NOTES ON TAXATION AND THE COMPETITIVENESS OF BC'S REGULATED PORT TERMINALS:
PREPARED BY PETER ADAMS FOR THE PCI REVIEW

INTRODUCTION

Port Operators have long argued that high property taxes place BC's port terminals at a competitive disadvantage compared to similar ports located on the West coast of the USA. It has been one of principal arguments made by them in support of the Ports Competitiveness Initiative. Brad Eshleman, Chair of the BC Marine Terminals Operators Association reiterated this point in his presentation to Ministry staff in July of this year. s.13

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EVIDENCE

On the surface, the data presented by Eshelman tells a compelling story. However, the comparisons are incomplete and cannot be independently verified:

(a) Why incomplete? The property tax comparisons do not take into account differences in the way properties are assessed for tax purposes. They assume that a port property would be given the same assessed value whether located in BC or Washington State. But this is very unlikely. For example, in BC machinery and equipment is not assessed for tax purposes but in Washington State it is. The added value of machinery and equipment could make the assessed value of port property higher in the US than in BC. s.13

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In principle, it should be possible to document the differences in taxation between competing jurisdictions; in practice, it is very difficult for three reasons:

- The property tax systems are very different in BC and US jurisdictions. Making simple comparisons is not easy. For example, port authorities are taxing jurisdiction in the US; this is not the case in BC.
- While tax and assessment information for port properties is publicly available in BC, this is not the case in the US.
- It is hard to identify properties in the two jurisdictions that are close enough in character, scale, age, and technology to make the comparison close to an 'apples to apples' standard.

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(b) Why hard to verify? It is not easy to to confirm the significance of property taxes relative to overall costs and revenues because, for the most part, port operators in BC and the US do not publish their detailed financials and have been reluctant to provide this information to third parties. Where financial information is publicly available, the significance of property taxes is much lower than the data presented by Eshleman. For example, for the Westshore Coal Terminal located in Delta, public documents show that property taxes in 2003 were around 2% of revenue and 3.7% of costs. s.13

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A recent report by KPMG commissioned by the BC Marine Terminal Operators Association estimated the total operating cost of regulated ports in BC in 2017 at $1,527 million.[2] Since, total property taxes (municipal plus school taxes) paid by regulated ports in that year were approximately $25 million, taxes were around 1.6% of costs. Obviously, this is relatively low proportion and reflects the effects of the PCI and the sharp reductions in school taxes that have taken place since 2004. s.13

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THE TAXATION OF PORTS AND LOCATION DECISIONS

The competitiveness of a port's location is based not just on the investment return available to port operators, but on a wide variety of factors that influence the overall cost and reliability of transporting goods from source to destination (e.g. railway and shipping costs, intermodal efficiency and labour relations). Therefore, taxation difference between port locations have to be placed into the wider picture of factors that affect the competitiveness of alternative locations. These wider issues were discussed in the 2001 Perrin, Thorau & Associates study on port competitiveness, which laid the foundation for the PCI.[3]

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[1] Perrin, Thorau & Associates Ltd., *Options to Improve the Competitiveness of Ports in British Columbia, Volume I - Final Report,* Victoria, March 2001, page 27.
[2] KPMG LLP, *Economic Impact Assessment: Marine Terminals Operations and Capital Programs*, BC Marine Terminal Operators Association, October 2018
[3] Perrin, Thorau & Associates Ltd., *Options to Improve the Competitiveness of Ports in British Columbia, Volume I - Final Report,* Victoria, March 2001

The 2010 Municipal Port Property Tax Commission (of which, I was a member) also examined the competitiveness issue and tried to put the concerns over property taxation into a wider perspective:

> *"We know from other studies that property taxation is only one of many factors that affect location decisions even for industries that are much more footloose than ports. Furthermore, given the relatively modest level of taxes per tonne or per container .., we are not convinced that lower property taxes would be a driving force in the location of ports. From the studies we have reviewed, other issues, such as rail and road connections, appear to weigh more heavily in location decisions."*[4]

A study for the Ports Commission prepared by 'Perrin, Thorau' attempted to examine the differences in port property taxes between the US and BC but ran into the difficulties mentioned above. Nevertheless, it was able to conclude that with respect to the Port of Vancouver: *"property taxation is … an immaterial factor in the port's price competitiveness".*[5] Even so, the authors did repeat their concern with high municipal tax rates in BC that they had noted in their 2001 report. They strongly argued that the higher nominal rates of tax faced by BC operators could have a negative effect on investment decisions in BC.

This concern about high property tax rates in BC was one of the driving forces behind the PCI and was expressed on page 29 of the 2001 'Perrin, Thorau' report as follows:

> *"When new capital investment attracts a tax of 4% to 6% in every year, regardless of the income generated by the property, it is difficult to earn a sufficient return in a competitive market to justify the investment."*

However, evidence developed since 2003 undermines the force of this argument. It is now very clear that $1 million of investment in port operations does not typically translate into $1 million of taxable assessment. Much of the investment is spent on items such as machinery and equipment or major works such as berth corridors that are exempt from taxation in BC. Therefore, the potential effect of property tax rates on investment decisions is much less than that suggested by 'Perrin, Thorau'.

One example should be sufficient to support this alternative perspective: The KMPG report referenced above estimated that capital spending by designated port operators was $3.2 billion over the period 2008 and 2017. Over the same period, the taxable value of port properties increased by only $172 million. Hence, if the investment estimates are accurate, it is possible only a fraction of investment

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[4] Enid Slack and Peter Adams, *Report of the Municipal Port Property Taxation Commission*, Metro Vancouver Regional District, May 25, 2010.

[5] Perrin, Thorau & Associates Ltd., *Property Taxes in BC and Competing US Ports: A Comparative Review of Property Taxation Systems & Review of Factors of Competitiveness,* Victoria, April, 2010.

spending translated into taxable values.[6] Hence, on average, only a fraction of investment spending would be affected by property tax rates.

[6] The full range of factors affecting taxable assessment over this period include depreciation and inflation. Even if we were to net out the effect of depreciation on taxable values, the same conclusion would be reached.

REVIEW OF PORTS COMPETITIVENESS INITIATIVE: INTERVIEWS WITH STAKEHOLDERS

INTRODUCTION

This document is a high-level summary of the issues and concerns raised by stakeholders who were interviewed in 2109 by Peter Adams in the context of the Ministry of Finance's review of the Ports Competitiveness Initiative.

For the information of the reader Table One summarises some basic information for port municipalities in 2018: the number of designated ports; the total taxable value of designated ports; and, port assessed values as a percentage of total Class 4 assessment. Table Two lists the names of each Terminal by Municipality.

Table One: Designated Port Assessment by Municipality

Municipality	Munic -ipal Code	Number of Designated Terminals*	2018 Port Assessment ($m)	Port Assessment as % of Class 4 Assessment
Vancouver	200	7	$201	89%
North Vancouver City	221	8	$167	95%
Port Moody	225	1	$80	49%
Prince Rupert	227	6	$115	94%
Delta	306	5	$202	43%
North Van District	316	8	$142	26%
Richmond	320	2	$29	14%
Surrey	326	1	$41	31%
West Vancouver	328	1	$2	100%
Squamish	338	1	$24	100%
Total		40	$1,003	

* Some terminal operations are spread across multiple property parcels.
Each designated parcel is identified as a terminal in this list. See Table Two.

Table Two: Designated Ports by Municipality

Vancouver	**Delta**
Alliance Grain Terml (Agricore)	Fraser Surrey Docks
Alliance Grain Terml (Agricore)	GCT Canada (Deltaport)
Alliance Grain Terml (Agricore)	Westshore
Cascadia	WWL Delta
DP World Canada (Centerm)	WWL Delta
GCT Canada (Vanterm)	Fibreco
Viterra (Pacific Elevators)	**North Vancouver District**
North Vancouver City	Fibreco
Cargill (Sask Wheat Pool)	Fibreco
G3 (Western Stevedoring)	Neptune Bulk Terminals #2
G3 (Western Stevedoring)	Univar Canada (Dow Chem)
Lynnterm West	Vancouver Wharves
Neptune Bulk Terminals	Western Stevedoring (LynEG)
Richardson International	Western Stevedoring (LynEGB)
Western Stevedoring (LynEG)	**Richmond**
Western Stevedoring (LynEGB)	WWL Richmond
Port Moody	WWL Richmond
Pacific Coast Terminals	**Surrey**
Prince Rupert	Fraser Surrey Docks
DP World PR (Fairview)	**West Vancouver**
Pinnacle Renewable Res.	KM Marine Terminals (VANWH)
Prince Rupert Grain	**Squamish**
Ridley Pellet Terminal	Squamish Terminal
Ridley Sulphur	
Ridley Terminals	

DISTRICT OF NORTH VANCOUVER

Interview with Andy Wardell (Chief Financial Officer).

Background

The District's waterfront is home to both eight designated ports and major marine operators such as Seaspan and Allied Shipping. These properties are all in the major industry tax class.

The assessed land values of the designated ports are regulated; the assessed land values of the other major industrial properties are set by BC Assessment based on their estimate of market value. There has been a marked difference in the rate of increase in land values between the ports and other marine operators over the past four years.

Comments and Observations by the Municipality

Since the introduction of the tax cap on port properties and the regulation of port land values, the Municipality has tried to keep the annual rate of increase in municipal property taxes paid by port and non-port properties roughly the same. In response to increases in the market value of industrial land, they have achieved this by adjusting down the tax rate paid by non-port properties. These adjustments did not affect the tax rate on port properties because the general Class 4 tax rate remained above $27.5 per $1,000.

In 2018, BC Assessment increased the assessed value of non-port properties dramatically based on their interpretation of industrial land sales. This very large increase made it impossible for the Municipality to adjust the tax rate on non-port properties without affecting the tax rate paid by ports. Any reduction of the general rate below the $27.5 cap would require a similar downward adjustment for ports. As a result, the Municipality did not feel it could reduce the Class 4 tax rates sufficiently to offset the impact of rising land values on the taxes paid by non-port operators without compromising either their expectations for tax revenue from Class 4 as a whole or the balance in taxes between port and non-port properties.

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The District would like to see the regulated land values of port properties more closely match the values placed on non-port industrial land.

SEASPAN

Interview with Billy Stokes (General Counsel) and Karen Obeck (Director Property, Facilities and Security).

Background

Seaspan is a major employer located on the waterfront in the District of North Vancouver. Its operations are primarily assessed for tax purposes as major industry. The also have operations in the City of North Vancouver.

Comments and Observations by the Company

Property taxes have increased by 650% over 8 years – an increase they describe as staggering. [I have not independently checked this figure]. They attribute the increase to the very large increases in market values placed on their property by BC Assessment (which used the sale of one parcel as evidence of market change) and by the decision of the District not to reduce the tax rate sufficiently to offset the dramatic increase in assessed value. The company has appealed the assessed value placed on its property; referencing both weak market evidence and the lack of sufficient recognition by BC Assessment of the effect on market value of environmental contamination at the shipyard.

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ALLIED SHIPBUILDERS

Interview with Mark McLaren and Jamie O'Connell (Positions unknown)

Background

Allied Shipbuilders is a significant employer located on the waterfront in the District of North Vancouver. Like Seaspan, its operations are primarily assessed for tax purposes as major industry.

Comments and Observations by the Company

Like Seaspan, they object to the very large increases in taxes imposed by the District in recent years. They appreciate that these increases are partly the result of large increases in assessed land values and are in the process of appealing these values. As well as being critical of the evidence offered by BC Assessment to support land values, they believe also that BCA has not taken sufficient consideration of the poorer location of their facilities or the environmental condition of the land.

They would like to see the regulated value of port land to be more closely match the land values applied to non-port industrial land.

NEPTUNE TERMINALS

Interview with Claus Thornberg (President), Gonzalo Benitez (VP Finance and Administration) and Lisa Dooling (Director of Community and Stakeholder Engagement),

Background

Neptune Terminals are located primarily in the City of North Vancouver. They export potash and steel-making coal.

Comments and Observations by the Company

The content of our conversation was summarised by the Company in a letter to me dated June 14, 2019, as follows:

> Thank you for taking the time to speak to us today as part of the BC Ministry of Finance review of the Ports Property Tax Act. At your request, we are providing in writing some of the information we shared during our phone call.
>
> Based on the experiences of Neptune and our fellow export terminals in the North Shore Trade Area, the Ports Property Tax Act has been very successful at achieving its intended purposes: enhancing the competitiveness of export terminals in the Port of Vancouver, and encouraging private sector investment in these facilities. This investment has generated increased tax revenue for municipalities and contributed to a strong, sustainable BC economy, job creation and environmental protection – core priorities of the provincial and municipal governments.
>
> At Neptune specifically, the Ports Property Tax Act has provided financial stability that has led to substantial direct capital investment and growth:

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Indirectly, Neptune's growth has also enabled us to make substantial contributions to infrastructure projects that benefit both the City and District of North Vancouver:

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In terms of competitiveness, Neptune is part of the supply chain for our shareholder companies, who sell their commodities on the competitive world market. Any significant cost increases resulting from changes to the Port Property Tax Act will make both our shareholders and our terminal less competitive.

CITY OF PORT MOODY

Interview with Paul Rockford (General Manager of Finance and Technology) and Tyson Ganske (Manager of Financial Planning).

Background

Port Moody is home to a single major port and other large industrial enterprises.

Comments and Observations by the Municipality

They have never agreed with the basic premises of the PCI initiative: they do not believe municipal taxes are a large component of port costs; they do not believe that taxes paid are much lower in the US; the insist that ports are a federal issue and any concerns over competitiveness should be addressed by federal agencies (e.g. through the amounts paid in port leases). Also, many of the concerns expressed about Class 4 municipal taxation have been misleading because they have focused on tax rates rather than taxes paid. In their view, most of the information presented by port operators has been incomplete and/or inaccurate.

Provincial compensation was adequate at the start of the program but has not increased at a suitable rate. The CPI is not an appropriate inflation index because municipal costs have increased at a much faster rate.

Land values are increasing in Port Moody but the regulated land values for port properties are not keeping up. The issue faced by the District of North Vancouver could be coming to Port Moody.

Port operators are seeking predictability of taxation. Municipalities are seeking predictability of revenue growth. The two objectives should not be in conflict.

If the program is to be maintained, they support continuation of a lower tax rate for new investment.

CITY OF SQUAMISH

Interview with Christine Mathews (Chief Financial Officer).

Background

The City is home to one major break bulk terminal that, currently, is the only employer in Class 4. The terminal's dock was destroyed a few years back and was rebuilt in 2016-17.

The Berth Corridor at this port was not exempted in 2004. The previous owner argued for an exemption. s.21
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Comments and Observations by the Municipality

Squamish agreed to sign letter along with other municipalities calling for a review. However, Squamish does not want to see the program ended. The City values the economic impact of the terminal does not want to see any changes that would compromise the terminal's viability. They have a good relationship with the port operator.

When the new dock came onto the assessment base, they recognised that it would be a large increase in taxes for the operator and therefore reduced the class 4 rate below $27.5. With depreciation taking effect on the new dock's assessed value, they have been increasing the tax rate annually by $0.5 per $1,000. s.17
Depreciation will continue to slow the rate of increase in assessment and this will compromise the rate of growth of taxation. If the tax base continues to increase slowly, there should be a way to increase the tax rate to achieve a reasonable rate of growth in tax revenue.

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They describe Squamish as a "teenage" municipality with considerable growth pressure, a full range of service responsibilities and very few regional services. Their growth in expenditure is close to 5% per year. Slow revenue growth in port taxes means larger tax increases for other taxpayers.

CITY OF DELTA

Interview with Karl Preuss (Director of Finance).

Background

Delta is home to two major ports: the Deltaport container terminal and the Westshore coal terminal. A portion of Surry Fraser Docks also lies in the municipality as does on of the WWL's auto terminals. Port properties account for less than 50% of taxable assessment in Class 4.

Vancouver Port Authority is currently planning a major new container facility (Terminal 2) that will be located next to Deltaport.

Comments and Observations by the Municipality

Delta's tax rate on industrial properties was never very high and therefore the immediate impact of the tax cap was not very significant. However, municipal costs are increasing both generally and as a direct effect of significant growth in container traffic (on municipal infrastructure and traffic congestion). The impact of the planned Terminal 2 expansion will even more significant.

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Land values are yet an issue (as they are in North Vancouver District) but the same issue could come to Delta in the future because of the significant amount of non-port industrial property.

CITY OF VANCOUVER

Interview with Patrice Impey (Chief Financial Officer) and Grace Cheng (Director, Long Term Financial Strategy and Planning).

Background

The City of Vancouver is home to seven designated port properties (mostly containers and grain). They are the only large employers in Class 4.

Comments and Observations by the Municipality

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Nevertheless, Vancouver strongly objects to the Province's intervention in property taxation, one the City's limited areas of jurisdiction. The Province should not be constraining existing powers while simultaneously refusing to expand local government taxing powers.

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s.17 Federal and provincial governments benefit more than municipalities. If the province wanted to encourage investment, it should have been simply sent a cheque to terminal operators rather than restrict municipal taxing jurisdiction and, then, "inadequately" compensate municipalities.

The municipality interacts with port operators in many different ways, not just taxation (e.g. transportation/logistics). These interactions are just as important to terminal operators as taxation matters. The City is also a significant landowner and can use its property to help solve transportation bottlenecks. These relationships issues are worked out locally with terminal operators; as should taxation decisions.

PORT OF PRINCE RUPERT

Interview with Ken Veldman (Vice President of Public Affairs and Sustainability).

Background

The Port of Prince Rupert hosts six of the designated terminals. It has grown rapidly over the past 15 years, with significant investment in existing terminals (e.g. the Ridley coal export terminal) and with the establishment of new terminals (e.g. Fairview container terminal and a propane export terminal). The designated ports account for almost all of Class 4 assessment. Two new propane terminals are not designated.

Comments and Observations by the Port Authority

The outlook for the Port of Prince Rupert has changed dramatically over the past 15 years. In 2004, most of the existing operators were going through difficult times. Since then, the port has experienced significant new investment and strong growth in throughput.

He is aware of the City's history (loss of major employers in the forestry and fish processing sectors) and understands the City's concerns over maintaining service levels. However, he believes that the predictability of taxation has been one of the important factors that have encouraged new port investment. This investment has generated new taxation revenue for the City both directly and, indirectly, by bringing new employment to the area. s.17
s.17 He referenced the recently updated economic impact study commissioned by the Port Authority for additional information.

He spoke of the competitive advantages of the Port of Prince Rupert (e.g. shipping distance to Asia and efficient inter-modal transfer of products). He thinks there is considerable potential for additional investment and growth, and does not want to see this potential jeopardized by uncertainty over taxes.

He questioned why the propane terminals are not designated.

CITY OF PRINCE RUPERT

Interview with Bob Long (City Manager).

Background

See Port of Prince Rupert. Also, revenue from the designated ports is by far the most significant for Prince Rupert compared to the other affected municipalities.

Comments and Observations by the Municipality

The City of Prince Rupert has been through difficult economic times since the closure of its major traditional employers and taxpayers (pulp mill and canneries).
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s.17 The population of the City today is closer to 12,000.

The City has put considerable effort into cost containment and revenue enhancement but property tax rates on residential and commercial taxpayers remain high in the context of other Northern municipalities. The City believes the port sector has been unnecessarily protected from tax increases and that the City should have the authority to vary the tax rate in order to balance the taxes paid across tax classes.

The City is very dubious that property tax rates have a significant impact on investment decisions. They believe that growth in the port is attributable to market conditions and the inherent competitiveness of the port's location. The City sees the cap on tax rates as another example of a misguided policy belief that tax cuts will stimulate revenue growth. They suggest that experience with other types of tax cuts (e.g. corporate income tax rates) show that tax rate reductions lead to reduced revenue not higher revenue.

The City points to the recently established propane terminals as examples of a willingness to invest in the City even though the terminals do not qualify for the tax cap and pay the much higher Class 4 tax rate.

The City believes that its ability to attract skilled workers is a much more important consideration for the ports than the tax rate – and, in this respect, the City will find it difficult to do so if it cannot provide the service levels that other Northern Cities are able to afford.

While it is accepted that, at some point high taxes could become a deterrent to investment, they believe that the City is in the best position to judge the trade-offs involved; and, should be allowed to make its own decisions and its own mistakes.

The City points to the contrast between the declining assessed value of the container terminal over time (because of depreciation) and the substantial growth in container volumes through the port. With a capped tax rate, there is no way for the City to share in the financial success of the terminal.

BC MARINE TERMINAL OPERATORS ASSOCIATION

Interview with Brad Eshelman (Chair of the Association)

Background

The Association represents most, but not all, operators of designated terminals.

Comments and Observations

I had a conversation with Mr. Eshelman as a result of a phone call from him to me. This was not a formal interview, but I have noted it here for completeness. Other than his questions about process, all of Mr. Eshelman's comments were repeated at his meeting with the Ministry on July 19, 2019. The essence of his observations at that meeting is summarized in the PowerPoint presentation he has shared with the Ministry.

PORT OPTIONS - DRAFT #1 – AUGUST 28, 2019

Introduction:

The following options have been developed in response to the concerns raised by affected municipalities about the impact of the Ports Competitiveness Initiative. Having examined these concerns and researched the taxation impacts on both ports and municipalities since 2004, and having received input from the affected parties, the following broad conclusions have been reached:

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Option #1: s.13

Background:

Port land values are a large component (47% on average) of the assessed value of port properties and, therefore, have a big impact on taxes paid. s.13

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Designated port land values were set in 2007 and, since then, have been adjusted annually to account for inflation. However, the inflation indicator used has been the consumer price index (CPI) which has increased very slowly compared to the market value of other industrial land and other economic indicators. Linking land value increases to the CPI, is one of the main reasons that municipal taxes have grown more slowly than taxes from other local taxpayers. s.13
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Possible Escalators:

A number of alternative escalators have been suggested but they are not all feasible or desirable:

- **Land Rents** – s.13
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- **Market Value of Private Owned Industrial Land** – s.13
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- **Economic Indicators** – s.13
  s.13

- **Municipal Taxation –** s.13
  s.13

Suggested Direction:

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Implementation:

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Option #2: s.13

Background:

Because the current land value escalator has been low relative to increases in municipal taxation, s.13
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Suggested Direction:

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Implementation:

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Option #3: s.13

Background:

Improvements on port land (e.g. storage and handling facilities) are valued for property tax purposes on the basis of their replacement value less depreciation. Since 2004, overall port improvement values have increased because of the new investment in port infrastructure. However, once in place, the taxable value of each new piece of infrastructure tends to decrease in value because the annual rate of deprecation applied

(5%) is greater than the rate inflation used to calculate replacement value. This is not true of older improvements because are fully depreciated (depreciation is capped at 80%).

For this reason, absent new investment, the taxable value of improvements has either declined or increased slowly, which is one of the reasons that the taxable value of port properties has not increased at a rate considered adequate by host municipalities.

Suggested Direction:

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Option #4: s.13

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Background:

Today, municipalities are allowed to charge a lower tax rate on designated port properties than the tax rate charged on other Class 4 properties. However, if the general tax rate on Class 4 properties is lower than the port tax rate cap, ports pay the same lower tax rate as other industrial properties. Hence, the tax rate on ports is different only if it is a lower rate than the general Class 4 rate. In most port municipalities, the general Class 4 rate is above $27.5 per $1,000 but in Surrey, Richmond and West Vancouver the general rate is lower.

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Suggested Direction:

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Implementation:

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Option #5: s.13

Background:

The tax rate on new investment is capped at $22.5 per $1,000 rather than $27.5, for a period of 10 years. After that, the higher rate applies.

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- Even if taxable, not all new investment is subject to the lower tax rate. Some investment is considered 'replacement' investment that simply offsets depreciation of existing assets. Only net new investment in excess of replacement investment is subject to the lower rate.
- There are administrative difficulties in calculating the amount of investment subject to the lower tax rate and in implementing the lower tax rate on tax notices.

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Suggestion Direction:

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Implementation:

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Option #6: s.13

Background:

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Suggested Direction:

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Implementation:

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Option #7: s.13

Background:

The Ports Competitive Initiative was designed to assist the major export terminals that serve the international marketplace, have multiple customers and are in potential competition with ports on the west coast of the USA. As a result, not all ports in BC were designated under the *Ports Property Tax Act (PPTA)*. The *Act* specifically does not allow ports that are primarily engaged in "the transport of crude oil or petroleum fuel products or both" to be included, although the reasoning for this is not clear.

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Suggested Direction:

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Implementation:

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