Ministry of Finance

BRIEFING DOCUMENT

To: Honourable Selina Robinson
Minister of Finance

Initiated by: Joseph Primeau
A/Executive Director
Finance Real Estate and
Data Analysis

Date Prepared: February, 2021

Ministry Contact: Joseph Primeau
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Cliff #: 392882

TITLE: BC Unexplained Wealth Order (UWO)[s.13]

PURPOSE:

(X) FOR INFORMATION

DATE PREPARED: February 26, 2021

TITLE: BC Unexplained Wealth Order (UWO)s.13

ISSUE: s.13

BACKGROUND:

Introduction to Unexplained Wealth Orders

Unexplained Wealth Orders (UWO) are a relatively recent development in proceeds of crime laws. UWOs are distinct from other forms of asset forfeiture in that they do not require proof of unlawful activity and there is no requirement to first prove that the property in question is the instrument or proceed of crime. UWO laws differ from traditional forfeiture laws in that they shift the burden of proof to the property owner who must prove a legitimate source for their wealth.

UWO legislation would provide a provincial government official with the ability to apply to a court for an order requiring a person to explain the source of wealth that afforded them the ability to have an interest in specific property or assets. Prior to issuing a UWO against a person, a court would have to be satisfied that:

1. either : a) the property is owned by a person who is a "politically exposed person" (PEP) in a country outside of Canada (this is a person with a position that enabled them to benefit from corruption, or is someone closely connected to that person), or b) there is a reasonable suspicion that the property has a connection to unlawful activity or is purchased with the proceeds of an unlawful activity; and
2. that person holds an interest in the property; and
3. the value of the interest in property is greater than a certain amount (to be determined); and
4. the respondent's lawfully obtained income would have been insufficient for the purposes of enabling the respondent to obtain the interest in property.

If the court issues the UWO but the person refuses to explain how the property was obtained, or provides a materially false answer, then it could result in the property being deemed a proceed of unlawful activity. Two consequences could potentially flow from this designation:

1. the property could be subject to forfeiture as a proceed of unlawful activity (similar to the process the Civil Forfeiture Office currently uses); and/or

2. an income sufficient to allow the owner to obtain the property could be imputed on the owner and that income would be taxed at a significantly higher rate than would otherwise apply to the income (possibly a rate of up to 100 per cent).

Several countries have adopted some aspects of UWO laws, such as a presumption in favor of forfeiture for unlawful activities or specific offenses. However, only a few countries have adopted full UWOs – with no proof of the property being connected to a crime and a reversed burden of proof. This includes the Republic of Ireland, Australia, and the United Kingdom (see Appendix III for further information on UWO regimes in these jurisdictions). These jurisdictions have also legislated the ability to levy taxes on unlawful income, which provides an additional deterrent to money laundering by ensuring individuals pay their fair share of taxes and do not profit from unlawful activities. There is no indication that any of these jurisdictions levy taxes on unlawful income to raise revenue either to self-fund the UWO regime or for general revenue purposes.

Recommendations on Unexplained Wealth Orders in BC

The *BC Expert Panel on Money Laundering in BC Real Estate* (the Expert Report) recommended that the BC government should consider introducing UWOs in BC and concluded that:

> Unexplained Wealth Orders could add a valuable new anti-money laundering tool. Civil forfeiture is already used much more readily than criminal prosecution but still requires a link to criminal activity, which may be hard to establish, especially where international transfers are involved. Unexplained Wealth Orders could be used to confiscate property where there is no evident legitimate source of funds, providing another civil process tool that does not rely on criminal prosecution or evidence of a crime.

The Expert Report also noted that UWOs can be a useful tool in cases where the difficulty of gathering evidence in a foreign jurisdiction effectively precludes a criminal prosecution or the use of civil forfeiture. It ultimately concluded that UWOs would deter the use of BC as a haven even for people hiding wealth from legitimate sources.

Civil Forfeiture in BC

The *Civil Forfeiture Act* has been law in BC since 2006. It introduced non-conviction-based asset forfeiture of unlawfully acquired assets and property to BC. The director of the Civil Forfeiture Office (CFO) is responsible for applying to court for a forfeiture order. To succeed in a civil forfeiture claim, the CFO director does not need to

prove conviction of a crime but must establish that the property in question is either a proceed or instrument of unlawful activity.

DISCUSSION:

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Attachments

Appendix I – UWO s.13 **Briefing Note – DM Approval (December 6, 2019)**

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

TITLE: Unexplained Wealth Orders

PURPOSE:

(X) FOR DIRECTION

DATE PREPARED: November 22, 2019

TITLE: Unexplained Wealth Orders

ISSUE: s.13

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.

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[1] 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

[1] Presumably the exclusion of PEPs from the UK or another EEA State is because there are laws to address those situations.

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.

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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.

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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.

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Lori Wanamaker
Deputy Minister

Dec. 6, 2019

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

Mrs. Hajiyeva's husband, Jahangir Hajiyev, 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. Hajiyeva 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. Hajiyeva 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. Hajiyeva 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. Hajiyeva 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.

Ministry of Finance

BRIEFING DOCUMENT

To: Lori Wanamaker
Deputy Minister of Finance

Date Requested: June 25, 2020

Date Required: August 21, 2020

Initiated by: Joseph Primeau
A/Executive Director
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Date Prepared: June 25, 2020

Ministry Contact: Joseph Primeau
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Cliff #: 393653

TITLE: s.14

PURPOSE:

(X) FOR INFORMATION

s.14

DATE PREPARED: June 25, 2020

s.14

BACKGROUND:

Existing Civil Forfeiture Proceeding

Under the *Civil Forfeiture Act* (CFA), which is administered by the Civil Forfeiture Office, a forfeiture order requires a court to find the property was

- a proceed of unlawful activity or
- an instrument of unlawful activity.

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Appendix III – UWOs in International Jurisdictions

Republic of Ireland UWOs

In 1996, the Republic of Ireland introduced its *Proceeds of Crime Act* (POCA) and *Criminal Assets Bureau Act* and became one of the first countries in Europe to adopt a model of non-conviction-based asset recovery including provisions analogous to the UWO. The Irish UWO regime does not use the term "UWO", although its features are nearly identical. The Irish POCA enables property to be the subject of confiscation proceedings without needing to establish a predicate offence. The regime is triggered by "belief evidence" or, reasonable grounds for suspecting that a person owns or possesses property obtained either directly or indirectly from criminal activities and requires the respondent to show the legitimacy of the subject property.

The Irish Criminal Assets Bureau (CAB) forms the multidisciplinary agency responsible for implementing the POCA. CAB members include officers of Garda (Ireland's national police and security service), the Revenue Services, and Social Welfare who share resources, skills and vital information under the umbrella of the single agency. The success of the Irish regime has largely been attributed to the CAB.

As of 2017, the Irish regime has had a high success rate in civil-based confiscation proceedings. Research has suggested that the Irish regime has had a significant impact on reducing, disrupting and dismantling criminal activities in Ireland.

Australia UWOs

In 1999, the Australian Law Reform Commission reported that the ineffective conviction-based confiscation regime established in the Australian federal *Proceeds of Crime Act* (POCA) was not having the intended deterrent effect and that little was being recovered or confiscated. Following this, the states of Western Australia (WA) and the Northern Territory (NT) introduced UWO laws in 2000 and 2003 respectively.

In 2002, the Australian federal government considered whether to introduce unexplained wealth laws and ultimately decided to shelve this being regarded as a "step too far". In 2006 and 2008, further inquiries were commissioned to review the POCA including UWO laws. The 2006 Report questioned the appropriateness of introducing UWOs at the federal level citing concerns over potential infringement to the individual's rights and the interests of the community. Following the 2008 inquiry, the federal government introduced the *Crimes Legislation Amendment (Serious and Organized Crime) Act* (2010), amending the POCA to introduce, among other measures, the federal UWO regime.

Shortly after the introduction of federal UWOs, other Australian states, including New South Wales, Queensland and South Australia, implemented state UWO regimes. There are significant differences between each jurisdiction's UWO regimes. For example, the federal UWO regime requires a linking, but not a conviction, to a federal offence before an order can be made.

Appendix III – UWOs in International Jurisdictions

The Australian regimes have had limited success with relatively low forfeiture figures. This has been attributed to a number of factors, including judicial push-back; prosecutors' resourcing deficiencies; lack of public support; inter-agency disputes over jurisdiction and in some cases, the application of alternative confiscation laws which eliminate the need for an UWO.

United Kingdom UWOs

UWOs were introduced in the United Kingdom in 2018 through the UK's *Proceeds of Crime Act* (POCA). They allow UK investigators to require anyone with assets of over £50,000 to provide information on how they obtained the property. Investigators analyze if the known sources of the respondent's lawfully obtained income are sufficient to justify the acquisition of assets they hold. The investigators also check whether the respondent is involved in any serious crime or is a politically exposed person (PEP) or is connected to either.

There has been a relatively small number of UWO applications to the High Court to date and it has been suggested that the National Crime Agency (NCA) is proceeding carefully. The properties subject to UWOs represent large sums of money but have not led to actual recovery of the proceeds of crime. It has been noted that investigations into PEPs and their families and individuals involved in serious crime are complex and time consuming. Despite this, some have asserted that there is significant benefit from the UK's UWO regime as an investigatory tool which can compel respondents to make statements and provide details of their private and personal lives and financial matters at the early stages of an investigation.

In a recent high-profile case decided in April 2020, the High Court of Justice in London overturned three UWOs following applications by the respondents to those orders. The UWOs were obtained over three properties in London, collectively worth £80 million. The NCA argued that the properties were acquired from the proceeds of unlawful conduct, as a means of laundering the proceeds of crime. The Court found that the NCA's case was "*flawed by inadequate investigation into some obvious lines of enquiry*" and that the NCA had "*failed to carry out a fair-minded evaluation of the new information provided.*" The Court also observed that the NCA did not appear to have considered the fact that the beneficial owners were successful businesspeople in their own right.

Withheld pursuant to/removed as

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Ministry of Finance

BRIEFING DOCUMENT

To:	Honourable Selina Robinson Minister of Finance	**Date Requested:** March 8, 2021 **Date Required:** March 10, 2021	
Initiated by:	Heather Wood Deputy Minister	**Date Prepared:** March 8, 2021	
Ministry Contact:	Shauna Sundher Director, Housing Tax Policy Branch	**Phone Number:** 778 698-9051 **Email:** shauna.sundher@gov.bc.ca **Cliff #:** 480207	

TITLE: Speculation and Vacancy Tax and the Agriculture Land Reserve (ALR) Lands

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PURPOSE:

(X) FOR INFORMATION

COMMENTS:

DATE PREPARED:

TITLE: Speculation and Vacancy Tax and the Agriculture Land Reserve (ALR) Lands

ISSUE: s.13

BACKGROUND:

The Agriculture Land Reserve (ALR) is a provincial land-use zone where agriculture is the priority use. While some non-farm use is permitted on ALR land, ALR land owners who wish to pursue non-agricultural purposes or to subdivide their property must make an application under the *Agricultural Land Commission Act* and secure approval from the Agricultural Land Commission (ALC).

Although agriculture is the priority use on ALR lands, one single-family dwelling per land registry parcel is permitted within the ALR, provided it is permitted by zoning. Unless prohibited by a local government bylaw, the ALR Regulation allows a secondary suite for residential purposes, wholly contained within a single family dwelling and one manufactured home up to 9 metres in width, for use by the owner's immediate family.

For decades, the ALC often did not remove land from the ALR when it gave permission for residential development. Meaning that many properties in the ALR are residential property (class 1) that have no agricultural use (Appendix A).

The ALR is a land-use zone and ALR status is not directly related to property classification. Land in the ALR can be classified outside of farm class (class 9), and farm class land does not have to be in the ALR. Land and dwellings in the ALR are classified by BC Assessment based on their use. If land in the ALR is subject to restrictions by the ALC, then the market value, determined by BC Assessment, may be also affected.

Currently, all ALR land is eligible for a 50 percent School Tax exemption. The exemption applies to vacant and unused land or land used for a farm or residential purpose. The 30-Point Housing Plan calls for a reduction of tax incentives for residential properties on ALR land. s.13

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DISCUSSION:

Agriculture Land Reserve

The Speculation and Vacancy Tax Act (SVTA) does not mention the ALR. The Speculation and Vacancy Tax (SVT) applies generally to residential property and does not take into account or treat land differently if it is in the ALR. The SVT will apply to land in the ALR same way it applies to land outside the ALR.

It is easier for owners of vacant land in the ALR to qualify for farm status if they partially farm their land. For example, land that has no present use and located in the ALR may qualify for farm class if part of the parcel is farmed. Land that has farm status is not subject to the SVT.

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Non-vacant ALR land

While the purpose of the ALR is to protect agricultural land, one single-family dwelling per land registry parcel is permitted within the ALR, provided it is also permitted by zoning. This means that owners of ALR land are generally allowed to have a residence on their land, subject to restrictions.

An individual who has a vacation home or cottage located in the ALR would be subject to the SVT in the same way a vacant home outside the ALR would be subject to the tax.

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ALR and SVT Statistics

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Farm Classification

To have land classified as a farm, the owner must submit an application to BC Assessment by October 31 in order to have the property classified for the follow year. This application is not required every year, but BC Assessment may require information periodically to support continued farm classification.

The classification of farm land under the assessment scheme is fairly complex. The Classification of Land as a Farm Regulation, made under the *Assessment Act*, provides that the following land may qualify for farm class:

a) land used for a qualifying agricultural use;
b) land used for purposes that contribute to a qualifying agricultural use (e.g., irrigation, access to farm outbuildings, shelter belts);
c) land used for a farmer's dwelling;
d) land in an agricultural land reserve (ALR) that is used for a retired farmer's dwelling;
e) land used for the training and boarding of horses when operated in conjunction with horse rearing; and
f) in some cases, vacant land associated with a farm.

Other requirements also apply in order to qualify for farm class. For example, to receive and maintain farm class, the land must generate a minimum amount of income from one or more qualifying agricultural uses.

There are a few specific farm class qualifications that are dependent on whether the land is in the ALR. For example, land that has no present use and located in the ALR may qualify for farm class if part of the parcel is farmed. If the land is not in the ALR, unused land may qualify for farm class if it meets more strict qualifications.

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Owners who do not want to farm themselves can enter into lease arrangements with farmers in order qualify.

There are several reasons why a property may not have farm class even if there are some farming operations on the property. In order to receive and maintain farm class, the land must generate income from one or more "qualifying agricultural uses". The breeding and raising of pets other than horses, cannabis production and other uses are not considered qualifying agricultural uses for farm classification. The property owners must apply and provide supporting documentation (sales receipts, proof of farm sales etc) to prove they meet the minimum income thresholds. Property owners may not take these steps to classify their land as farm land.

Deadlines to obtain farm status and effect on SVTA

The deadline to apply for farm classification is October 31 for classification for the following year. BC Assessment indicates that if an application was made today for farm class for 2021 (even though the October 31 deadline has passed), BC Assessment may be able to apply farm class either through the Property Assessment Review Panel or through a supplementary roll, provided all of the requirements are met. BC Assessment would not be able to process a reclassification to farm class for 2020 (the current SVT year).

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All farm structures (improvements) used in connection with the farm operation, including the famer's dwelling, is classified as residential property. In addition, "vacant land with no present use" is classified as residential property. Farm structures on class 9 property are not part of the speculation and vacancy tax base and should not be taxed. s.13
s.13

Vacant Land Exemption

The SVT applies to "residential property" in specified areas of the province. The definition of residential property in the SVTA includes any land and improvements that are assessed as class 1 property. However, the definition excludes "farm outbuildings" in order to exclude barn and other farm buildings from the tax. The SVTA also excludes property with an assessed value under $150,000. A farmer's dwelling is considered residential property under the SVTA.

Vacant land with no present use is classified as residential property and is therefore subject to the SVT. When the SVT was introduced, it included a temporary exemption for vacant land without a residence.

The purpose of the land without residence exemption was to ensure that those who held vacant land would have enough time to adjust to the new tax by either beginning to develop the land or to sell it to someone who would then develop the land. s.13
s.13

The exemption was intended to be a one-year transitional measure, providing relief in the first year of the tax, while also ensuring that vacant land would be put to use. The vacant land exemption was extended for an additional year in Budget 2020 and expired at the end of the 2019 tax year. This extension provided residential property owners with vacant land two full years to plan for the future of their property.

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Construction or Renovation Exemption

There are exemptions in the SVTA for land under construction or renovation and for a phased development. They exempt owners who are undertaking “building activity” on their property.

“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;

The exemptions also includes a carve out that “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”.

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Appendix A: two examples of developed properties in the ALR

Some examples of developed properties that remain in the ALR. These are a subset of the properties in the ALR. Most properties in the ALR have not been subdivided and developed into condos as these have. These properties benefit from the 50 per cent school tax reduction because the ALC did not remove them from the ALR when they allowed densification to occur.

A beachfront condo building with an ALR school tax exemption on the land:
s.22

Legal Plan No.: s.22
Date Registered:
ALR Status: Fully within the ALR boundary
Development Description:
11-unit strata condominium development s.22 The entire complex is located within the ALR.

The land in red remains in the ALR and gets and ALR 50% school tax exemption on the land.

s.22

Fully within the ALR boundary
Development Description: 11-unit, detached strata townhouse complex s.22

Ministry of Finance

BRIEFING DOCUMENT

To:	Honourable Selina Robinson Minister of Finance	**Date Requested:** March 3, 2021 **Date Required:** March 12, 2021	
Initiated by:	Treasury Board Staff	**Date Prepared:** March 8, 2021	
Ministry Contact:	Colin Ward	**Phone Number:** (778) 974-2150 **Email:** colin.ward@gov.bc.ca	
		Cliff #:	**480241**

TITLE: InBC – Options to Create a Capitalized Strategic Investment Fund

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PURPOSE:

(X) DECISION REQUIRED

COMMENTS: This note seeks the approval of the Minister of Finance of an approach to create a capitalized strategic investment fund for InBC ($500M StrongerBC commitment) as part of *Budget 2021*.

DATE PREPARED: March 8, 2021

TITLE: InBC – Options to Create a Capitalized Strategic Investment Fund

ISSUE:

s.12

BACKGROUND:

- As part of StrongerBC, government announced its intention to create a new $500M strategic investment fund (Fund) to be managed by InBC. The Fund is intended to provide a long-term source of public and privately leveraged capital to invest in B.C. businesses to help them scale up, and to anchor talent, intellectual property, and good jobs in the province. Independent investment decisions are expected to generate financial returns while advancing government's economic and social objectives (a "double bottom-line approach").

- JERI repurposed an existing Crown corporation (B.C. Immigrant Investment Fund Ltd.) to become InBC Investment Corp., reflecting its expanded mandate.s.13; s.17
s.13; s.17

- Provincial Treasury in the Ministry of Finance oversees cash management and borrowing for the Province, including its Crown corporations. Provincial Treasury has been engaged to help ensure that financing for InBC's Fund meets its expected cashflow requirements while mitigating the impact of interest costs and overall provincial taxpayer-supported debt.

Key Considerations

InBC Mandate

- InBC inherently differs from traditional investment funds due to its 'double-bottom-line' approach; instead of a sole focus on generating financial returns, the Fund will also prioritize investments that advance desired economic and social objectives. As such, the Fund is not mandated to maximize financial returns.

- s.13; s.17

s.13; s.17

DISCUSSION:

- InBC will be setting up operations in 2021/22 and key activities include:
    - Hiring and onboarding an appropriate leadership team (Board of Directors, Chief Executive Officer, Chief Investment Officer) and investment staff; and
    - Developing an investment strategy, based on an established and well-thought-out policy framework that includes investment objectives, asset allocations, performance measures, risk management, and reporting.s.12

s.12

s.13; s.17

Capitalization Options

s.13; s.17

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Withheld pursuant to/removed as

s.13 ; s.17

APPROVED / NOT APPROVED

Selina Robinson
Minister of Finance

March 15, 2021
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Date

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Withheld pursuant to/removed as

s.13 ; s.17