministry Contact:** Kari Toovey  
Director, Financial Institutions  
Financial and Corporate Sector  
Policy Branch

**Phone Number:** 778-698-5262  
**Email:** Kari.Toovey@gov.bc.ca

**Cliff #:** 387176

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**TITLE:** Availability of insurance for strata property corporations

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**PURPOSE:**

**(X) FOR INFORMATION**

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**COMMENTS:**

- Due to a number of factors, the cost of insurance for strata corporations has increased significantly recently. The increased cost of insurance for strata corporations is an issue across Canada and around the world.
  - The pricing of insurance is a business decision undertaken by insurers, based on careful analysis to anticipate the expected frequency and severity of future claims.
-

**DATE PREPARED:** February 7, 2019

**TITLE:** Availability of insurance for strata property corporations

**ISSUE:** Concerns have been raised around the high cost and lack of availability of insurance coverage for strata property corporations

**BACKGROUND:**

- The *Strata Property Act* requires strata property corporations to have and maintain insurance on common property, common assets and buildings shown on the strata plan. The insurance must be for the full replacement value, but earthquake insurance is not required. The Ministry of Municipal Affairs and Housing, Housing Policy Branch is responsible for the *Strata Property Act*.
- Staff at the Housing Policy Branch have recently heard from a number of strata property boards, as well as from Tony Gioventu, Executive Director of the Condominium Home Owners Association (CHOA), about concerns around the availability and cost of insurance for strata property corporations.
- The requirement for strata corporations to have and maintain insurance is common across Canada and the market challenges are being felt across the country.

**DISCUSSION:**

- There are a number of factors that are contributing to the current market conditions that can be broadly summarized in three factors:
  - *Sustainability:* Insurers in this market segment have experienced losses due to the volume and magnitude of claims (e.g. water damage), however, insurance premiums have not adjusted accordingly to compensate for the increase. Experts have noted that the industry is just emerging from an unusually long “soft” period, which had kept the price of insurance artificially low, which has impacted market profitability. In addition, premium adjustments that reflect the risk of natural catastrophes (e.g. wildfire, flooding, or earthquakes) are now also being considered.
  - *Capacity reduction:* The withdrawal of a major insurer in the BC market has led to a capacity reduction resulting in other insurers unable to fill this market dislocation. Additional capacity constraints may be evident as other insurers review their policy renewals on riskier properties. Until market profitability has improved, attracting new entrants to alleviate capacity pressures will remain an obstacle.

- *Aging infrastructure, strata management:* In some cases, strata corporations have a history of inadequate property maintenance, which has led to more losses and higher insurance premiums in this hard market.
- Industry experts suggest that the current market for strata insurance will likely span multiple years.
- The Insurance Bureau of Canada has indicated that, while the costs of insurance have risen recently, strata corporations continue to have access to insurance through a number of insurance providers.
- The pricing of insurance is a business decision undertaken by insurers, based on careful analysis to anticipate the expected frequency and severity of future claims. Insurers also buy insurance against the policies they sell to clients in order to insulate themselves from possible major payouts; large scale disasters have led to greater claims worldwide, causing reinsurance rates to increase, which is ultimately passed down to consumers.
- Ministry staff have heard various suggestions which may have an incremental impact on the pricing of strata insurance. For example, the Insurance Brokers Association of BC (IBABC) has made recommendations around changes to the *Strata Property Act*. Specifically, IBABC suggests that the *Strata Property Act* be amended to:
  - Add a definition of a standard unit, so that the responsibilities of strata corporations versus the responsibilities of individual unit owners are clearly delineated, which may assist in properly pricing insurance.
  - Impose a cap on the amount of the deductible individual unit owners can be held responsible for (as was done recently in Alberta). The recent increases in the costs of insurance have also included increases in the costs of deductibles, which can be passed on to individual unit holders. Limiting the amount of a deductible that an individual unit holder may be liable for may impact the rate for individual unit holder insurance coverage, however it would likely not impact the price of insurance for strata insurance corporations (and would potentially would increase the common expenses for a strata where an insurable claim is made).

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**Ministry of Finance**

**BRIEFING DOCUMENT**

**To:** Honourable John Horgan  
Premier and President  
of the Executive Council

**Date Requested:** November 28, 2019  
**Date Required:** November 29, 2019

**Initiated by:** Office of the Premier

**Date Prepared:** November 29, 2019

**Ministry Contact:** David Karp  
Director, Income Tax  
Tax Policy Branch

**Phone Number:** 778-698-5778  
**Email:** David.Karp@gov.bc.ca  
**Cliff #:** 386879

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**TITLE:** Elimination of Medical Services Plan Premiums

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**PURPOSE:**

**(X) FOR INFORMATION**

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**DATE PREPARED:** November 29, 2019

**TITLE:** Elimination of Medical Services Plan Premiums

**ISSUE:** Background information about the elimination of Medical Services Plan (MSP) premiums

**BACKGROUND:**

MSP premiums are levied on the basis of a nuclear family concept. In *Budget 2017 Update*, MSP premiums were reduced by 50 per cent for all families effective January 1, 2018. This reduction results in annual savings of up to \$450 for single individuals and up to \$900 for families.

The 50 per cent reduction accomplished half of the government's commitment to eliminate premiums completely within four years. Therefore, as a final step, effective January 1, 2020, remaining MSP premiums will be eliminated.

Including the 50 per cent reduction, once premiums are fully eliminated, single individuals will see total annual savings of up to \$900 and families up to \$1,800. The Appendix shows the savings for different types of families.

Premium assistance has been available to lower income individuals and families where either lower premiums are levied, or no premiums are payable. The premium assistance program is application-based because the Province needs permission from individuals to use their income tax information to determine eligibility.

For many individuals and families, MSP premiums are remitted by employers or pension plan administrators either as a taxable benefit or withholding of premiums and remitting to government. These are called group plans.

**DISCUSSION:**

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In *Budget 2018*, the government announced its plan to eliminate MSP premiums effective January 1, 2020.<sup>s.13</sup>

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**APPENDIX: MSP SAVINGS FOR DIFFERENT FAMILY TYPES**

Annual Household Net Income	Monthly Premiums in 2017	Monthly Premiums in 2020	Monthly Decrease	Annual Decrease
----- \$ -----				
<b>Single Individual</b>				
Up to \$24,000 .....	0.00	0.00	-	-
\$24,001 to \$26,000 .....	11.00	0.00	11	132
\$26,001 to \$28,000 .....	23.00	0.00	23	276
\$28,001 to \$30,000 .....	35.00	0.00	35	420
\$30,001 to \$34,000 .....	46.00	0.00	46	552
\$34,001 to \$38,000 .....	56.00	0.00	56	672
\$38,001 to \$42,000 .....	65.00	0.00	65	780
Over \$42,000 .....	75.00	0.00	75	900
<b>Couple</b>				
Up to \$27,000 .....	0.00	0.00	-	-
\$27,001 to \$29,000 .....	22.00	0.00	22	264
\$29,001 to \$31,000 .....	46.00	0.00	46	552
\$31,001 to \$33,000 .....	70.00	0.00	70	840
\$33,001 to \$37,000 .....	92.00	0.00	92	1,104
\$37,001 to \$41,000 .....	112.00	0.00	112	1,344
\$41,001 to \$45,000 .....	130.00	0.00	130	1,560
Over \$45,000 .....	150.00	0.00	150	1,800
<b>Senior Couple</b>				
Up to \$33,000 .....	0.00	0.00	-	-
\$33,001 to \$35,000 .....	22.00	0.00	22	264
\$35,001 to \$37,000 .....	46.00	0.00	46	552
\$37,001 to \$39,000 .....	70.00	0.00	70	840
\$39,001 to \$43,000 .....	92.00	0.00	92	1,104
\$43,001 to \$47,000 .....	112.00	0.00	112	1,344
\$47,001 to \$51,000 .....	130.00	0.00	130	1,560
Over \$51,000 .....	150.00	0.00	150	1,800
<b>Single Parent – Two Children *</b>				
Up to \$30,000 .....	0.00	0.00	-	-
\$30,001 to \$32,000 .....	11.00	0.00	11	132
\$32,001 to \$34,000 .....	23.00	0.00	23	276
\$34,001 to \$36,000 .....	35.00	0.00	35	420
\$36,001 to \$40,000 .....	46.00	0.00	46	552
\$40,001 to \$44,000 .....	56.00	0.00	56	672
\$44,001 to \$48,000 .....	65.00	0.00	65	780
Over \$48,000 .....	75.00	0.00	75	900
<b>Couple – Two Children *</b>				
Up to \$33,000 .....	0.00	0.00	-	-
\$33,001 to \$35,000 .....	22.00	0.00	22	264
\$35,001 to \$37,000 .....	46.00	0.00	46	552
\$37,001 to \$39,000 .....	70.00	0.00	70	840
\$39,001 to \$43,000 .....	92.00	0.00	92	1,104
\$43,001 to \$47,000 .....	112.00	0.00	112	1,344
\$47,001 to \$51,000 .....	130.00	0.00	130	1,560
Over \$51,000 .....	150.00	0.00	150	1,800

\* Income thresholds may vary for families who claim child care expenses on their tax returns.

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

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

**Date Requested:** Dec 9, 2019  
**Date Required:** Dec 10, 2019

**Initiated by:**

**Date Prepared:** Dec 9, 2019

**Ministry  
Contact:** Duncan Jillings

**Phone Number:** 778 698-5796  
**Email:** [Duncan.Jillings@gov.bc.ca](mailto:Duncan.Jillings@gov.bc.ca)

**Cliff #:** 387261

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**TITLE:** School Tax and Highest and Best Use

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**PURPOSE:**

**(X) FOR INFORMATION**

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**COMMENTS:** Request by MO Dec 9 after discussion of Tab 20 in Revenue Binder 4.

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**DATE PREPARED:** December 9, 2019

**TITLE:** School Tax and Highest and Best Use

**ISSUE:** Status of drafting of the interim option for business lessees and how the School Tax will support the municipal exemption.

**BACKGROUND:**

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**DISCUSSION:**

Drafting is under way with a goal for completion in early January and an LRC date of January 22, 2020 (to be confirmed).

Current drafting instructions:

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#### School Tax:

As well as municipal taxes, other property taxes apply to the same properties.

In general, the taxable assessment bases for different property taxes can be different for the same property, depending on the tax. Assessment and taxation systems already deal with these differences. (Examples, BC Hydro only pays school tax, provincial ALR land-value exemptions don't affect municipal values, and municipal exemptions for church halls are picked up by the school tax base but not municipal exemptions for revitalizing a business improvement area.)

s.12

This method of following the municipal exemption in the school tax without losing school tax revenue is already used in Vancouver, the only city that uses assessment averaging. In assessment averaging, Vancouver by bylaw reduces the taxable assessed value of some properties. That tax reduction applies for school tax purposes. The *Vancouver Charter* then requires Vancouver to increase the school tax rate given to it by the Province so that Vancouver collects the correct amount of school tax. School tax has shifted away from the properties that benefitted by averaging onto all other properties in the class.

s.12; s.13

**Ministry of Finance**

**BRIEFING DOCUMENT**

**To:** Lori Wanamaker  
Deputy Minister of Finance

**Date Requested:** November 22, 2019

**Date Required:** December 17, 2019

**Initiated by:** Chris Dawkins  
Executive Lead

**Date Prepared:** November 22, 2019

**Ministry Contact:** Paul Flanagan  
Senior Executive Advisor  
Financial Real Estate and  
Data Analytics

**Phone Number:** 778 698-5828

**Email:** Paul.Flanagan@gov.bc.ca

**Cliff #:** 386868

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**TITLE:** Unexplained Wealth Orders

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**PURPOSE:**

**(X) FOR DIRECTION**

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

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

**DATE PREPARED:** November 22, 2019

**TITLE:** Unexplained Wealth Orders

**ISSUE:** This note seeks direction on whether to proceed with developing an unexplained wealth order regime for BC.

## **BACKGROUND:**

One of the recommendations of the Expert Panel on Money Laundering in BC Real Estate is for the province to consider unexplained wealth order legislation in British Columbia. The Peter German report, *Dirty Money – Part 2*, also noted that unexplained wealth order legislation is a recommendation of the Financial Action Task Force.

An unexplained wealth order requires a person to explain what interest they have in whatever property is named in the order, how they obtained the property, and how it is held. Without acceptable proof that the property was lawfully acquired (e.g. the respondent provides proof of sufficient legal income) the property may be confiscated.

## **Existing Forfeiture Laws in BC**

The *Civil Forfeiture Act* allows for the seizure of assets. It targets the proceeds and instruments of unlawful activity and was created to ensure that people cannot profit from unlawful activity or use property in a way that may harm other persons. Recent amendments to the *Securities Act* allow the seizure of property to collect fines imposed under that statute. (Note that these amendments allow for the seizure of property from third persons who received the property from a person who owes fines imposed under the statute, despite the third person having done nothing wrong.) Like assets seized under the *Civil Forfeiture Act*, the intent is to target the property rather than persons.

## **How Unexplained Wealth Orders Work**

An unexplained wealth order is laid against an asset. It puts the burden of proof on the respondent to show the asset was lawfully acquired. Unexplained wealth orders have been used successfully in Ireland since 1996, Australia has had limited success with the measure and very recently England has employed unexplained wealth orders as a tool in its efforts to combat money laundering.

of the unexplained wealth order where the court is satisfied there is a risk that any subsequent recovery order would be frustrated unless the property were preserved.

A reasonable level of evidence is required before applying to the High Court for an unexplained wealth order, and the approval of a High Court Judge is required before an order can be served. This element of the process provides an opportunity to rebut the measure if there are concerns. It is important to note that unexplained wealth orders do not target an individual's liberty; they target assets, and assets are unfrozen if the required proof of income is produced.

A statement made by a person in response to a requirement imposed by an unexplained wealth order may not be used in evidence against that person in criminal proceedings.

### **Legal Issues**

s.14

### **Administration**

Countries with unexplained wealth orders charge their tax authorities with the administration of these orders. This is because in addition to the forfeiture of assets, there is often an indication that tax evasion has occurred.

s.13

The following description of unexplained wealth orders is based on the United Kingdom's (UK's) legislation.

Applications for such orders can be made without notice to the High Court by enforcement authorities including the Serious Fraud Office, Her Majesty's Revenue and Customs, and the National Crime Agency. The respondent to the order could be a person, a trust or any entity that can own an asset. If the person can't prove the assets are from a legitimate source, the authorities can take steps to recover those assets.

Applicants **must**:

1. Specify or describe the property in respect of which the order is sought;
2. Specify the person who they believe holds the property; and
3. Provide any further information that may be demanded by the order.

Before deciding whether to issue an unexplained wealth order, the court needs to be satisfied about the following:

1. That there is reasonable cause to believe the respondent holds the property;
2. That the value of the property is greater than £50,000;
3. That there are reasonable grounds for suspecting that the known sources of the respondent's lawfully obtained income would have been insufficient to enable the respondent to obtain the property; and,
4. That the respondent is:
  - a) an individual who is, or has been, entrusted with prominent public functions by an international organization or by a State other than the United Kingdom or another EEA [European Economic Area] State<sup>1</sup> and includes family members, known close associates or persons otherwise connected with such an individual;**OR**
  - b) there are reasonable grounds for suspecting that the respondent or a person connected with the respondent is or has been involved in serious crime (whether in the UK or elsewhere).

Enforcement authorities applying for unexplained wealth orders can apply simultaneously for an interim freezing order to preserve the property that is the subject

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<sup>1</sup> Presumably the exclusion of PEPs from the UK or another EEA State is because there are laws to address those situations.

## Effectiveness

Ireland introduced unexplained wealth order legislation in 1996 when there was enormous public outrage to criminal activity in the country (a journalist and a Garde were murdered by criminals). The legislation is administered by a specialized group called the Criminal Assets Bureau consisting of police (Garde), tax authorities and social service authorities. The Irish regime is the most comprehensive approach to civil-based confiscation and proceedings are usually successful with over 300 orders issued in 2018. Various articles on the Irish experience suggests that Criminal Assets Bureau is very successful in following through with orders, seizing property, assessing related income tax, VAT and other taxes due to evasion, and collecting improperly claimed social assistance.

Research has further suggested that the Irish regime has had a significant impact on reducing, disrupting and dismantling criminal activities in Ireland, proving a major setback for the Irish criminal fraternity. In addition, there is some evidence that criminals have moved their illicit monies to other jurisdiction, such as Holland and Spain, in fear of Irish seizure.

While unexplained wealth orders have operated in Australia since the early 2000's, no comprehensive review measuring their effectiveness has taken place. However, the limited evidence available suggests that the effectiveness and use has been mercurial at best. It would appear that there has been extensive public criticism of the unexplained wealth order regime, judicial push-back to the use of unexplained wealth orders, inter-agency disputes over jurisdiction and in some cases the application of alternative confiscation laws, which obviate the need for an unexplained wealth order.

The UK introduced unexplained wealth orders in 2018 and appears to be very cautious in using the mechanism by choosing clear cut cases that would withstand challenges. As of July 2019, only four unexplained wealth orders have been issued.

Unexplained wealth orders could potentially be very effective in reducing money laundering in BC because they would raise fear amongst money launderers that their assets could be confiscated. Money launderers would choose other jurisdictions for their criminal activities that do not have unexplained wealth order legislation.

## NEXT STEPS:

This note seeks direction on whether to proceed with developing an unexplained wealth order regime in BC.<sup>s.14</sup>

s.14

A Legislative Proposal for unexplained wealth order legislation has been included on the ministry's list for legislation for 2021/22. With the UK legislation as a model, drafting should not be too complex. During this process consideration will be given to consulting with agencies or the public if it is determined to be necessary.

It is becoming increasingly easy for the media and organizations like Transparency International to identify properties in BC that are owned by individuals involved in money laundering including situations that cannot be addressed through the Civil Forfeiture Office. Unexplained wealth order legislation would show that the government is taking steps to implement new tools to address money laundering.

**RECOMMENDATION:**

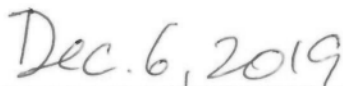
Proceed with development of an unexplained wealth order regime for BC.

s.14

Attachment

**APPROVED / NOT APPROVED**

Lori Wanamaker  
Deputy Minister



Date



## **Appendix**

### **UK Unexplained Wealth Order Case Example**

**Sources: Mondaq – a UK based repository of articles on legal, compliance and commercial issues and Euronews**

In February 2018 Zamira Hajiyevea, the wife of a jailed Azeri banker, became the recipient of the U.K.'s first unexplained wealth order. Mrs. Hajiyevea spent almost 16 million pounds across Europe, including at Harrods and luxury boutiques, on 10 credit cards issued by her husband's bank.

Mrs. Hajiyevea's husband, Jahangir Hajiyevea, the former head of International Bank of Azerbaijan, is serving a 15-year prison sentence for abuse of his office. His annual earnings as a state employee never went beyond \$70,000. Meanwhile his wife, who had no income of her own, owned a pair of properties in the upmarket Knightsbridge area.

Mrs. Hajiyevea has been attempting to sell jewelry, including at the Christie's auction house, to fund her lifestyle. Under the new legislation, she was ordered to explain how the couple could afford the properties. The unexplained wealth order puts the onus on asset-holders to prove that their wealth is legitimate.

#### **Court Battles**

Mrs. Hajiyevea has been in and out of London courts for the better part of 2018 and 2019 both in challenging the unexplained wealth order and dealing with new orders to explain the purchases of a golf course and numerous luxury items.

Mrs. Hajiyevea applied to the High Court to discharge the unexplained wealth order on a number of grounds. The Court's decision has been appealed by Mrs. Hajiyevea and the appeal will be heard late in 2019.

#### **The High Court's Decision (not the Supreme Court of the UK)**

The High Court rejected all of the grounds for challenge and upheld the unexplained wealth order. In doing so, the court made the following findings:

**Meaning of "PEP":** The definition of PEP in the EU Fourth Money Laundering Directive includes a member of the administrative and/or management body of a

State-owned enterprise ("SOE"), or a family member of such a person. The question of whether an enterprise is an SOE must be determined by applying UK law. Both "PEP" and "SOE" were to be defined widely. At all material times, the Government of Azerbaijan was the majority owner, and had ultimate control, of the Bank. The court therefore held that the NCA had established that the Bank was an SOE, and that the respondent and her husband were PEPs.

**The "income requirement test":** The NCA had not been unreasonable in relying on the fact of Mr. Hajiyev's conviction for fraud and embezzlement offences, notwithstanding the concerns raised regarding the fairness of his trial. The threshold for excluding reliance on a foreign conviction on human rights grounds was a high one, especially at this investigatory stage. The court also considered that there was some independent corroborative evidence in support of the conviction, including spending of £16 million on Harrods loyalty cards issued to Mrs. Hajiyeva between 2006 and 2016. Further, the court considered that, as a state employee between 1993 and 2015, Mr. Hajiyev was very unlikely to have generated sufficient lawful income to fund the acquisition of the property.

**Human rights:** The court rejected grounds for dismissal of the unexplained wealth order based on Article 1, Protocol 1 of the European Convention on Human Rights ("ECHR") (the right to "peaceful enjoyment" of possessions). The unexplained wealth order was, at most, a modest interference with the respondent's right to "peaceful enjoyment" of her property, and any such interference was proportionate given that there were grounds to believe that the property had been obtained through unlawful conduct.

**Privilege:** The court did not accept that the unexplained wealth order offended the privilege against self-incrimination and spousal privilege. First, there was no statutory right to invoke either privilege in respect of an alleged risk of prosecution for criminal offences outside the UK. Second, the court considered that either Proceeds of Crime Act 2002 had abrogated the privileges by necessary implication, or they were excluded by the Fraud Act 2006 on the facts of this case. Third, the court did not consider that disclosure of information concerning the property under the unexplained wealth order would give rise to a real or appreciable risk of prosecution for the respondent or her husband, in the UK or in Azerbaijan. There were, in any event, already sufficient safeguards concerning the use of any information provided by them to the NCA.

**Exercise of the court's discretion:** The High Court held that, in all the circumstances, it was appropriate for the unexplained wealth order to be made.

The statutory criteria had been met, any interference with Mrs. Hajiyeva's rights under the ECHR was proportionate and the terms of the order were justified.

### **Implications of the Decision**

This decision has been viewed as a test case for unexplained wealth orders and the outcome may encourage further applications. The decision also confirms the broad definition of both "PEP" and "SOE" under the relevant legislation, which may catch individuals who do not necessarily regard themselves as employees of the State. Ultimately, an unexplained wealth order is an investigatory tool which only gives rise to disclosure obligations. The court noted there was a "strong public interest" in ensuring that orders were not disobeyed and in filling what would otherwise be an "enforcement gap" in respect of unexplained wealth orders giving the regime more teeth.