

Ministry of Finance

BRIEFING DOCUMENT

To: Honourable Selina Robinson
Minister of Finance

Date Requested: n/a
Date Required: n/a

Initiated by: Steve Hawkshaw
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Tax Policy Branch

Date Prepared: May 25, 2021

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Cliff #: 485540

TITLE: Industry concerns with logging tax regime

PURPOSE:

(X) FOR INFORMATION

DATE PREPARED: May 25, 2021

TITLE: Industry concerns with logging tax regime

ISSUE: Logging industry stakeholders have written the Minister of Finance to request changes to the logging tax regime.

BACKGROUND:

The Minister of Finance received a letter from the BC Lumber Trade Council (BCLTC), which represents major BC forestry companies. The BCLTC is concerned that the current logging tax regime is administratively burdensome, and that logging tax credits are being viewed by the U.S. Department of Commerce as a subsidy, resulting in countervailing duties on BC lumber exports.

BCLTC and its members are requesting that the provincial and federal governments restructure the tax regime in a way that would result in logging companies paying the same amount of overall tax, but would resolve the identified issues.

DISCUSSION:

The *Logging Tax Act* imposes a tax of 10 per cent on net income derived from logging operations in BC.

Since 1962, the federal government has ceded logging tax room to BC and Quebec. This is accomplished through non-refundable income tax credits. Under the income tax system, two-thirds of provincial logging tax paid, or 6.67 percent of the 10 percent rate, is a credit against federal income taxes payable and one-third of logging tax paid, or 3.33 percent, is a BC logging tax credit.

This tax structure ensures that logging companies pay the same overall rate of income taxes as other corporations, but results in more revenues going to BC and less to the federal government.

s.13; s.16

The provincial and federal logging tax credits are also attracting countervailing duties (CVD) as part of the softwood lumber dispute between Canada and the U.S. The American position is that the provincial and federal credits for logging tax are a subsidy and the U.S. therefore imposes CVD in the range of millions of dollars annually. Since

costs such as CVD reduce a logging company's income, the duties also reduce federal and provincial tax revenues.

BC and Canada's position is that the credits are not a subsidy, but rather a mechanism to transfer logging income tax revenue from the federal government to the provincial government.^{s.13; s.16; s.17}

s.13; s.16; s.17

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BRIEFING DOCUMENT

To: Honourable Selina Robinson
Minister of Finance

Date Requested: June 7, 2021
Date Required: June 16, 2021

Initiated by: Keith Preston
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Date Prepared: June 7, 2021

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CLIFF#: 485940

TITLE: PST Collection and Remittance Issues for Out-of-Province Businesses

PURPOSE:

(X) FOR INFORMATION

COMMENTS: s.13
s.13

DATE PREPARED: June 7, 2021

TITLE: PST Collection and Remittance Issues for Out-of-Province Businesses

ISSUE: BC and other jurisdictions are expanding sales tax collection obligations

BACKGROUND:

Historically, any jurisdiction with a sales tax has had to establish “nexus”—essentially a meaningful connection between a vendor and the taxing jurisdiction—to compel a vendor to collect its sales tax. For example, if the vendor has a physical location in the jurisdiction, there is a clear nexus.

A 2018 United States Supreme Court decision in *South Dakota v. Wayfair* recognized that in the e-commerce era, establishing physical nexus as a precondition to collecting tax had the potential to decimate state revenues. The decision empowered states to impose much more comprehensive tax collection requirements on out-of-state vendors. In the years following *Wayfair*, all of the states with sales taxes have moved to impose such requirements.

The *Wayfair* decision paved the way for significant changes for American tax law.^{s.13} However, there has not been a court driven expansion of the concept of tax nexus in Canada .

DISCUSSION:

BC’s provincial sales tax (PST) has, for many years, imposed tax collection obligations on out-of-province businesses. However, these were designed for the mail-order era and were not adequate in the current environment.

In *Budget 2020*, a new set of tax collection obligations was added to the PST. Under these rules:

- all Canadian sellers of goods must collect PST if they have annual BC revenues greater than \$10,000;
- all Canadian sellers of vapour products must collect PST, even if their annual BC revenues are lower than \$10,000; and,
- all (global) sellers of telecommunication services (e.g. streaming audio or video) and software must collect PST if they have annual BC revenues greater than \$10,000.

These rules were originally supposed to take effect on July 1, 2020. Because of COVID-19, their implementation was moved to April 1, 2021. Large firms like ^{s.17; s.21} accommodated the changes and have been collecting PST.

Additionally, the previous tax collection obligations were not repealed. Therefore, some businesses that do not meet the revenue thresholds under the new rules may still be required to collect BC's PST.

BC's changes followed similar moves by Saskatchewan and Quebec. Manitoba introduced expanded tax collection obligations in its 2021 budget. Canada's 2020 Fall Economic Statement included a plan to modernize GST/HST rules to ensure the tax applies fairly and effectively in the digital economy. These measures include:

- new registration requirements for non-resident suppliers of digital products and services, and for operators of platforms that distribute these products or services;
- new registration and tax collection rules for goods supplied through fulfillment warehouses; and,
- consistent application of GST/HST to platform-facilitated supplies of short-term accommodation.

s.13

s.13; s.14

s.13; s.14

s.13