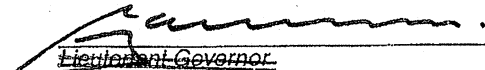


PROVINCE OF BRITISH COLUMBIA
ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 441, Approved and Ordered October 25, 2013

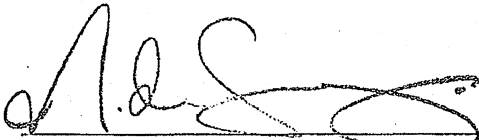

~~Lieutenant Governor~~
Administrator

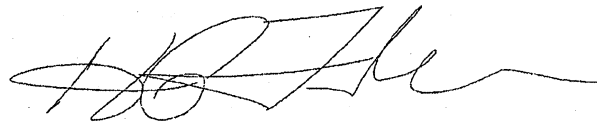
Executive Council Chambers, Victoria

On the recommendation of the undersigned, the ~~Lieutenant Governor~~ Administrator, by and with the advice and consent of the Executive Council, orders as follows:

- (a) effective April 1, 2013, the Provincial Sales Tax Exemption and Refund Regulation, B.C. Reg. 97/2013, is amended as set out in the attached Appendix 1;
- (b) the Provincial Sales Tax Exemption and Refund Regulation, B.C. Reg. 97/2013, is amended as set out in the attached Appendix 2.

DEPOSITED
October 25, 2013
B.C. REG. 216/2013


Minister of Finance


Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: Provincial Sales Tax Act, S.B.C. 2012, c. 35, ss. 236, 241, 242 and 243

Other: OIC 130/2013

October 10, 2013

RESUB/R/572/2013/12

APPENDIX 1

1 *Section 1 (1) of the Provincial Sales Tax Exemption and Refund Regulation, B.C. Reg. 97/2013, is amended in the definition of "residential energy product" by adding the following paragraphs:*

- (c.1) butane;
- (c.2) naphtha;
- (d.1) methanol;

2 *Section 11 (2) is repealed and the following substituted:*

- (2) Subject to subsection (3), yarn, natural fibres, synthetic thread and fabric that are commonly used in making or repairing clothing are exempt from tax imposed under Part 3 of the Act, other than Division 9 of that Part.
- (3) The exemption under subsection (2) does not apply to tangible personal property described in Schedule 5.

3 *The following section is added to Division 5 of Part 2:*

Gifts

17.1 (1) In this section:

- "person" does not include a registered charity;
- "tangible personal property" does not include a vehicle, boat or aircraft.

(2) Subject to this section, a person is exempt from tax imposed under section 49 [tangible personal property brought into British Columbia for use] of the Act in respect of tangible personal property if the person received the tangible personal property as a gift from a donor.

(3) Subject to subsection (4), the exemption under subsection (2) applies to a person in respect of tangible personal property only if the donor of the tangible personal property

- (a) paid tax under the Act or the *Social Service Tax Act* in respect of the tangible personal property and has not obtained and is not entitled to obtain, under those Acts, a refund of that tax,
- (b) paid tax under section 165 (2), 212.1 or 218.1 or Division IV.1 of Part IX of the *Excise Tax Act* in respect of the tangible personal property and has not obtained and is not entitled to obtain, under Part IX of that Act, a refund of or a credit or rebate for that tax,
- (c) paid sales tax in respect of the tangible personal property to another province and has not obtained and is not entitled to obtain a refund of or a credit or rebate for that sales tax,
- (d) received, before April 1, 2013, the tangible personal property as a gift in British Columbia, or
- (e) was exempt, when that donor obtained the tangible personal property, from tax
 - (i) under the *Social Service Tax Act*, or

(ii) under the Act, other than under section 26 [*tangible personal property shipped outside British Columbia*] of this regulation.

- (4) The exemption under subsection (2) does not apply to a person in respect of tangible personal property if
- (a) the donor of the tangible personal property paid tax in respect of the tangible personal property only under one or both of section 51 [*tangible personal property brought into British Columbia for temporary use*] of the Act and section 12 [*calculation of tax if use in British Columbia temporary*] of the *Social Service Tax Act*, and
 - (b) the total amount of tax referred to in paragraph (a) of this subsection is less than the amount of tax that, but for subsection (2) of this section, would be payable by the person under section 49 of the Act in respect of the tangible personal property.

4 *Section 18 is amended*

- (a) in subsections (1), in the definition of "donor", (2) (a), (3), (4) and (5) by striking out "of tangible personal property" and substituting "of a vehicle, boat or aircraft",
- (b) in subsections (1), in the definition of "donor", (2) (a), (3), (4) and (5) (a) and (b) by striking out "the tangible personal property" wherever it appears and substituting "the vehicle, boat or aircraft", and
- (c) in subsection (4) (a) by striking out "that tangible personal property" wherever it appears and substituting "that vehicle, boat or aircraft".

5 *Section 20 is amended*

- (a) in subsections (1), (2) (a), (3), (4), (5) and (6) by striking out "of tangible personal property" and substituting "of a vehicle, boat or aircraft", and
- (b) in subsections (1), (2) (a), (3), (4), (5) and (6) (a) and (b) by striking out "the tangible personal property" wherever it appears and substituting "the vehicle, boat or aircraft".

6 *Section 46 (2) is amended by striking out "Division 9" and substituting "Divisions 9 and 11".*

7 *Section 47 is amended*

- (a) by repealing subsections (2) and (3) and substituting the following:
 - (2) The following tangible personal property is exempt from tax imposed under Part 3 of the Act if the tangible personal property is obtained by an individual:
 - (a) agricultural lime;
 - (b) fertilizer;
 - (c) organic mulch;
 - (d) organic substances if the substances are advertised or marketed as compost aids or compost accelerators;

- (e) peat, other than peat pellets and compostable pots made from peat;
 - (f) plant hormones, microorganisms and enzymes, or a mixture of plant hormones, microorganisms or enzymes, if advertised or marketed as a plant regulator;
 - (g) sphagnum;
 - (h) wood ash or charcoal if the wood ash or charcoal is advertised or marketed as a soil amendment.
- (3) The following tangible personal property is exempt from tax imposed under Part 3 of the Act, other than Division 9 of that Part, if the tangible personal property is obtained by a person, other than an individual, for an agricultural purpose:
- (a) agricultural lime;
 - (b) fertilizer;
 - (c) organic mulch;
 - (d) organic substances if the substances are advertised or marketed as compost aids or compost accelerators;
 - (e) peat, other than peat pellets and compostable pots made from peat;
 - (f) plant hormones, microorganisms and enzymes, or a mixture of plant hormones, microbes or enzymes, if advertised or marketed as a plant regulator;
 - (g) sphagnum;
 - (h) wood ash or charcoal if the wood ash or charcoal is advertised or marketed as a soil amendment. , *and*

(b) by adding the following subsections:

- (5) The following tangible personal property is exempt from tax imposed under Part 3 of the Act if the tangible personal property is advertised or marketed as a growing medium for plants and is obtained by an individual:
- (a) compostable basket liners and growing mats made only from organic materials;
 - (b) compostable pots made only from organic materials;
 - (c) diatomaceous earth;
 - (d) humus;
 - (e) orchid bark;
 - (f) peat pellets;
 - (g) perlite;
 - (h) potting soil and soilless potting mix unless the soil or mix
 - (i) contains 50 percent or more by volume of sand, gravel, topsoil, fill, weed control chemicals, fungicides or any combination of them, or
 - (ii) is registered under the *Pest Control Products Act* (Canada);
 - (i) vermiculite.

- (6) The following tangible personal property is exempt from tax imposed under Part 3 of the Act, other than Division 9 of that Part, if the tangible personal property is advertised or marketed as a growing medium for plants and is obtained by a person, other than an individual, for an agricultural purpose:
- (a) compostable basket liners and growing mats made only from organic materials;
 - (b) compostable pots made only from organic materials;
 - (c) diatomaceous earth;
 - (d) humus;
 - (e) orchid bark;
 - (f) peat pellets;
 - (g) perlite;
 - (h) potting soil and soilless potting mix unless the soil or mix
 - (i) contains 50 percent or more by volume of sand, gravel, topsoil, fill, weed control chemicals, fungicides or any combination of them, or
 - (ii) is registered under the *Pest Control Products Act* (Canada);
 - (i) vermiculite.

8 *Section 57 (3) is amended by adding the following paragraphs:*

- (a.1) section 17.1 [*gifts*];
- (p.1) section 60.2 [*purchases at duty free shop*];

9 *The following section is added to Division 11 of Part 2:*

Purchases at duty free shop

- 60.2** Tangible personal property is exempt from tax imposed under Part 3 of the Act if the tangible personal property is purchased at a duty free shop, as defined in the *Customs Act* (Canada), by a person who is about to leave Canada.

10 *The following section is added:*

Software purchased by First Nation individual or band

- 68.1** (1) Software is exempt from tax imposed under Part 4 of the Act if the software is
- (a) purchased by a First Nation individual or a band, and
 - (b) for use on or with an electronic device that is
 - (i) owned or leased by the First Nation individual or band, and
 - (ii) ordinarily situated on First Nation land.
- (2) Subsection (1) of this section is prescribed for the purposes of section 145 (1) (b) [*provisions providing exemptions in relation to software*] of the Act.

11 *The following section is added to Division 1 of Part 4:*

First Nation individual or band

- 72.1** (1) A purchaser is exempt from tax imposed under section 116 or 117 of the Act if

- (a) the purchaser is a First Nation individual or a band, and
 - (b) the following are provided wholly on First Nation land:
 - (i) in the case of section 116 of the Act, the processing, fabrication, manufacturing, attachment or incorporation referred to in section 116 (2) (b) of the Act;
 - (ii) in the case of section 117 of the Act, the modification or processing of the tangible personal property referred to in section 117 (2) (b) of the Act.
- (2) Subsection (1) of this section is prescribed for the purposes of section 145 (2) [evidence required to claim certain exemptions in relation to taxable services] of the Act.

12 Section 73 (1) (k) is repealed.

13 The following section is added:

Services provided outside British Columbia in relation to taxable conveyance

76.1 A related service provided in relation to a taxable conveyance, as defined in section 59 of the Act, is exempt from tax imposed under section 120 [tax if related service provided outside British Columbia] of the Act.

14 Section 77 is amended

(a) by repealing subsection (1) (j) and substituting the following:

- (j) services to inspect, repair or replace tangible personal property under a warranty for which
 - (i) the purchaser of the tangible personal property paid or agreed to pay a charge described in section 10 (2) (i) of the Act, or
 - (ii) the lessee of the tangible personal property made a payment or provided consideration described in section 13 (2) (g) of the Act,if the services are purchased by the person who provided the warranty; ,

(b) in subsection (1) by adding the following paragraph:

- (k) services to inspect, repair or replace tangible personal property for which
 - (i) the purchaser of the tangible personal property paid or agreed to pay a charge described in section 10 (2) (i) of the Act relating to the maintenance of or service to the tangible personal property, or
 - (ii) the lessee of the tangible personal property made a payment or provided consideration described in section 13 (2) (g) of the Act relating to the maintenance of or service to the tangible personal property. , and

(c) in subsection (2) by adding the following paragraph:

- (r) services provided to grow plants if the service is provided at a location other than on property owned, leased or used by the owner of the plants.

15 *Section 80 is repealed and the following substituted:*

Legal services provided under contract

- 80 Legal services are exempt from tax imposed under Division 4 of Part 5 of the Act if
- (a) the legal services are provided to a lawyer, law firm, notary or notary firm by
 - (i) an individual who provides legal services only to the lawyer, law firm, notary or notary firm, but who is not an employee of the lawyer, law firm, notary or notary firm for the purposes of the *Income Tax Act* (Canada), or
 - (ii) a law firm or notary firm that provides legal services only to the lawyer, law firm, notary or notary firm,
 - (b) the legal services are provided only in respect of a particular client of the lawyer, law firm, notary or notary firm, and
 - (c) the purchase price to the lawyer, law firm, notary or notary firm for the legal services is to be included in the purchase price of legal services billed or otherwise charged to the client by the lawyer, law firm, notary or notary firm.

16 *Section 83 (2) (a) is repealed and the following substituted:*

- (a) a telecommunication service in the form of a toll-free number, other than if the telecommunication service is
 - (i) acquired for family or domestic use, or
 - (ii) a teleconference service.

17 *Section 85 is amended by striking out everything before "is exempt from tax" and substituting "A telecommunication service that is provided to a purchaser as part of the purchaser's participation in any of the following programs or activities and is provided only to participants of the program or activity by the person offering that program or activity".*

18 *Section 86 is amended*

- (a) *by striking out "person" wherever it appears and substituting "purchaser", and*
- (b) *in paragraph (a) by striking out "a photographer who produced a video" and substituting "a person who produced a video specifically".*

19 *The following section is added to Division 5 of Part 4:*

**Telecommunication service purchased by
First Nation individual or band**

- 88.1 (1) A telecommunication service is exempt from tax imposed under Division 5 of Part 5 of the Act if
- (a) the telecommunication service is purchased by a First Nation individual or a band, and
 - (b) the electronic device is

- (i) owned or leased by the First Nation individual or band, and
- (ii) ordinarily situated on First Nation land.

(2) Subsection (1) of this section is prescribed for the purposes of section 145 (2) [evidence required to claim certain exemptions in relation to taxable services] of the Act.

20 Sections 92 (2), 93 (2), 95 (2) and (4), 97 (2), 101 (1) (c), (2) (c) and (3) (c), 103 (2) (c) and (3) (c) and 105 (3) are amended by striking out "substantially" and substituting "primarily".

21 Section 96 (1) is amended.

(a) in paragraph (a) and (b) by adding "and directly" after "substantially", and

(b) by striking out "or" at the end of paragraph (a), by adding ", or" at the end of paragraph (b) and by adding the following paragraph:

(c) safety equipment, a pump, ventilating equipment or a compressor obtained for use substantially in the exploration for minerals or the development of mines.

22 Section 102 is amended

(a) in subsections (2) (a), (3) (a) and (4) (a) by adding "or to" after "electricity at",

(b) in subsection (2) (c) by striking out "obtained for use substantially at the qualifying part of" and substituting "to be situated at",

(c) in subsection (3) (c) by striking out "obtained for use substantially" and substituting "to be situated", and

(d) in subsection (4) (c) by striking out "obtained for use substantially at the well site or the qualifying part of the" and substituting "to be situated at the well site,".

23 Section 114 (j) is repealed and the following substituted:

(j) machinery or equipment obtained for use in the construction of buildings;

(j.1) machinery or equipment obtained for use in site preparation, other than machinery or equipment that is exempt under

(i) section 94 [exploration for, discovery of or development of petroleum or natural gas], or

(ii) section 104 [logging];

(j.2) machinery or equipment obtained for use in the construction or maintenance of roads, other than machinery or equipment that is

(i) obtained for use in the construction or maintenance of roads within the qualifying part of a mine site, and

(ii) exempt under section 96 [exploration for minerals or development of mines] or 97 [extraction or processing of minerals].

24 The following sections are added:

Gift of vehicle, boat or aircraft between family members

125.1 (1) In this section, "related individual" includes a sibling.

(2) If the director is satisfied

- (a) that an individual received a vehicle, boat or aircraft as a gift from a related individual,
- (b) that the individual paid tax imposed under section 100 [*tax on gift of vehicle, boat or aircraft given in British Columbia*] of the Act in respect of the vehicle, boat or aircraft,
- (c) that, after the date the individual received the vehicle, boat or aircraft, the related individual
 - (i) was assessed an amount for tax payable under the Act, the *Consumption Tax Rebate and Transition Act* or the *Social Service Tax Act* in respect of the vehicle, boat or aircraft, and
 - (ii) paid the amount referred to in subparagraph (i), any related penalty and any interest on that amount and the penalty, and
- (d) that the related individual did not receive the vehicle, boat or aircraft as a gift during the 12 months before the date on which the related individual gave that vehicle, boat or aircraft to the individual,

the director must refund to the individual the amount of tax paid under section 100 of the Act in respect of that gift of the vehicle, boat or aircraft.

Gift of vehicle, boat or aircraft to registered charity

125.2 If the director is satisfied

- (a) that a registered charity received a vehicle, boat or aircraft as a gift,
- (b) that the registered charity paid tax imposed under section 100 [*tax on gift of vehicle, boat or aircraft given in British Columbia*] of the Act in respect of the vehicle, boat or aircraft, and
- (c) that, after the date the registered charity received the vehicle, boat or aircraft, the donor of the vehicle, boat or aircraft
 - (i) was assessed an amount for tax payable under the Act, the *Consumption Tax Rebate and Transition Act* or the *Social Service Tax Act* in respect of the vehicle, boat or aircraft, and
 - (ii) paid the amount referred to in subparagraph (i), any related penalty and any interest on that amount and the penalty,

the director must refund to the registered charity the amount of tax paid under section 100 of the Act in respect of that gift of the vehicle, boat or aircraft.

Refund for prices, draws and awards

125.3 (1) In this section, "donor", in respect of a vehicle, boat or aircraft, means the person from whom the person referred to in subsection (2) (a) received the vehicle, boat or aircraft.

(2) If the director is satisfied

- (a) that a person received a vehicle, boat or aircraft as a result of any of the following:
 - (i) a lawful lottery scheme within the meaning of section 207 of the *Criminal Code*;
 - (ii) a contest, a game of chance or skill or mixed chance and skill, or a disposition by any mode of chance, skill or mixed chance and skill;
 - (iii) an achievement in a field of endeavour, including athletic or sporting events;
 - (iv) a draw or awarding of a prize if the only consideration provided by the person was in the form of an entrance or admission fee, a ticket fee or another similar charge,
- (b) that the person did not receive the vehicle, boat or aircraft as a result of a private arrangement, including a wager, between 2 or more persons,
- (c) that the person paid tax imposed under section 100 [*tax on gift of vehicle, boat or aircraft given in British Columbia*] of the Act in respect of the vehicle, boat or aircraft, and
- (d) that, after the date the person received the vehicle, boat or aircraft, the donor
 - (i) was assessed an amount for tax payable under the Act, the *Consumption Tax Rebate and Transition Act* or the *Social Service Tax Act* in respect of the vehicle, boat or aircraft, and
 - (ii) paid the amount referred to in subparagraph (i), any related penalty and any interest on that amount and the penalty,

the director must refund to the person the amount of tax paid under section 100 of the Act in respect of that gift of the vehicle, boat or aircraft.

Gifts of tangible personal property from outside Canada

- 125.4 (1) In this section, "tangible personal property" does not include a vehicle, boat or aircraft.
- (2) If the director is satisfied that
- (a) a person paid tax under section 55 [*property brought into British Columbia from outside Canada*] of the Act in respect of tangible personal property that the person received as a gift from a donor,
 - (b) the donor of the tangible personal property
 - (i) paid tax under the Act or the *Social Service Tax Act* in respect of the tangible personal property and has not obtained and is not entitled to obtain, under those Acts, a refund of that tax,
 - (ii) paid tax under section 165 (2), 212.1 or 218.1 or Division IV.1 of Part IX of the *Excise Tax Act* in respect of the tangible personal property and has not obtained and is not entitled to obtain, under Part IX of that Act, a refund of or a credit or rebate for that tax,
 - (iii) paid sales tax under a law of another jurisdiction in respect of the tangible personal property and has not obtained and is not entitled to obtain, under that law, a refund of or a credit or rebate for that sales tax,

(iv) received, before April 1, 2013, the tangible personal property as a gift in British Columbia, or

(v) was exempt, when the tangible personal property was obtained, from tax

(A) under the *Social Service Tax Act*, or

(B) under the Act, other than under section 24 [vehicle purchased for use outside British Columbia], 25 [aircraft purchased for use outside British Columbia] or 26 [tangible personal property shipped outside British Columbia] of this regulation,

the director must refund to the person referred to in paragraph (a) the amount of tax paid referred to in that paragraph.

25 *Section 126 is amended*

- (a) in subsections (1) (a), (2), (3) (a) and (5) by striking out “of tangible personal property” and substituting “of a vehicle, boat or aircraft”, and
- (b) in subsections (1) (b) and (c), (2) (a), (3) (b) and (c), (4) and (5) (a) by striking out “the tangible personal property” wherever it appears and substituting “the vehicle, boat or aircraft”.

26 *Schedule 2 is amended in Table 7*

- (a) in item 5 by striking out “Bulbs” and substituting “Bulbs, corms, rhizomes and tubers”,
- (b) in item 15 by striking out “or rockwool”, and
- (c) by repealing item 19.

27 *Schedule 2 is amended in item 6 of Table 10 by striking out “Hormone sprays” and substituting “Hormones, microorganisms and enzymes”.*

28 *Schedule 3 is amended by repealing item 3 and substituting the following:*

Item	Tangible personal property
3	Bait
48.1	Pet food obtained for use as bait for shrimp

29 *The following Schedule is added:*

SCHEDULE 5

(section 11)

TANGIBLE PERSONAL PROPERTY NOT EXEMPT UNDER SECTION 11

Item	Tangible personal property
1	Aluminized heat-resistant fabric

Item	Tangible personal property
2	Ballistic nylon
3	Barkcloth
4	Batting or fibrefill
5	Black-out or dim-out fabric
6	Burlap
7	Cheesecloth
8	Fabric packaged and sold as clothing
9	Fabric packaged or labeled for a purpose other than making or repairing clothing
10	Fabric that is pre-printed with or incorporates a design or instructions and is not intended for making clothing
11	Felt
12	Heavy duty canvas and heavy duck cloth
13	Heavy weight corduroy
14	Heavy weight leather and hides
15	Interfacing
16	Mesh fabric, other than mesh fabric designed for making or repairing clothing
17	Netting, other than tulle
18	Oilcloth
19	Plasticized, plastic backed, rubber backed or rubber coated fabric
20	Pre-cut pieces of fabric packaged, labeled or offered for sale for a purpose other than making or repairing clothing
21	Upholstery fabric, other than lightweight upholstery fabric
22	Vinyl fabric, including fabric created with polyvinyl chloride but not including lightweight vinyl fabric

APPENDIX 2

- 1 *Section 14 of the Provincial Sales Tax Exemption and Refund Regulation, B.C. Reg. 97/2013, is amended by adding the following subsection:*

(4) Subsections (1) and (3) of this section are prescribed for the purposes of section 145 (1) (a) [provisions providing exemptions in relation to tangible personal property] of the Act.

- 2 *Section 20 is amended by adding the following subsection:*

(7) For the purposes of section 30 (7) (a) [evidence required to claim exemption in relation to tax payable in respect of vehicle] of the Act, in relation to a person who alleges that a vehicle is exempt under subsection (2) (a) or (b) of this section, the Insurance Corporation of British Columbia is required to obtain a declaration in a form acceptable to the director.

- 3 *Section 64 is amended by adding the following subsection:*

(3) Subsection (1) of this section is prescribed for the purposes of section 145 (1) (b) [provisions providing exemptions in relation to software] of the Act.

4 *Section 73 is amended*

(a) *in subsection (2) by striking out "Subsection (1) (a) and (a.1)" and substituting "Subsection (1) (a), (a.1), (c) and (i)", and*

(b) *by adding the following subsection:*

(4) For the purposes of section 145 (2) of the Act, in relation to a person who alleges that a related service is exempt under subsection (1) (i) of this section, the collector is required to obtain the account number assigned by the Insurance Corporation of British Columbia to the person in relation to the licensing of the multijurisdictional vehicle.

5 *Section 77 is amended by adding the following subsection:*

(3) Subsection (2) (q) of this section is prescribed for the purposes of section 145 (2) [evidence required to claim certain exemptions in relation to taxable services] of the Act.

6 *Section 78 is amended*

(a) *by renumbering the section as section 78 (1), and*

(b) *by adding the following subsection:*

(2) Subsection (1) (d) of this section is prescribed for the purposes of section 145 (2) [evidence required to claim certain exemptions in relation to taxable services] of the Act.

7 *Section 81 is amended*

(a) *by renumbering the section as section 81 (1), and*

(b) *by adding the following subsection:*

(2) Subsection (1) of this section is prescribed for the purposes of section 145 (2) [evidence required to claim certain exemptions in relation to taxable services] of the Act.